

部門檢控／人權 Departmental Prosecutions / Human Rights

部門檢控／人權組的主要職責包括為入境事務處、勞工處、屋宇署、地政總署、消防處、社會福利署、差餉物業估價署等逾 30 個部門執法機關提供法律指引。該組的律師也就刑事訴訟及司法覆核中出現的《基本法》和人權問題提供法律指引。

下文載述該組在 2025 年處理的一些值得關注的案件。

The major responsibilities of the Departmental Prosecutions / Human Rights Sections include giving legal advice to over 30 departmental law enforcement agencies including the Immigration Department, Labour Department, Buildings Department (“BD”), Lands Department (“LandsD”), Fire Services Department, Social Welfare Department and Rating and Valuation Department. Counsel in the Sections also advise on Basic Law and human rights issues arising in criminal proceedings and judicial reviews.

Some notable cases handled by the Sections in 2025 are highlighted below.



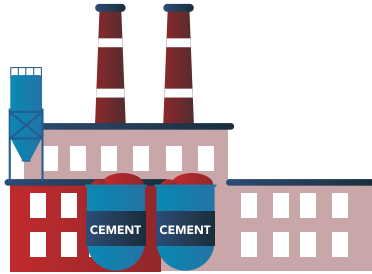
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部門檢控／人權組一直就大潭紅山半島的多項僭建物向屋宇署及地政總署提供法律指引。八間獨立屋的業主及一間獨立屋的租客承認干犯《土地(雜項條文)條例》(第 28 章)所訂罪行,而 22 間獨立屋的業主亦承認干犯《建築物條例》(第 123 章)所訂罪行。該組會繼續與執法機關合力處理餘下案件。

The Sections have been giving advice to BD and LandsD in relation to unauthorised building works at Redhill Peninsula in Tai Tam. Owners of eight houses and the tenant of one house pleaded guilty to offences under the Land (Miscellaneous Provisions) Ordinance (Cap. 28), and owners of 22 houses pleaded guilty to offences under the Buildings Ordinance (Cap. 123). The Sections continue to work with the law enforcement agencies to handle the remaining cases.

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部門檢控／人權組一直與環境保護署（環保署）跟進有關油塘混凝土廠的事宜。經營涉案混凝土廠的公司承認違反《空氣污染管制條例》（第 311 章）第 10 及 13 條所訂的“沒有遵從空氣污染消減通知”及“無牌運作”的傳票控罪，並被判處罰款。該組會繼續與環保署合力處理餘下案件。涉案混凝土廠已經停止運作。

The Sections have been following up with the Environmental Protection Department (“EPD”) on matters relating to concrete batching plants in Yau Tong. The company operating the plants pleaded guilty to and was fined for offences of “failing to comply with abatement notice” and “operating without licence”, contrary to sections 10 and 13 of the Air Pollution Control Ordinance (Cap. 311) respectively. The Sections continue to work with EPD to handle the remaining cases. The concrete batching plants have already ceased operation.

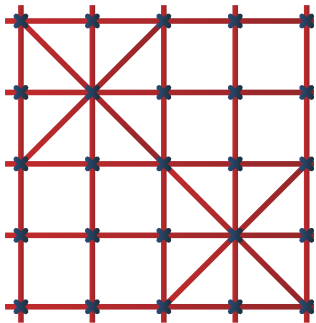
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在**香港特別行政區 訴 協盛建造有限公司** WKS 7076, 7078-7082, 7084/2024 案中，一名工人在 SkyCity 航天城一幢興建中的建築物的假天花內進行電力裝置工作時觸電身亡。該建築地盤的總承建商承認干犯《工廠及工業經營條例》（第 59 章）及其附屬法例所訂的罪行，起初被判罰款合共港幣 261,000 元。控方申請覆核刑罰，理由是在 2023 年修訂的法例大幅提高了職業安全及健康罪行的最高罰則，故原定罰款明顯過低。法庭就四項直接導致該宗致命意外的主要安全違規行為批准覆核申請，罰款總額因而大幅增至港幣 521,000 元。

In **HKSAR v Hip Seng Builders Limited** WKS 7076, 7078-7082, 7084/2024, a worker died from electrocution while carrying out electrical installation work on the false ceiling of a building under construction at SkyCity. The principal contractor of the construction site pleaded guilty to the offences under the Factories and Industrial Undertakings Ordinance (Cap. 59) and its subsidiary legislations and was initially fined a total of HK\$261,000. The Prosecution applied for a sentence review on the ground that the original fines were manifestly inadequate following the legislative amendment in 2023, which substantially increased maximum penalties for occupational safety and health offences. The review application was granted in respect of four core safety breaches that directly contributed to this fatal accident, resulting in substantially increased fines totalling HK\$521,000.

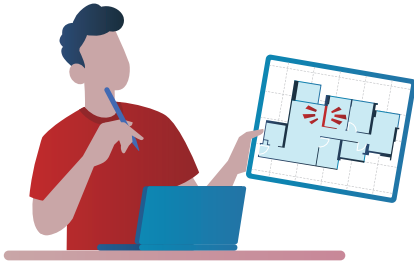
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香港特別行政區 訴 許佰成 KTS 23895-97/2022 案涉及一宗致命棚架事故。遇難的工人被指派在外牆搭建棚架，其間從高處墮下身亡。調查顯示現場沒有工作平台、適當的繫穩物、救生索及安全網，也沒有確保工人遵從須配戴頭盔的規定。被告被裁定三項《建築地盤（安全）規例》（第 59I 章）的罪行罪成。他原被判處罰款港幣 90,000 元，分 90 期繳付，原因是他聲稱財務拮据，無力繳付罰款。其後控方成功申請覆核刑罰，罰款總額增至港幣 160,000 元，每月須繳付的分期罰款額加倍。

HKSAR v Hui Kui-shing KTS 23895-97/2022 concerns a fatal scaffolding incident. The deceased worker, assigned to erect a scaffold on the external wall, fell from height and passed away. Investigations revealed the absence of a working platform, proper anchorage, lifeline, safety nets and helmet compliance. The defendant was convicted of three offences under the Construction Sites (Safety) Regulations (Cap. 59I). He was initially fined HK\$90,000, payable in 90 instalments, as he claimed impecunity and a lack of financial means to pay the fines. The Prosecution successfully applied for a sentence review, with the total fines increased to HK\$160,000 and the amount of monthly instalment doubled.

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在**香港特別行政區 訴 辜晉豪及另二人** KTS 11159-11164/2024 案中，一個住用樓宇單位內的結構牆在未有事先獲得建築事務監督批准的情況下被拆除。該單位的業主、設計師及負責拆除工程的承建商被控干犯《建築物條例》(第 123 章)所訂罪行。涉案的設計師及承建商各自承認控罪，而業主經審訊後被裁定罪名成立。三名被告被判處罰款港幣 60,000 元至 200,000 元。

In **HKSAR v Ku Chun-ho and 2 others** KTS 11159-11164/2024, a structural wall inside a domestic flat was found being demolished without prior approval of the Building Authority. The owner of the flat, the designer and the contractor responsible for the demolition work were prosecuted for offences under the Buildings Ordinance (Cap. 123). The designer and the contractor pleaded guilty to their respective offences while the owner was convicted after trial. The defendants were fined between HK\$60,000 and HK\$200,000.

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香港特別行政區 訴 李慶彬 (2025) 28 HKCFAR 270 案是關乎《入境條例》(第 115 章)所訂“對入境事務主任作出虛假的陳述或申述”罪及“使用虛假旅行證件”罪的上訴。一名中國內地居民因其護照及《往來港澳通行證》載有錯誤的出生日期，被裁定上述罪行罪成。他聲稱曾試圖更正錯誤的出生日期但不果。在被告就定罪提出的上訴中，終審法院因應五個問題作出以下裁決：要構成陳述罪行中的犯罪行為，該項陳述或申述須在客觀上屬於虛假；“自身謊言”原則只適用於“偽造”而非“虛假”旅行證件；出生日期是個人身分的基本元件，明顯對入境管制的運作非常重要；控方無須舉證被告意識到虛假項目為要項；這些罪行不存在解讀隱含合理辯解作抗辯理由的空間；以及法庭會考慮被告在使用自動化身份核實系統後向入境事務主任就其旅行證件載有錯誤出生日期所作之解釋。終審法院一致駁回上訴。

HKSAR v Li Qingbin (2025) 28 HKCFAR 270 was an appeal relating to the offences of “making false statement or representation to an immigration officer” and “using a false travel document” under the Immigration Ordinance (Cap. 115). A Chinese Mainland resident was convicted of the said offences due to incorrect dates of birth on his passport and exit-entry permit. He claimed that his efforts to correct the dates of birth had been unsuccessful. In the defendant’s appeal against conviction, the Court of Final Appeal addressed five questions: it held that it was an *actus reus* requirement of the representation offence that the statement or representation was objectively false; the automendacity principle only applied to “forged” but not “false” travel documents; a person’s date of birth was a basic attribute and was obviously material to the operation of immigration control; it was not necessary to prove that a defendant was aware of the materiality of the false particular; there was little room for implying a reasonable excuse defence for these offences; and the Court would consider a defendant’s explanations given to immigration officers regarding the inaccurate birth date in his travel document after having used the automated clearance facilities. The appeal was unanimously dismissed.