

Chapter 3

Legal System

‘The Judiciary, the Department of Justice and the two independent legal professional bodies represent the four main pillars supporting Hong Kong’s legal system. While we perform different roles and functions, we share the same strong sense of mission, and the same high degree of determination to maintain and enhance the rule of law in Hong Kong. I am confident that our solidarity would enable us to overcome whatever challenges that may lie ahead.’ – Secretary for Justice, Mr Paul Lam, SC, at the ceremonial opening of the legal year 2025.

The legal system of the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China (PRC) differs from that of the Chinese Mainland, and is based on the common law.

Basic Law

The HKSAR's constitutional framework is provided by the Basic Law, enacted by the National People's Congress (NPC) in accordance with the Constitution of the PRC.

Since the establishment of the HKSAR on 1 July 1997, the gradual development of a body of jurisprudence on the Basic Law has reinforced its effectiveness in determining the rights and freedoms guaranteed to Hong Kong residents.

Laws in HKSAR

As provided in Article 18 of the Basic Law, the laws in force in the HKSAR are:

- the Basic Law;
- the laws previously in force in Hong Kong before 1 July 1997 (including the common law, rules of equity and customary law as well as statutory law as referred to in Article 8 of the Basic Law), other than those not adopted as laws of the HKSAR in accordance with the Decision by the NPC's Standing Committee (NPCSC) made under Article 160 of the Basic Law because they contravened the Basic Law;
- laws enacted by the HKSAR's legislature which, according to Article 11(2) of the Basic Law, shall not contravene the Basic Law; and
- the national laws listed in Annex III to the Basic Law and as applied to the HKSAR by way of promulgation or legislation.

Under Article 158 of the Basic Law, the power of interpretation of the Basic Law is vested in the NPCSC. Hong Kong courts are authorised to interpret the Basic Law in adjudicating cases.

National laws that may be added to Annex III to the Basic Law by the NPCSC are confined to those relating to defence and foreign affairs, and other matters outside the HKSAR's autonomy.

The Chinese and English texts of the HKSAR's legislation are equally authentic. The Hong Kong e-Legislation website provides current and past versions of consolidated legislation dating back to 30 June 1997 and copies of legislation marked 'verified copy' have legal status.

Continuation of Common Law System and Judicial System

The common law system has been maintained by the Basic Law since the PRC's resumption of the exercise of sovereignty over Hong Kong on 1 July 1997.

The judicial system previously practised in Hong Kong has been maintained except for those changes consequent upon the establishment of the Hong Kong Court of Final Appeal on 1 July 1997, which replaced the Judicial Committee of the Privy Council as the appellate court

exercising the power of final adjudication for Hong Kong. Pursuant to the Basic Law, judges from other common law jurisdictions have been invited to sit on the Court of Final Appeal since 1 July 1997.

Judges, magistrates and other judicial officers are appointed by the Chief Executive on the recommendation of the independent Judicial Officers Recommendation Commission, which is chaired by the Chief Justice of the Court of Final Appeal, with the Secretary for Justice, two other judges, two persons from the legal profession and three lay persons as members.

Under the Basic Law, judges shall be chosen on the basis of their judicial and professional qualities and may be appointed from other common law jurisdictions. The Basic Law also provides that judges may be removed from office only for inability to discharge their duties or for misbehaviour, on the recommendation of a tribunal appointed by the Chief Justice and consisting of at least three local judges.

Articles 2 and 19 of the Basic Law provide that the HKSAR enjoys independent judicial power, including that of final adjudication, which is vested in the Court of Final Appeal under Article 82. Pursuant to Article 85 of the Basic Law, the HKSAR courts shall exercise judicial power independently, free from any interference.

Department of Justice

The Department of Justice, headed by the Secretary for Justice, plays a significant role in the legal system and in upholding the rule of law in Hong Kong. The Secretary for Justice is the government's chief legal adviser and represents the government in all actions brought by, or against, it. The Secretary for Justice also has a constitutional duty to make prosecutorial decisions independently, free from any interference.

The Deputy Secretary for Justice assists the Secretary for Justice in discharging his duties, including the promotion of the rule of law, judicial independence and the legal system, as well as enhancing the legal exchanges and liaison with the Mainland and overseas.

The Department of Justice provides legal advice on civil matters to the government and represents the government in claims and disputes, as well as implements initiatives to promote alternative dispute resolution services in Hong Kong. It advises government departments and bureaux on whether proposed legislation, or a particular policy, is consistent with the Basic Law, international human rights standards as applied in Hong Kong, and established principles underlying the legal system.

The department is responsible for new legislation promoted by the Secretary for Justice. It also has a specialist unit which addresses the need for advice on Mainland law and promotes understanding and cooperation between the two places in relation to legal and dispute resolution matters.

The department drafts all legislation proposed by the government, vets the form of draft legislation proposed by non-governmental bodies, and updates the consolidated legislation on the Hong Kong e-Legislation website.

It prosecutes trials and appeals on behalf of the HKSAR, including those of offences endangering national security, and provides legal advice to law enforcement agencies upon request. It controls criminal prosecutions free from interference by virtue of Article 63 of the Basic Law and acts in accordance with the Prosecution Code.

The department also advises the government on international law issues, participates in treaty negotiations and international conferences, and handles requests for international legal cooperation.

The Legal Enhancement and Development Office acts as the central policy unit of the department, assisting in formulating and taking forward policy initiatives, including the promotion of rule of law education and Hong Kong's strengths in legal and dispute resolution services, and strengthening legal cooperation with the Mainland and the interface of legal practices between Hong Kong and the Guangdong-Hong Kong-Macao Greater Bay Area (GBA).

In 2025, the department saw developments and achievements under the following policy objectives and areas.

Hong Kong as an International Legal Hub

Hong Kong Legal Week 2025

With the theme of 'Linking Laws, Bridging Worlds', Hong Kong Legal Week 2025, held in December, underscored the value of Hong Kong's legal and dispute resolution services. The week featured panel discussions exploring the integration of lawtech and artificial intelligence, developments in international law and alternative dispute resolution, and enhancing legal collaboration in the GBA. It also commemorated the 35th anniversary of the Basic Law with a legal summit held on the Constitution Day (4 December) and marked the launches of the inaugural Hong Kong LawTech Fest and the newly set up GBA Lawyers Organization.

Deepening Mediation Culture

A policy requiring all government bureaus and departments to incorporate mediation clauses in future government contracts to promote the use of mediation for resolving disputes before resorting to arbitration or litigation took effect on 6 February. To complement its implementation, the department published a sample mediation clause and *The Government of the Hong Kong Special Administrative Region Mediation Rules*.

In 2025, the department, alongside the Environment and Ecology Bureau and the Food and Environmental Hygiene Department, conducted six training sessions for property management personnel under the Pilot Scheme on Community Mediation, with approximately 120 participants.

Arbitration Law Reform

In October, the Working Group on Arbitration Law Reform was established to review and make recommendations to amend the Arbitration Ordinance so that the legislative framework for arbitration stays at the forefront of international development, with a view to further strengthening Hong Kong's position as an international arbitration centre.

Sports Dispute Resolution

The Pilot Scheme on Sports Dispute Resolution was launched on 11 December, establishing a fair and efficient mechanism tailored for the sports sector. The scheme will start accepting case applications in early 2026, and operate for a two-year pilot period, to be followed by a review.

Lawtech Development

In January, the department established the Consultation Group on LawTech Development to advise on the formulation of policies and measures on lawtech and to encourage the legal and dispute resolution sector to adopt lawtech to enhance competitiveness. Several key initiatives followed, including the LexGoTech Roundtable Series, the launch of the Survey of LawTech Service Providers in Hong Kong, and the hosting of the inaugural Hong Kong LawTech Fest during Hong Kong Legal Week.

Guangdong-Hong Kong-Macao Greater Bay Area Development

The department has been taking forward various measures set out in the Action Plan on the Construction of Rule of Law in the Guangdong-Hong Kong-Macao Greater Bay Area, fostering interfaces in legal mechanisms, regulatory frameworks and legal talent within the GBA.

Since February, Hong Kong-invested enterprises in Shenzhen and Zhuhai, regardless of investment ratio, may choose Hong Kong law to govern their commercial contracts with other Mainland enterprises. Furthermore, Hong Kong-invested enterprises in the nine GBA Mainland cities may stipulate Hong Kong as the seat of arbitration for resolving disputes. These initiatives leverage the international familiarity and predictability of Hong Kong's common law system for risk management, enhancing the investment environment of the GBA.

In July, for the first time, the department, the China Law Society and the Legal Affairs Bureau of the Macao SAR Government co-organised the 13th Mainland, Hong Kong and Macao Legal Seminar in Hong Kong to facilitate the construction of the GBA with high-quality rule of law.

The fifth GBA Legal Professional Examination was held in October and, as of December, more than 630 GBA lawyers have qualified since 2021. The GBA Lawyers Organization was launched, also in December, to further advance the pilot scheme for cross-boundary legal practice in the GBA. The organisation seeks to strengthen professional development and training for GBA lawyers, encouraging them to contribute more to the development of the GBA.

At the seventh GBA Legal Departments Joint Conference held in December, Guangdong, Macao and Hong Kong agreed to establish a GBA commercial mediation and arbitration platform to jointly promote the establishment and adoption of GBA standards, and enhance the efficiency of dispute resolution in the GBA. The GBA Arbitrator Panel and GBA Mediator Panel 2025 were promulgated on 30 December, signifying a milestone in enhancing the interface of dispute resolution talent and multifaceted dispute resolution mechanism in the GBA.

Promotion of Hong Kong's legal services

The Hong Kong Professional Services GoGlobal Platform, initiated by the Department of Justice, was launched in December, marking a new stage of collaborative support by Hong Kong's professional services for Mainland enterprises going global.

The seventh Hong Kong Legal Services Forum was held in Xi'an in May, promoting Hong Kong's international legal and dispute resolution services to the legal sector and enterprises in Shaanxi province and neighbouring regions.

International Cooperation and Promotion

Hong Kong is authorised under the Basic Law to conduct relevant external affairs and use the name 'Hong Kong, China' to conclude and implement agreements with foreign states and regions and international organisations in appropriate fields, including economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports.

As members of the Chinese delegation, the department's counsel participated in meetings and working groups of the United Nations Commission on International Trade Law (UNCITRAL), the International Institute for the Unification of Private Law (UNIDROIT), the Hague Conference on Private International Law (HCCH) and the Asian-African Legal Consultative Organization (AALCO).

Following the signing ceremony of the Convention on the Establishment of the International Organization for Mediation (IOMed) on 30 May and its entry into force on 29 August, the IOMed headquarters in Hong Kong commenced operation on 20 October to provide mediation services for resolving international disputes.

The General Assembly of the UNIDROIT, at its 85th session on 11 December, decided to establish the UNIDROIT Asia-Pacific Liaison Office in the HKSAR. The office is expected to open in 2026, as part of UNIDROIT's centenary celebration.

Strengthening International Cooperation in Combatting Cross-border Crimes

The 15th China-ASEAN Prosecutors-General Conference was held in Hong Kong on 23 September and attended by around 80 participants from China and the Association of Southeast Asian Nations (ASEAN) member states. The heads of delegations signed the Joint Declaration of the 15th China-ASEAN Prosecutors-General Conference, declaring and reaffirming the commitment to fight against transnational crimes, including money laundering and corruption; to strengthen cooperation and sharing of knowledge and best practices; to enhance anti-money laundering and anti-corruption regulatory frameworks and legal tools; and to step up promotional works to enhance public understanding and awareness of money laundering and corruption.

Strengthening Rule of Law Education

With the support of the Steering Committee on Rule of Law Education and its working groups, the third phase of the Rule of Law Education Stars Train-the-Leaders Programme was completed in November. More than 380 trainees from 21 organisations on youth-related and community work, more than 100 secondary schools and the Education University of

Hong Kong participated in the programme, which aims to empower community leaders to promote rule of law in different sectors of the society.

The Rule of Law through Drama project, designed for primary school students, continued and more than 350 drama shows have been performed since its launch in 2020. A Rule of Law Drama Day, featuring two large-scale interactive drama shows about the rule of law, was attended by 2,000 primary students and parents in May.

The Rule of Law Journeys were organised in September and November to enhance secondary school students' understanding of rule of law principles and the department's role through guided tours of the Hong Kong Legal Hub. The journeys were received by over 700 students and teachers from 21 secondary schools in Hong Kong.

Promotion of the Basic Law

The Basic Law 35th Anniversary Legal Summit was held in December bringing together renowned experts of the Basic Law, leaders from the legal, financial, aviation, trade and higher education sectors to share insights on the successful implementation of the Basic Law.

Training, Attracting and Retaining Legal Talent

The department supports the development of local legal talent by offering internships and placements, and by engaging less experienced lawyers to undertake court work.

Secondment arrangements with international organisations, such as the Asian Infrastructure Investment Bank, HCCH, UNCITRAL and UNIDROIT, provide training and working opportunities for Hong Kong legal professionals from the private and public sectors.

The Hong Kong International Legal Talents Training Academy organised more than 12 capacity-building training programmes in Hong Kong, the Chinese Mainland and worldwide. It uses Hong Kong's bilingual common law system and international status to serve as a capacity-building, as well as knowledge and experience-sharing, platform for professionals in Hong Kong, the Mainland and other jurisdictions, particularly those along the Belt and Road.

The Judiciary

As prescribed in the Basic Law, the HKSAR is vested with independent judicial power, including the power of final adjudication. It also states in express terms that the courts of the HKSAR shall exercise judicial power independently, free from any interference. Judges and judicial officers are appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, members of the legal profession and eminent persons from other sectors. They are chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions. Members of the Judiciary shall be immune from legal action in the performance of their judicial functions. As reflected in the Judicial Oath, in exercising their judicial powers, judges and judicial officers are constitutionally required to handle and determine cases strictly in accordance with the law and legal principles.

In line with the principle of judicial independence, the pay and conditions of service of judges and judicial officers are determined by the Chief Executive-in-Council on the advice of the independent Standing Committee on Judicial Salaries and Conditions of Service.

The Chief Justice of the Court of Final Appeal is the head of the Judiciary. He is assisted in his administrative duties by the Judiciary Administrator.

The Court of Final Appeal, headed by the Chief Justice, is the HKSAR's highest appellate court. There are three permanent judges, four non-permanent Hong Kong judges and six non-permanent judges from other common law jurisdictions. The court, when sitting, will comprise five judges – usually the Chief Justice, three permanent judges and one non-permanent judge from another common law jurisdiction. If the Chief Justice is not available to sit, one of the three permanent judges will preside and an additional Hong Kong non-permanent judge will sit. If a permanent judge is not available to sit, again a Hong Kong non-permanent judge will sit in his place. The Registrar deals mainly with interlocutory matters and taxation of costs.

The High Court, comprising the Court of Appeal and Court of First Instance, is headed by the Chief Judge of the High Court. There are 14 Justices of Appeal and 34 Judges of the Court of First Instance on the establishment. The Registrar, Senior Deputy Registrars and Deputy Registrars deal mainly with interlocutory matters and taxation of costs.

The Court of Appeal hears civil and criminal appeals from the Court of First Instance, Competition Tribunal, District Court and Lands Tribunal. The Court of First Instance has unlimited jurisdiction in both civil and criminal matters. Civil matters are usually tried by Court of First Instance judges sitting without juries, although there is a rarely used provision for jury trials in certain cases, including defamation. Unless the law stipulates otherwise, serious criminal cases such as murder, manslaughter, rape, armed robbery and substantial drug trafficking offences are tried by a judge in the Court of First Instance sitting with a jury of seven or, when the judge so orders, a jury of nine. The Court of First Instance also hears appeals from the Magistrates' Courts, Labour Tribunal, Small Claims Tribunal and Obscene Articles Tribunal as well as appeals from the Minor Employment Claims Adjudication Board.

The Competition Tribunal has primary jurisdiction to hear and adjudicate competition-related cases. All judges of the Court of First Instance are members of the tribunal, while the Registrar, Senior Deputy Registrars and Deputy Registrars of the High Court hold the corresponding positions in the tribunal.

The District Court, which also includes the Family Court, is headed by the Chief District Judge. There are 42 District Judges on the establishment. The Registrar and Deputy Registrars deal mainly with civil interlocutory matters and taxation of costs. The District Court has civil and criminal jurisdiction and powers as are conferred upon it by law. The more common types of civil action in the District Court include contract, quasi-contract, tort, recovery of land or premises, claims in equity, distress, employees' compensation cases and discrimination cases. For monetary claims in general, the amount must be over \$75,000 but not more than \$3 million. For recovery of land or premises, the annual rent or rateable value or the annual

value thereof must not exceed \$320,000. The maximum sentencing power in criminal cases is seven years' imprisonment. There is no jury trial in the District Court.

The Family Court is led by the Principal Family Court Judge and comprises judges who are District Judges. The masters deal mainly with interlocutory and enforcement matters. The Family Court hears applications pertaining to divorce, separation and related family and matrimonial matters such as applications concerning children and financial relief. Notwithstanding the District Court's limited general civil jurisdiction, there is no monetary limit in the Family Court. It also deals with applications under domestic violence legislation and the Inheritance (Provision for Family and Dependents) Ordinance. Most hearings are conducted in private, save for defended divorces and enforcement actions.

The seven Magistrates' Courts process about 90 per cent of criminal cases. Led by the Chief Magistrate, the team comprises five Principal Magistrates and 67 Permanent Magistrates. Magistrates exercise criminal jurisdiction with a general limit of two years' imprisonment and a \$100,000 fine, but they are empowered to impose up to three years' imprisonment and a \$5 million fine where a statutory provision specifies. They also handle cases in the Juvenile Courts, which deal with offences, except homicide, committed by children and young persons below the age of 16.

The Lands Tribunal is led by a President who is a High Court Judge and comprises presiding officers who are District Judges and members who may be experienced professional surveyors. The tribunal handles tenancy claims, building management matters, rating and valuation appeals, applications for the compulsory sale of land for redevelopment, and compensation assessments when land is resumed by the government or reduced in value by development. The Labour Tribunal exercises exclusive jurisdiction in handling claims arising from labour disputes and matters under the Employment Ordinance. The Small Claims Tribunal handles civil claims not exceeding \$75,000. The Obscene Articles Tribunal determines whether articles are obscene or indecent. It also classifies articles submitted by authors and publishers. The Coroner's Court conducts inquests into the causes and circumstances of deaths.

According to the Basic Law and Official Languages Ordinance, the courts can use either or both Chinese and English, the two official languages, in any proceedings.

Legal Aid

Publicly funded legal aid services are provided through the Legal Aid Department and the Duty Lawyer Service. Legal aid ensures a person who has reasonable grounds for taking or defending a legal action in Hong Kong courts is not prevented from doing so because of a lack of means.

Legal Aid in Civil Cases

Ordinary Legal Aid Scheme

The department runs an Ordinary Legal Aid Scheme for civil proceedings in the District Court, Court of First Instance, Court of Appeal and Court of Final Appeal; applications to the Mental Health Review Tribunal; and death inquests if the interests of public justice so require. Major types of cases covered include family disputes, personal injury claims, employment disputes,

disputes related to landed properties, contractual disputes, immigration matters and professional negligence claims.

The department provides legal aid services to eligible applicants who pass both a means test and merits test regardless of their place of residence or nationality. The means test requires applicants to show their financial resources (the sum of the person's annual disposable income and total disposable capital after deducting a statutory allowance and certain deductible items) do not exceed \$449,620. For applicants aged 60 or above, the test disregards the first \$449,620 when calculating the disposable capital.

The Director of Legal Aid may waive the statutory financial eligibility limit in meritorious cases where a breach of the Hong Kong Bill of Rights Ordinance or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong is an issue.

The merits test requires applicants to satisfy the director that there are reasonable grounds for bringing or defending the civil proceedings. The department will arrange a solicitor and/or a barrister to act for the eligible applicant after legal aid is granted. Aided persons may have to pay a contribution, depending on their financial resources, and are required to repay all the expenses incurred in the proceedings that are not recovered from the opposite party out of the property recovered or preserved on their behalf in the proceedings.

An applicant who is refused civil legal aid may appeal to the Registrar of the High Court or, for Court of Final Appeal cases, to a Review Committee chaired by the Registrar of the High Court and with a barrister and a solicitor as members.

Supplementary Legal Aid Scheme

This self-financing scheme helps people whose financial resources exceed the Ordinary Scheme's limit, allowing an eligibility limit of \$2,248,110. The scheme covers the following types of cases where the claim is likely to exceed \$75,000: personal injury or death claims; medical, dental or professional negligence claims against nine professions; negligence claims against insurers or their intermediaries; monetary claims in first-hand property sales; negligence claims against certain financial intermediaries; and certain momentary claims in respect of derivatives of securities, currency futures or other futures contracts. It also covers employees' compensation claims and representation for employees in appeals against awards made by the Labour Tribunal regardless of the amount in dispute.

Legal Aid in Criminal Cases

Legal aid is available under the Ordinary Legal Aid Scheme for committal proceedings in the Magistrates' Courts, criminal trials in the District Court and the Court of First Instance, appeals from the Magistrates' Courts and appeals to the Court of Appeal and the Court of Final Appeal. Applicants who pass the means test receive legal aid for trial, provided the Director of Legal Aid is satisfied it is desirable in the interests of justice to grant legal aid.

The director has the discretion to grant legal aid in a criminal case where the applicant's financial resources exceed the eligibility limit, if the director is satisfied it is desirable in the

interests of justice to do so, subject to the payment of a contribution at higher rates calculated according to the applicant's financial resources.

An applicant who passes the means test but is refused legal aid may apply to a judge for legal aid to be granted. The Review Committee hears appeals against the refusal of legal aid for appeals to the Court of Final Appeal.

Legal Aid Cases in 2025

	Civil Cases		Criminal Cases
	Ordinary Scheme	Supplementary Scheme	Ordinary Scheme
Number of applications	8,484	152	4,035
Number of certificates granted	3,591	99	3,034
Amount of legal expenditure incurred	\$659.7 million	\$15.9 million*	\$376 million
Monies recovered	\$955.2 million	\$72.1 million*	N/A

* The figures are unaudited.

Duty Lawyer Scheme

The Duty Lawyer Scheme provides legal representation to eligible defendants appearing in all Magistrates' Courts and Juvenile Courts, and to any person who is at risk of criminal prosecution as a result of giving incriminating evidence in a Coroner's inquest. It also covers contempt proceedings in the Labour Tribunal, Small Claims Tribunal and Competition Tribunal. Defendants are provided with legal representation on the first day of court appearance without any means testing. If defendants wish to have legal representation for subsequent appearances, a means test is required. The financial eligibility limit is a gross annual income of \$231,550. After passing the means test, defendants are required to pay a one-off fixed handling charge of \$640. In 2025, 23,680 defendants were assisted.

Official Solicitor

The Director of Legal Aid is also the Official Solicitor, appointed under the Official Solicitor Ordinance. The Official Solicitor's main duties are to act as 'guardian ad litem' or 'next friend' in legal proceedings for persons under a disability of age or who are mentally incapacitated, as representative of deceased persons' estates for the purpose of legal proceedings, as Official Trustee and Judicial Trustee, and as committee of the estate of mentally incapacitated persons. In 2025, the Official Solicitor took up 308 new cases.

Legal Advice Scheme for Unrepresented Litigants on Civil Procedures

The Legal Advice Scheme for Unrepresented Litigants on Civil Procedures under the Administration Wing, Chief Secretary for Administration's Office, provides free legal advice on civil procedural matters for unrepresented litigants who have not engaged lawyers nor been

granted legal aid. The scheme covers litigants who commence or are parties to civil legal proceedings in the Lands Tribunal, Family Court, District Court or courts at levels above. In 2025, a total of 2,443 advice sessions were given to eligible applicants.

Websites

Administration Wing, Chief Secretary for Administration's Office: www.admwing.gov.hk

Department of Justice: www.doj.gov.hk

Hong Kong e-Legislation: www.elegislation.gov.hk

Hong Kong's legal services: www.legalhub.gov.hk

Judiciary: www.judiciary.hk

Legal Aid Department: www.lad.gov.hk

Treaties and international agreements: www.doj.gov.hk/eng/laws/treaties.html