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DISTRICT COURT ORDINANCE, 1953.

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HONG KONG

No. 1 OF 1953.

L.S.

I assent.

A. G. GRANTHAM,
Governor.

15th January, 1953.

An Ordinance to establish a new court, having limited civil and criminal jurisdiction, to be known as the District Court of Hong Kong, and to make provision for the jurisdiction, procedure and practice thereof and for purposes connected with the matters aforesaid.

[]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

PART I.

PRELIMINARY.

1. This Ordinance may be cited as the District Court Ordinance, 1953, and shall come into operation on a day to be appointed by the Governor by proclamation in the *Gazette*.

Short title
and com-
mencement.

2. In this Ordinance, unless the context otherwise requires—
“action” means a civil proceeding commenced by writ of summons or in such manner as may be prescribed by the District Court Civil Procedure Rules;

Inter-
pretation.

“cause” has the meaning attributed to it by section 2 of the Supreme Court Ordinance;

(Cap. 4).

“defendant” includes any person served with any writ of summons or process, or served with notice of, or entitled to attend, any proceedings;

“functions” includes powers and duties;

“matter” has the meaning attributed to it by section 2 of the Supreme Court Ordinance;

“party” includes every person served with notice of or attending any proceeding, although not named in the record;
 “plaintiff” includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the proceeding is by action, suit, petition, motion, summons or otherwise.

PART II.

THE DISTRICT COURT.

Establishment of the District Court of Hong Kong, and general jurisdiction thereof.

3. (1) A court, to be known as the District Court of Hong Kong, is hereby established.

(2) The court shall be a court of record and shall have such civil and criminal jurisdiction as is conferred upon it by this Ordinance.

Constitution of the District Court.

4. (1) The court shall be constituted of two or more judges, to be known as District Judges.

(2) District Judges shall be appointed by the Governor by instrument under the Public Seal.

Qualifications for appointment as a District Judge.

5. (1) No person shall be appointed to be a District Judge under section 4 unless—

(a) he is qualified to practise as an advocate in a court in England, Scotland, Northern Ireland or some other part of the Commonwealth or the Republic of Ireland having unlimited civil or criminal jurisdiction in that country; and

(b) he has—

(i) practised as an advocate or solicitor in such a court for not less than five years; or

(ii) been a member of the Colonial Legal Service for not less than five years.

(2) For the purpose of calculating such period of five years, periods of less than five years falling within paragraph (b) of subsection (1) may be combined.

6. (1) Every proceeding in the court and all business arising thereout shall be heard and disposed of by a District Judge sitting alone.

Proceedings to be disposed of by a judge sitting alone.

(2) All proceedings in an action subsequent to the hearing or trial, down to and including the final judgment or order, shall, so far as is practicable and convenient, be taken before the judge before whom the trial or hearing took place.

(3) A District Judge may, subject to any rules or directions made or given under this Ordinance, exercise in court or in chambers all or any part of the jurisdiction vested in the court.

7. (1) Where the office of a District Judge is vacant by death or otherwise, the Governor may appoint a fit and proper person to fill such office until such time as a definitive appointment be made.

Power to make temporary appointments.

(2) In case of the temporary illness or absence of a District Judge, the Governor may appoint a fit and proper person to fill the office until such District Judge resumes the duties thereof.

(3) If in any other case the Governor considers it desirable so to do, he may appoint fit and proper persons to be temporary additional District Judges, and may terminate any such appointment as and when he considers it desirable.

(4) A judge temporarily appointed under this section shall be appointed by instrument under the Public Seal and shall have and may discharge all the functions given to a District Judge by this Ordinance and by any other enactment.

8. (1) Subject to any rules made under this Ordinance, the Chief Justice may give such directions as he thinks fit touching the distribution and disposal of the business of the court.

Distribution and disposal of business of the court.

(2) Subject to any such rules or directions and to the provisions of subsection (3), a District Judge shall sit for the disposal of business pending in the court at such places and times as he may think fit.

(3) Any proceedings may at any time and at any stage thereof, and either with or without application from any of the parties thereto, be transferred in such manner as any such directions, or the District Court Civil Procedure Rules or the District Court Criminal Procedure Rules, may direct, from one judge to another.

Seal of
the court.

9. The District Court shall have a seal of a design (which shall incorporate a device and impression of the Royal Arms) approved by the Chief Justice, and all writs, judgments, orders and other process issuing out of the court shall be sealed therewith.

Officers
of the
court.

10. (1) The Governor may appoint a registrar of the District Court and such number of deputy registrars, bailiffs, clerks of the court, clerks, interpreters and other officers as he may think fit.

(Cap. 4).

(Cap. 5).

(2) Until such time as appointments are made under the provisions of subsection (1), the registrar, deputy registrars, bailiffs, clerks of the court, clerks, interpreters and other officers of the Supreme Court shall, in relation to the business and proceedings of the District Court, have and discharge functions similar to those vested in them respectively by or under the Supreme Court Ordinance and by or under the Supreme Court (Summary Jurisdiction) Ordinance immediately before the commencement of this Ordinance.

(3) In the discharge of his functions under this Ordinance, any person to whom this section applies shall be subject to the same liabilities and penalties and have the benefit of the same protection as attach by virtue of the provisions of the Supreme Court Ordinance to a person discharging similar functions under that Ordinance or under the Supreme Court (Summary Jurisdiction) Ordinance immediately before the commencement of this Ordinance.

Practi-
tioners,
and right
of audience.

11. (1) Barristers and solicitors qualified to practise in the Supreme Court may practise as barristers and solicitors respectively in the District Court, and barristers and solicitors so qualified shall have a right of audience in both civil and criminal proceedings.

(2) In criminal proceedings in the court, any public officer or member of a class of public officers appointed by the Attorney General to act as public prosecutor, may conduct generally on behalf of the Attorney General any prosecution or specified class of prosecutions or any particular case before the District Court, and any public prosecutor so appointed may without any written authority appear before a District Judge upon any proceedings in any case of which he has charge.

12. No proceedings in error shall be taken upon any proceeding under the provisions of this Ordinance.

Prohibition of proceedings in error.

13. The Ordinances referred to in the first column of the Fourth Schedule are hereby amended to the extent and in the manner set out in the second column of the said Schedule.

Consequential amendments. Fourth Schedule.

PART III.

CIVIL JURISDICTION.

14. Subject to the provisions of this Ordinance, the District Court shall have the civil jurisdiction specified in the First Schedule.

Civil jurisdiction. First Schedule.

15. (1) In any civil proceedings, the court may call to its aid not more than two assessors specially qualified, and may dispose of such proceedings wholly or in part with the aid of such assessor or assessors, but the decision of the District Judge shall be the decision of the court.

Assessors in civil proceedings.

(2) The court may determine the remuneration (if any) to be paid to an assessor in respect of his services.

16. (1) Subject to the provisions of this Ordinance and of the District Court Civil Procedure Rules, the procedure and practice of the Supreme Court in the exercise of its summary jurisdiction which was in force immediately before the commencement of this Ordinance shall be the procedure and practice of the District Court.

Procedure and practice in civil proceedings.

(2) Nothing in this section shall be deemed to authorize trial by jury in any civil proceedings in the District Court.

17. (1) Where an action or matter commenced in the District Court involves matter beyond the jurisdiction of that court, any defendant may, within such time as may be prescribed by the District Court Civil Procedure Rules, give notice to the District Court that he objects to the action being tried in that court, and where such notice is given, a District Judge shall order that the action be transferred to the Supreme Court.

Transfer to the Supreme Court.

(2) A District Judge may, at any time of his own motion, order that any action referred to in subsection (1) be transferred to the Supreme Court.

Jurisdiction as to counter-claims.

18. (1) Where in any action or matter commenced in the District Court, any counter-claim, or set-off and counter-claim, involves matter beyond the jurisdiction of the District Court, any party may, within such time as may be prescribed by rules of the Supreme Court, apply to the Supreme Court for an order of transfer.

(2) A District Judge may, at any time of his own motion, report to the Supreme Court the facts and circumstances of or relevant to any action or matter referred to in subsection (1).

(3) On any application under subsection (1) or report under subsection (2), the Supreme Court may require—

- (a) that the whole proceedings be transferred from the District Court to the Supreme Court; or
- (b) that the whole proceedings be heard and determined in the District Court; or
- (c) that the proceedings on the counter-claim, or set-off and counter-claim, be transferred to the Supreme Court and that the proceedings on the plaintiff's claim and the defence thereto other than the set-off (if any) be heard and determined in the District Court :

Provided that, where an order is made under paragraph (c) of this subsection, and judgment on the claim is given for the plaintiff, execution thereon shall, unless the Supreme Court at any time otherwise orders, be stayed until the proceedings transferred to the Supreme Court have been concluded.

(4) If on an application under subsection (1) or report under subsection (2) it is ordered that the whole proceedings be heard and determined in the District Court, that court shall have jurisdiction to hear and determine the whole proceedings, notwithstanding any enactment to the contrary.

Transfer to the District Court.

19. (1) Where an action or matter commenced in the Supreme Court is within the jurisdiction of the District Court or has been brought within such jurisdiction by payment, admitted set-off or otherwise, the Supreme Court may, if it thinks fit, order the transfer of such action or matter to the District Court.

(2) If it appears to the Supreme Court that any proceeding in the Supreme Court by way of interpleader, in which the amount or value of the matter in dispute does not exceed the sum of five thousand dollars, may be more conveniently tried and determined in the District Court, the Supreme Court may at any time order that the proceedings be transferred to the District Court, and the District Court shall have jurisdiction and authority to proceed therein.

20. Where an action, counter-claim or matter is ordered to be transferred— Costs in transferred cases.

(a) from the Supreme Court to the District Court; or

(b) from the District Court to the Supreme Court,

the costs of the whole proceedings both before and after the transfer shall, subject to any order made by the court which ordered the transfer be in the discretion of the court to which the proceedings are transferred, and the court to which the proceedings are transferred shall have power to make orders with respect thereto and the costs of the whole proceedings shall be taxed in that court.

21. Where a plaintiff in any action brought in the Supreme Court which might have been tried in the District Court is successful in that action, he shall be entitled to recover only such costs as he would have been entitled to recover had the action been brought in the District Court, unless the action has been so brought by leave of the Supreme Court or unless that court at any time otherwise orders. Costs in certain cases.

22. (1) There shall be established a committee (to be known as the District Court Rules Committee) consisting of the Chief Justice, the registrar and the judges of the District Court, a barrister nominated by the Bar Association of Hong Kong, and a solicitor nominated by the Incorporated Law Society of Hong Kong, three of whom (if including either such barrister or solicitor) shall form a quorum at any meeting. Civil Procedure Rules.

(2) The committee shall be convened by the Chief Justice.

(3) The committee may make rules (to be known as the District Court Civil Procedure Rules) touching the procedure and the practice of the District Court in the exercise of its civil jurisdiction, and such rules may prescribe or provide for—

- (a) the procedure (including provisions for venue and the method of pleading) and the practice to be followed in the court in all causes and matters whatsoever in or with respect to which the court has for the time being civil jurisdiction (including the procedure and practice to be followed in the offices of the court), and any matters incidental to or relating to any such procedure or practice, including the manner in which, and the time within which, any applications which are to be made to the court shall be made;
- (b) the procedure in connexion with the transfer of proceedings from one judge to another or from and to the Supreme Court or to and from a magistrate;
- (c) those functions of a District Judge which may be discharged by the registrar;
- (d) the fees and percentages to be taken in the court and the fees of counsel and the costs of solicitors and the costs of proceedings in the court, and the forms to be used therein;
- (e) repealing any enactment which relates to matters with respect to which rules may lawfully be made under this section;
- (f) the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings or on any application in connexion with or at any stage of any proceedings;
- (g) in what cases the court may act upon the certificates of accountants, actuaries or scientific persons;
- (h) the joinder of parties, and in what cases persons absent, but having an interest in a cause or matter, shall be bound by any order made therein, and in what cases orders may be made for the representation of absent persons by one or more parties to a cause or matter;

- (i) the discovery of a judgment debtor's property in aid of the execution of any judgment, and the modes of enforcing any judgment ;
- (j) the conduct of actions by or against firms, and of actions by or against paupers ;
- (k) actions relating to immovable property ;
- (l) in what cases and in what manner there may be submissions and references to arbitration or to special referees, how parties shall be bound thereby, and to what extent and with what consequences ; and for the appointment, powers and duties of arbitrators and special referees ; and for proceedings before such arbitrators and special referees ;
- (m) arrest and attachment before judgment and interim attachment and temporary injunctions ;
- (n) in what cases and in what manner receivers may be appointed, and their functions ;
- (o) the procedure whereby the court may adjudicate or give an opinion on a special case either in a cause or matter or on the construction of an enactment or instrument or with regard to any title ;
- (p) the forms for use in proceedings in the court ;
- (q) the business and hours of the court and of the offices connected therewith ;
- (r) the deposit, payment, delivery, and transfer in, into, and out of the court of money, securities, and movable property of suitors and the evidence of such deposit, payment, delivery, or transfer, and the investment of and other dealings with money, securities, and movable property in the court, and the execution of the orders of the court, and the powers and duties of the registrar with reference to such money, securities, and property, and, in particular, for doing all or any of the following things—
 - (i) regulating the placing on and withdrawal from deposit of money in court, and the payment or crediting of interest on money placed on deposit ;

- (ii) determining the smallest amount of money on deposit on which interest is to be credited to an account to which money placed on deposit belongs;
- (iii) determining the time at which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest; and
- (iv) determining the cases in which interest on money placed on deposit and the dividends on any securities standing in the name of the registrar is or are to be placed on deposit.

(4) The power to make rules under this section shall include power to make rules as to proceedings by or against the Crown.

(5) Rules made under this section shall apply to all proceedings by or against the Crown only insofar as they expressly purport so to do.

Repeal and savings.
(Cap. 5).

23. (1) The Supreme Court (Summary Jurisdiction) Ordinance, except sections 1, 2, subsection (2) of section 32 and sections 33, 34 and 35 thereof, is hereby repealed.

(2) Notwithstanding the provisions of subsection (1), any action or other proceeding pending which has not been disposed of prior to the commencement of this Ordinance shall be disposed of and dealt with in like manner as if this Ordinance had not been passed.

(3) Subsection (2) of section 32 and sections 33, 34 and 35 of the Supreme Court (Summary Jurisdiction) Ordinance (which relate to appeals) shall apply to civil proceedings in the District Court with such verbal alterations and modifications not affecting the substance thereof as may be necessary to render the same conveniently applicable.

(4) The registrar shall have custody of the "Register of Civil Actions, Summary Jurisdiction" referred to in section 12 of the Supreme Court (Summary Jurisdiction) Ordinance, and all other records, files, documents and papers of the Supreme Court in its summary jurisdiction before the commencement of this Ordinance, and shall dispose of the same in accordance with any directions given by the Chief Justice.

PART IV.

CRIMINAL JURISDICTION.

24. The District Court shall have jurisdiction to hear and determine in accordance with the provisions of this Ordinance all such charges as the Attorney General may lawfully prefer under the provisions of section 25. Criminal jurisdiction.

25. (1) Where a charge or complaint has been transferred to the District Court by a magistrate in accordance with the provisions of Part IIIA of the Magistrates Ordinance, the District Court shall have jurisdiction and powers over all proceedings in relation to the offence therein alleged similar to the jurisdiction and powers the Supreme Court would have had if the accused person had been committed to that court for trial on indictment for a similar offence, save that nothing in this section shall be deemed to give jurisdiction to hear and determine such charge or complaint. Procedure upon transfer of charge or complaint. (Cap. 227).

(2) Where a charge or complaint has been transferred as aforesaid, the Attorney General shall, unless he enters a *nolle prosequi*, deliver to the registrar a charge sheet setting forth the charge or charges preferred in the name of Her Majesty against the accused person, and any such charge may allege the commission of any indictable offence not included in any of the categories specified in Part III of the Schedule to the Magistrates Ordinance.

(3) Such charge sheet shall be delivered within fourteen days after the date of the order of transfer or such longer period as the District Court may, in any particular case, allow on any application made by or on behalf of the Attorney General.

26. (1) Where a charge or complaint has been transferred as aforesaid, the Attorney General may, at any time before judgment enter a *nolle prosequi* by informing the District Court orally or in writing that the Crown intends that the proceedings shall not continue, and thereupon the accused person shall be discharged in respect of the charge for which the *nolle prosequi* is entered: Provided that such discharge shall not operate as a bar to any subsequent proceedings against him on account of the same facts. Nolle prosequi.

(2) Upon the entry of a *nolle prosequi* under this section, if the accused person has been committed to prison he shall be released, or if on bail all recognizances in respect of his person

shall be discharged, and, where the accused person is not before the District Court when such *nolle prosequi* is entered, the registrar or other proper officer of the court shall forthwith cause notice in writing of the entry of such *nolle prosequi* to be given to the officer in charge of the prison or other place in which the accused person may be detained, and such notice shall be sufficient authority to discharge the accused person or, if the accused be not in custody, shall forthwith cause such notice in writing to be given to the accused person and his sureties.

Signing
and form
of charge
sheet.

27. (i) Every charge sheet shall be signed by a senior crown counsel or a crown counsel, and shall bear date on the day on which it is so signed.

Second
Schedule.

(2) A charge sheet shall be in the form in the Second Schedule with such additions and modifications as may be necessary to adapt it to the circumstances of the particular case.

(3) Subject to the provisions of this Ordinance, a charge sheet shall not be open to objection in respect to its form or contents, if it is framed in accordance with the District Court Criminal Procedure Rules: Provided that the court may direct that further and better particulars of any charge shall be delivered.

(4) Every charge sheet, when so signed and dated as aforesaid, shall be delivered to the registrar and shall be filed by him in the court, and a copy thereof shall be served on the accused person in the manner hereinafter provided.

(5) Nothing in this section or in section 29 or 36 or in the District Court Criminal Procedure Rules shall affect the law or practice relating to the jurisdiction of the District Court nor prejudice or diminish in any respect the obligation to establish by evidence according to law any act, omission or intention which is legally necessary to constitute the offence with which the person accused is charged, nor otherwise affect the law of evidence in criminal cases.

Limitation
on prosecu-
tions.

28. Where by any enactment there is imposed a limit of time within which a prosecution on indictment for any offence may be commenced, such limit shall apply in the case of a prosecution for such offence in the District Court.

Procedure
and
practice
of the

29. (1) Subject to the provisions of this Ordinance and to the District Court Criminal Procedure Rules, the procedure and practice for the time being in force in the Supreme Court in re-

lation to criminal proceedings therein shall, so far as the same may be applicable, be followed as nearly as may be in criminal proceedings in the District Court; and where it is necessary for the purpose of rendering such procedure and practice conveniently applicable, the expressions "indictment" and "count" shall be understood to refer to "charge sheet" and "charge" respectively.

court in
its criminal
jurisdiction.

(2) Notwithstanding the provisions of subsection (1), none of the provisions of the Criminal Procedure Ordinance in Part I of the Third Schedule particularized shall be applied to proceedings in the District Court.

(Cap. 221).
Third
Schedule.

(3) The special provisions contained in Part II of the Third Schedule touching the procedure and practice of the District Court in the exercise of its criminal jurisdiction shall be applied to criminal proceedings in the court where the circumstances of such proceedings require their application.

Third
Schedule.

(4) Where any provision of the Criminal Procedure Ordinance is applicable to criminal proceedings in the District Court, such provision shall be read with such verbal alterations and modifications not affecting its substance as are necessary to render it conveniently applicable; and in particular, and without prejudice to the generality of the aforesaid,—

(a) any such provision relating to a "jury" or a "verdict of a jury" shall be understood to refer to a District Judge and the functions of a District Judge as a judge of fact; and

(b) where there occurs any reference to anything to be done before, at, at the termination of, or after, any session of the Supreme Court, such thing shall be done in the District Court from time to time and as often as that court may require.

(5) Nothing in this section shall be taken to authorize—

(a) the institution of any criminal proceeding in the District Court save in accordance with the express provisions of this Part; or

(b) trial by jury in any criminal proceeding instituted under the provisions of this Part.

30. Before pronouncing judgment, a District Judge shall record his verdict and, at the same time or so soon thereafter as may be, shall also place on record a short statement of the reasons for the verdict.

Verdict.

Penalties.

31. (1) Where the District Court sentences any person to undergo a term of imprisonment for an offence, and such person is already undergoing, or is at the same time sentenced to undergo, imprisonment for another offence, it shall be lawful for the court to direct that such imprisonment shall commence at the expiration of the term of imprisonment which such person is then undergoing or has been so previously sentenced to undergo as aforesaid.

(2) Notwithstanding the provisions of any enactment in force at the commencement of this Ordinance and notwithstanding that proceedings have not been taken by way of indictment, the District Court may impose any penalty and make any order provided by law for or in connexion with any offence of which it has cognizance: Provided that—

- (a) no sentence of imprisonment passed by the District Court shall exceed five years in respect of one offence and where two or more consecutive terms of imprisonment are imposed by the court under subsection (1), the aggregate of the said terms of imprisonment shall not exceed five years; and
- (b) any term of imprisonment imposed in default of payment of a fine shall be without hard labour and shall not exceed one year.

(3) Where the District Court has authority to impose imprisonment of any description for any offence, and has not authority to impose a fine therefor, the court may, if it thinks fit, impose a fine in lieu of imprisonment: Provided that—

- (a) any term of imprisonment imposed in default of payment of a fine shall be without hard labour;
- (b) no such term of imprisonment shall exceed the term to which the offender would be liable for the offence of which he stands convicted; and
- (c) no such term of imprisonment shall in any event exceed one year.

(4) Where by any enactment the Supreme Court is empowered to impose any punishment upon, or to do any other act or thing in relation to, a person who has been convicted on indictment of an offence, the District Court shall, subject to the provisions of this section, have like powers in relation to a person convicted of such offence under the provisions of this Part.

32. Sections 81 to 84 inclusive of the Criminal Procedure Ordinance (which relate to appeals) shall apply to criminal proceedings in the District Court with such verbal alterations and modifications not affecting the substance thereof as may be necessary to render the same conveniently applicable, and, in particular, any reference to the expression "indictment" shall be understood to refer to a charge sheet, and any reference to the expression "jury" shall be understood to refer to a District Judge as a judge of fact. Appeals. (Cap. 221).

33. Sections 90 to 95 inclusive of the Criminal Procedure Ordinance (which relate to the law concerning accessories and abettors) shall apply to proceedings in the District Court with such verbal alterations and modifications not affecting the substance thereof as may be necessary to render the same conveniently applicable. Accessories and abettors.

34. The District Court shall have all the powers conferred upon the Supreme Court by sections 103 to 107 inclusive of the Criminal Procedure Ordinance. Seizure of property. (Cap. 221).

35. In addition to the powers conferred by this Ordinance, a District Judge shall have, *ex officio*, all the jurisdiction and powers of a permanent magistrate, but such jurisdiction and powers shall be exercised separately from his jurisdiction and powers as a judge. Magisterial functions.

36. The District Court Rules Committee may make rules (to be known as the District Court Criminal Procedure Rules) touching the procedure and practice of the District Court in the exercise of its criminal jurisdiction and such rules may prescribe or provide for— Criminal Procedure Rules.

- (a) forms to be used in the court, including in relation to charge sheets all such matters as may be prescribed in relation to indictments by rules made under section 17 of the Criminal Procedure Ordinance;
- (b) the times at or within which documents must be filed in the court or notices delivered to or served on the court or any person;
- (c) the functions in relation to criminal proceedings in the court of the various officers of the court;
- (d) the manner in which the right of audience shall be enjoyed and used, the order of addresses, and the form and practice of advocacy in the court;

- (e) the assigning of counsel and solicitors for the defence of paupers, and the fees and costs to be allowed therefor; and
- (f) generally for the better carrying into effect of the provisions of this Part.

Saving of prerogative of mercy.

37. Nothing in this Ordinance shall affect Her Majesty's prerogative of mercy or any prerogative of mercy vested in the Governor.

FIRST SCHEDULE.

[s. 14]

(Cap. 5).

1. All the summary jurisdiction exercisable by the Supreme Court immediately before the commencement of this Ordinance under the provisions of the Supreme Court (Summary Jurisdiction) Ordinance (except jurisdiction in Admiralty).

2. All other jurisdiction (except jurisdiction in Admiralty) conferred upon the Supreme Court in its summary jurisdiction under the Supreme Court (Summary Jurisdiction) Ordinance by any enactment (other than the Supreme Court (Summary Jurisdiction) Ordinance) in force immediately before the commencement of this Ordinance.

3. Any civil jurisdiction conferred upon the District Court by any other enactment.

SECOND SCHEDULE.

[s. 27]

Form of Charge Sheet.

IN THE DISTRICT COURT OF HONG KONG.

HOLDEN AT

The Queen

against

A.

B.

The court is informed that the following charges are preferred against A. B. by the Attorney General.

Statement of Offence.

Particulars of Offence.

Dated this day of , 19 .

(Signed).....
Crown Counsel
for and on behalf of the Attorney General.

And if there are more charges than one, then the various charges shall be set out as follows—

A. (Begin as above), that the following charges are preferred against B. by the Attorney General.

First Charge.

Statement of Offence.

Particulars of Offence.

Second Charge.

Statement of Offence.

Particulars of Offence.

etc. etc.

Dated this day of , 19 .

(Signed).....
Crown Counsel
for and on behalf of the Attorney General.

THIRD SCHEDULE.

PART 1

[s. 29 (2)]

Provisions of the Criminal Procedure Ordinance not applicable to the (Cap. 221). procedure and practice of the District Court in its Criminal Jurisdiction.

Criminal Procedure Ordinance, section 4, subsection (1) of section 6, sections 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, subsections (2) and (3) of section 25, sections 28, 34, 36, 40, 42, 43, 44, subsection (2) of section 45, sections 50, 51, 52, 53, 54, 71, 73, 79, 80, 86, 87, 89, 116, 119, 120 & 121, and the First Schedule.

PART II.

[s.29 (3)]

Special provisions touching the procedure and practice of the District Court in its Criminal Jurisdiction.

Plea.

1. (1) The accused person shall be placed at the bar unfettered and not in prison clothes, unless the court sees fit to direct otherwise.

(2) The charge shall then be read over to him and explained, if necessary, and he shall be required to plead thereto in person, unless he objects to the want of due service of the charge sheet, and the court finds that he has not been duly served therewith.

(3) If an accused person, on being required to plead, stands mute of malice or will not answer directly to the charge the court may enter a plea of not guilty on behalf of such accused person; and the plea so entered shall have the same force and effect as if such accused person had actually pleaded the same.

Charge sheet containing charge of previous conviction.

2. (1) Where a charge sheet contains a charge alleging that the accused person has been previously convicted, he shall not be called upon to answer that allegation save after he has been convicted upon a charge alleging a substantive offence.

(2) Upon conviction of an accused person as aforesaid, the court shall, unless the accused person admits the allegation that he has been previously convicted, proceed to determine whether or not he has been so previously convicted.

Objection of substance to charge.

3. (1) No objection to a charge shall be taken by way of demurrer, but if a charge does not state, in substance, an offence or states an offence not triable by the court, the accused person may move the court to quash it or in arrest of judgment.

(2) If such motion is made before the accused person pleads, the court may dismiss the charge or amend it.

(3) If a defect in a charge appears to the court during the trial, and the court does not then think fit to amend the charge it may either quash the charge or leave the objection to be taken thereafter in arrest of judgement.

(4) If a charge is quashed under the provisions of this paragraph, the court may direct the accused person to be detained in custody or to be released on bail for a period not exceeding fourteen days thereafter, and may order him to plead to another charge if called on to do so within that same period.

FOURTH SCHEDULE
Consequential Amendments

[s. 13]

Ordinance	Amendment.
Distress for Rent Ordinance. (Chapter 7).	<p>(i) In subsection (1) of section 32, after the word "Court" where it occurs in the fifth line and in the Marginal note, add the following words— "or the District Court".</p> <p>(ii) In each of Forms 2, 3 and 4 in the Second Schedule delete the heading—"HONG KONG. In the Supreme Court, Summary Jurisdiction."; and substitute therefor the following heading, to wit— "In the District Court of Hong Kong. Holden at ."</p>
Promissory Oaths Ordinance. (Chapter 90). First Schedule.	<p>Delete from the first column of the First Schedule the words "The Magistrates", and substitute— <div style="display: inline-block; vertical-align: middle;"> <div style="display: inline-block; vertical-align: middle;"> <p style="margin: 0;">"The District Judges and The Magistrates</p> </div> <div style="display: inline-block; vertical-align: middle; font-size: 2em; margin: 0 0.5em;">}</div> <div style="display: inline-block; vertical-align: middle;">"</div> </div> </p>
New Territories Ordinance. (Chapter 97).	<p>(i) Renumber section 15 as subsection (1) and add the following subsection— <p style="margin-left: 2em;">"(2) For the purposes of this section, the word "judge" means, in relation to a subject in dispute whose capital value exceeds two thousand but does not exceed five thousand dollars, a District Judge, and in relation to a subject in dispute whose capital value exceeds five thousand dollars, a judge of the Supreme Court."</p> </p> <p>(ii) Delete from the marginal note to section 15 the words "to Supreme Court".</p> <p>(iii) In sections 16, 17 and 59 and in the marginal notes thereto after the words "Supreme Court" wherever they occur add the following words— "or the District Court".</p> <p>(iv) In section 57 delete the words "the summary jurisdiction of the Supreme Court" and substitute therefor the following words— "the District Court".</p>
Flogging Ordinance. (Chapter 222).	<p>After section 3 add the following new section and marginal note— <p style="margin-left: 2em;">"Powers of a District Judge. 3A. (1) Where any person is convicted by the District Court of any crime or offence of which that court has cognizance and for which, if the conviction had been by the Supreme Court, the offender might have been flogged under the provisions of this Ordinance, the District Court may, in like manner, direct that the offender be flogged. (2) In all cases of flogging by direction of the District Court under this section all the provisions of this Ordinance shall apply."</p> </p>
Prisons Ordinance. (Chapter 234).	<p>In subsection (1) of section 22 after the expression "Supreme Court" where it occurs in the second line add the following words— "or the District Court".</p>

Ordinance	Amendment.
Landlord and Tenant Ordinance. (Chapter 255).	<p>In Form 10 in Part II of the Schedule delete the heading— “In the Supreme (sic) of Hong Kong Summary Jurisdiction.”; and substitute therefor the following heading— “In the District Court of Hong Kong, Holden at .”</p> <p>Further delete the words— “The Registrar, Supreme Court.”; and substitute therefor the following words— “The Registrar of the District Court.”</p>

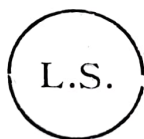
Passed the Legislative Council of Hong Kong, this 14th day of January, 1953.

R. THOMPSON,
Deputy Clerk of Councils.

(Secretariat 20/3231/52)

HONG KONG

No. 2 OF 1953.



I assent.

A. G. GRANTHAM,
Governor.

15th January, 1953.

An Ordinance to amend the Magistrates Ordinance (Chapter 227).

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BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

Short title and commencement.

(No. 1 of 1953).

1. This Ordinance may be cited as the Magistrates (Amendment) Ordinance, 1953, and shall come into operation on the day appointed for the commencement of the District Court Ordinance, 1953.