

## **Part 21**

### **Consequential Amendments, and Transitional and Saving Provisions**

#### **Division 1**

##### **Consequential and Related Amendments**

###### **900. Amendments to Ordinances**

The Ordinances specified in Parts 1, 2, 3, 4 and 5 of Schedule 9 are amended as set out in those Parts.

#### **Division 2**

##### **Transitional and Saving Provisions**

###### **901. Transitional and saving provisions**

- (1) The transitional and saving provisions as set out in Schedule 10 have effect.
- (2) The Chief Executive in Council may, by notice published in the Gazette, amend Schedule 10.

###### **902. Extended effect of saving provision**

- (1) This section applies if a provision of the predecessor Ordinance is repealed by section 900 but has a continuing effect under Schedule 10, or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), or both, after the repeal.
- (2) The saving as mentioned in subsection (1) for the effect of a provision of the predecessor Ordinance extends to any other provision of the predecessor Ordinance—

Part 21—Division 2  
Clause 902

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- (a) that defines an expression used in the provision; or
  - (b) in accordance with which the provision is to be construed.
- (3) The saving as mentioned in subsection (1) for the effect of a provision of the predecessor Ordinance that creates an offence extends to the entry relating to that provision in the Twelfth Schedule to the predecessor Ordinance.
- (4) Subject to subsections (6) and (8), the saving as mentioned in subsection (1) for the effect of a provision of the predecessor Ordinance that refers to a prescribed or specified form, or refers to a prescribed manner, extends to the form or manner and to the power under which it is prescribed or specified.
- (5) If the provision of the predecessor Ordinance refers to a specified form, the Registrar may—
  - (a) specify another form for the purpose; and
  - (b) determine a date in relation to that other form for the purposes of subsection (6)(b).
- (6) If the Registrar exercises the powers under subsection (5), the effect of the provision of the predecessor Ordinance is to be construed as—
  - (a) also referring to the form specified under subsection (5)(a) before the date determined under subsection (5)(b); and
  - (b) only referring to that form on or after that date.
- (7) If the provision of the predecessor Ordinance requires a person, in relation to a particular purpose of that Ordinance, to state or furnish any matter, particulars or information to the Registrar, but does not require the matter, particulars or information to be stated or furnished in a specified form, the Registrar may—
  - (a) specify a form for the purpose; and

- (b) determine a date in relation to the form for the purposes of subsection (8).
- (8) If the Registrar exercises the powers under subsection (7), the effect of the provision of the predecessor Ordinance is to be construed as requiring the matter, particulars or information to be stated or furnished in the form specified under subsection (7)(a) on or after the date determined under subsection (7)(b).

**903. Offence for false statement**

- (1) This section applies if—
  - (a) a provision of the predecessor Ordinance is repealed by section 900 but has a continuing effect under Schedule 10, or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), or both, after the repeal; and
  - (b) after the repeal, any return, report, certificate, balance sheet or other document, is required by or for the purposes of the provision.
- (2) A person commits an offence if, in the return, report, certificate, balance sheet or document, the person wilfully makes a statement false in any material particular knowing it to be false.
- (3) A person who commits an offence under subsection (2) is liable to a fine at level 6 and to imprisonment for 6 months.
- (4) This section does not affect the operation of—
  - (a) Part V of the Crimes Ordinance (Cap. 200); or
  - (b) section 19, 20 or 21 of the Theft Ordinance (Cap. 210).

**904. Limitation on commencement of proceedings**

- (1) This section applies if—

## Part 21—Division 2

Clause 905

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- (a) a provision of the predecessor Ordinance is repealed by section 900 but has a continuing effect under Schedule 10, or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), or both, after the repeal; and
  - (b) after the repeal, an offence is committed under the provision.
- (2) Despite section 26 of the Magistrates Ordinance (Cap. 227), an information or complaint relating to the offence may be tried if it is laid or made—
  - (a) within 3 years after the commission of the offence; and
  - (b) within 12 months after the date on which the supporting evidence came to the Secretary for Justice's knowledge.
- (3) For the purposes of this section, a certificate of the Secretary for Justice as to the date on which the supporting evidence came to the Secretary for Justice's knowledge is conclusive evidence of that date.
- (4) This section does not apply to an offence committed before 1 March 1973.
- (5) In this section—

*supporting evidence* (助控證據) means evidence sufficient, in the Secretary for Justice's opinion, to justify the proceedings.

**905. Application of fines**

- (1) This section applies if—
  - (a) a provision of the predecessor Ordinance is repealed by section 900 but has a continuing effect under Schedule 10, or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), or both, after the repeal; and

- (b) after the repeal, a fine is imposed under the provision.
- (2) When imposing the fine, the Court or magistrate may direct that the whole or any part of the fine is to be applied—
  - (a) in or towards payment of the costs of the proceedings; or
  - (b) in or towards rewarding the person on whose information, or at whose suit, the fine is recovered.
- (3) Subject to a direction under subsection (2), the fine must be paid into the general revenue.
- (4) Subsection (3) has effect despite anything in any other Ordinance.

**906. Saving as to private prosecution**

- (1) This section applies if—
  - (a) a provision of the predecessor Ordinance is repealed by section 900 but has a continuing effect under Schedule 10, or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), or both, after the repeal; and
  - (b) the provision relates to the institution of criminal proceedings by the Secretary for Justice.
- (2) Nothing in the provision precludes any person from instituting or carrying on any criminal proceedings.

**907. Saving for privileged communication**

- (1) This section applies if—
  - (a) a provision of the predecessor Ordinance is repealed by section 900 but has a continuing effect under Schedule 10, or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), or both, after the repeal; and

- (b) after the repeal, proceedings are instituted under the provision against any person by the Secretary for Justice.
- (2) Nothing in the provision is to be regarded as requiring any person who has acted as solicitor for the defendant to disclose any privileged communication made to the person in that capacity.

### **Division 3**

#### **Supplemental Provisions**

**908. This Part etc. not to derogate from section 23 of Cap. 1**

This Part, and Schedules 9 and 10, are in addition to and not in derogation of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), except as otherwise provided in this Part or those Schedules.

**909. Continuity of law**

- (1) This section applies if a provision of this Ordinance re-enacts (with or without modification) a provision of another Ordinance repealed by this Ordinance.
- (2) The repeal and re-enactment does not affect the continuity of the law.
- (3) Anything done (including subsidiary legislation made), or having effect as if done, under or for the purposes of the repealed provision that could have been done under or for the purposes of the corresponding provision of this Ordinance, if in force or effective immediately before the commencement date of that corresponding provision, has effect after that commencement date as if done under or for the purposes of that corresponding provision.

- (4) A reference (express or implied) in an Ordinance, instrument or document to a provision of this Ordinance is to be construed (so far as the context permits) as including, as respects times, circumstances or purposes in relation to which the corresponding repealed provision had effect, a reference to that corresponding provision.
  - (5) A reference (express or implied) in an Ordinance, instrument or document to a repealed provision is to be construed (so far as the context permits), as respects times, circumstances and purposes in relation to which the corresponding provision of this Ordinance has effect, as being or (according to the context) including a reference to the corresponding provision of this Ordinance.
  - (6) This section has effect subject to any specific transitional or saving provision contained in this Ordinance.
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