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Title: **Industrial Summons – Common Criminal Prosecutions in Construction Projects**

Instructors: Mr. Harrison Cheung and Mr. Vincent Li

Language: Cantonese (with technical terms in English)

Date: 23rd October 2020 (Friday)

Venue: Your comfortable office or home

Cost: \$1,350 (include an e-copy of course notes and a Certificate of Attendance)

Early bird discount:

\$1,150 for registration **completed** on or before **16th October 2020**

Methods of Payment:

(1) A deposit to "**Advanced Technovation Limited**" at HSBC Account No. 400-304267-001 and get a receipt; (2) FPS 3116993 and take a screen capture; or (3) An e-cheque payable to "**Advanced Technovation Limited**".

Registration:

(1) register online at [adv-technovation.com](http://adv-technovation.com) and submit the image of the receipt or screen capture, or an e-cheque; or (2) fill in the reply slip and email the completed reply slip with the receipt, screen capture or e-cheque to [support@adv-technovation.com](mailto:support@adv-technovation.com)

Applicants will be accepted on a first-come-first-served basis. All accepted registration will be confirmed by e-mail. **We would normally respond to you within 48 hours. If you do not hear from us within 3 days, please contact us again by e-mail at [support@adv-technovation.com](mailto:support@adv-technovation.com).**

Questions: Please contact Miss Luk at 91208024 (phone or WhatsApp) or [support@adv-technovation.com](mailto:support@adv-technovation.com)

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Course: **Industrial Summons – Common Criminal Prosecutions in Construction Projects**

Name:

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Phone:

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(A physical mailing address is needed to deliver the originals of your Certificate of Attendance and receipt for your payment.

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## **Industrial Summons – Common Criminal Prosecutions in Construction Projects**

### **Course Description**

Construction sites are subject to regulatory control by various government departments including the Labour Department, Environmental Protection Department, Food and Hygiene Department etc. These departments conducted periodic inspections to construction sites for monitoring purposes. Should any provisions in the relevant ordinances and/or regulations be contravened, the contractor and/or subcontractor responsible for the construction works would be prosecuted by way of summons, commonly named as "industrial summons". Conviction of such offences usually results in fines penalty, but it would also adversely affect the reputation of the contractor and its future tendering opportunity. As such, personnel involved in the management and supervision of construction projects must be well aware of the relevant provisions in the ordinances and/or regulations related to safety and environmental protection. They should also have knowledge of the legal procedures involved should an industrial summons be issued against their companies. This course aims to equip the personnel involved in the management and supervision of construction projects with knowledge of the relevant provisions in the prevailing safety and environmental protection ordinances from a legal practitioner perspective, the ordinary types of defence recognized by the law, and the litigation procedure involved when prosecution procedure is initiated.

Upon completion of this course, participants will learn:

- Overview of the criminal procedures in Hong Kong Court
- The prevailing safety and environmental protection legislations
- The elements of the offences commonly covered by industrial summons
- Common types of defence
- What strict liability is
- The legal meanings of "reasonable excuse", "all reasonable steps", "so far as reasonably practicable", "due diligence"
- What a safe system of work is
- Definition of "direct control" of a construction site
- The liability of sub-contractors
- Expert evidence
- The effect of the conviction record in subsequent personal injury civil claims, if there are persons injured
- The procedure of appeal upon conviction in the instant trial
- Real cases where contractors were acquitted after trial and/or appeal
- Factories and Industrial Undertakings Ordinance (Cap. 59)
- Occupational Safety and Health Ordinance (Cap. 509)
- Air Pollution Control Ordinance (Cap. 311)
- Dangerous Goods Ordinance (Cap. 295)
- Noise Control Ordinance (Cap. 400)
- Waste Disposal Ordinance (Cap.354)
- Water Pollution Control Ordinance (Cap. 358)
- Prosecution Procedure
- Common law defence
- Statutory defence
- Burden of proof

## The Instructors

**Harrison Cheung** is a practicing barrister and a Registered Professional Engineer (Civil) in Hong Kong. He holds academic qualifications in the disciplines of civil engineering (Imperial College, U.K.), engineering geology (University of New South Wales), arbitration and dispute resolution (City University), practicing accounting (Monash University), business administration (Polytechnic University) and law (City University).

He is a Member of the HKIE and a Fellow of the Chartered Institute of Arbitrators. He is a HKIAC accredited mediator and adjudicator, a HKIAC listed arbitrator, and listed on the Panel of Mediators and Arbitrators of the Hong Kong Bar Association. He is also listed on the Panel of Dispute Resolution Advisers (DRA) maintained by the Government and is currently acting as the DRA for 4 projects. He is also appointed as the Chairman of the Appeal Tribunal (Buildings) and a member of the Guesthouse Appeal Tribunal.

Mr. Cheung is now practicing in both civil and criminal litigation. Besides the Court of Final Appeal, Court of Appeal, the High Court, District Court and various Magistracies, he also has experience appearing in the Appeal Tribunal (Buildings), the Lands Tribunal and the Town Planning Appeal Board.

In the NEC aspect, Mr. Cheung is now acting as NEC Specialist for 3 government contracts using Option A and B. He has also advised 3 contractors on 3 other NEC contracts concerning different practical problems adopting Options A, B & C. He is a seasoned speaker on NEC topics.

**Vincent Li** is a practicing barrister, arbitrator and accredited mediator, and arbitrator He is also a U.K. Chartered Engineer, a Hong Kong Registered Professional Engineer, and a NEC4 ECC Accredited Project Manager. He holds academic qualifications in the disciplines of engineering (BSc.(Eng.), HKU), business administration (MBA, CUHK) and law (LLM, CityU). He is included in the lists of mediators and arbitrators of various local and international institutions. He is also included in the Hong Kong Government's approved list of Dispute Resolution Advisers.

Before joining the legal profession, Mr. Li had been working in the construction and commercial field for more than 25 years, involving in various construction and investment projects in both mainland China and in Hong Kong. In addition to technical and commercial matters, Mr. Li was also responsible for dealing with the contractual and legal issues arising from these projects, including resolution of disputes by means of mediation, arbitration and litigation.

Mr. Li is now practicing as a barrister involving in various arbitrations, as well as civil and commercial litigation cases. He also acts as the arbitrator, mediator, dispute resolution advisor, and NEC Advisor/Specialist in various cases and projects involving commercial and construction matters.

Mr. Li is one of the co-authors of the book *Arbitration in Hong Kong: A Practical Guide* (2nd Ed) published by Sweet & Maxwell in 2011; and the book *Construction Contract Essentials in Hong Kong* published by the HKU Press in 2017. He has also acted as a visiting lecturer and tutor at the Hong Kong Polytechnic University, the Hong Kong City University of Hong Kong, and other training institutions teaching subjects relating to development control law, dispute resolution, mediation, arbitration, construction and commercial law, and regulatory prosecution in construction projects.

### Programme

- 8:30 a.m. – 9:00 a.m. Registration for the morning session
- 9:00 a.m. – 9:15 a.m. Overview of criminal prosecutions by industrial summons in Hong Kong - Mr Harrison Cheung
- 9:15 a.m. – 9:30 a.m. Overview of criminal procedures in Hong Kong - Mr Vincent Li
- 9:30 a.m. – 10:30 a.m. Major legislations relating to site safety, common types of industrial summons encountered in construction projects and the available defences in law I - Mr Harrison Cheung
- 10:30 a.m. – 10:45 a.m. Coffee break (on your own)
- 10:45 a.m. – 11:15 a.m. Major legislations relating to site safety, common types of industrial summons encountered in construction projects and the available defences in law II - Mr Harrison Cheung
- 11:15 a.m. – 12:15 p.m. Case Studies for safety related industrial summons - Mr Harrison Cheung
- 12:15 p.m. – 1:30 p.m. Lunch (on your own)
- 1:00 p.m. – 1:30 p.m. Registration for the afternoon session
- 1:30 p.m. – 2:30 p.m. Major legislations relating to environmental protection, common types of industrial summons encountered in construction projects and the available defences in law I - Mr Vincent Li
- 2:30 p.m. – 3:00 p.m. Major legislations relating to environmental protection, common types of industrial summons encountered in construction projects and the available defences in law II - Mr Vincent Li
- 3:00 p.m. – 3:15 p.m. Coffee break
- 3:15 p.m. – 4:45 p.m. Case studies of environmental protection related industrial summons – Mr Vincent Li
- 4:45 p.m. – 5:00 p.m. Discussion

### Recent Conferences, Symposia, Technical Seminars, and Continuing Professional Development Courses:

- "EC2: Design of concrete structures" by Ir Professor J.S. Kuang – 12th October 2020
- "Good practices for environmental and safe construction sites" by Ms. Joanne Kwan – 16th September 2020
- "Special topics in design of reinforced concrete (2)" by Ir Professor J.S. Kuang – 8th September 2020
- "Construction arbitration: Theory and practical tips" by Mr. Harrison Cheung and Mr. Vincent Li – 21st August 2020
- "Engineering our sustainable future" by Ir C.F. Lam – 29th July 2020
- "Special topics in design of reinforced concrete (1)" by Ir Professor J.S. Kuang – 27th July 2020

- "Design and construction of large-diameter bored piles in Hong Kong" by Ir Dr. Albert T. Yeung – 13th January 2020
- "Seismic resistant structures: Analysis and design. II. Design concepts of concrete buildings and design to codes of practice " by Ir Professor J.S. Kuang – 4th December 2019
- "Seismic resistant structures: Analysis and design. I. Seismology and seismic response of structures and buildings" by Ir Professor J.S. Kuang – 2nd December 2019
- "Insurance and bond for the construction industry" by Mr. Michael L.K. Ho and Mr. Raymond Wong – 13th November 2019
- "Flood management in Hong Kong" by Ir Professor P.K. Chan – 16th October 2019
- "Applications of BIM in the construction industry" by Sr Joe K.F. Wu, Sr Thomas Lee, Mr. Peter Wu, Miss Annie Cheng and Mr. David Fung – 26th August 2019
- "Ground improvement using surcharging with prefabricated vertical drains and compaction" by Ir Dr. Albert T. Yeung – 24th July 2019
- "Green compliance without tears: A better understanding of the Hong Kong environmental laws" by Ir C.F. Lam – 12th June 2019
- "Geotechnical *in-situ* testing" by Ir Dr. Albert T. Yeung – 22nd May 2019
- "Structural concrete design to Eurocode 2: Theory and comparison with HKConcrete2013" by Ir Professor J.S. Kuang – 10th April 2019
- "Construction claims: From theory to practice" by Mr. Harrison Cheung and Mr. Vincent Li – 15th March 2019

### **Publications by Advanced Technovation Limited**

- Feng, X., and Yue, Z.Q. (2016). Editors. *Proc., International Geotechnics Symposium cum International Meeting of CSRME 14th Biennial National Congress*. Advanced Technovation Limited, Hong Kong.
- 澳門工程師學會 (2012). 第六屆粵港澳可持續發展研討會(澳門)論文集. Advanced Technovation Limited, Hong Kong.
- Kwan, A.K.H., Wong, K., and Choi, P.Y. (2011). Editors. *The Second International Conference on Utility Management and Safety*. Advanced Technovation Limited, Hong Kong.
- 鄭在仁、王如龍 (2010). 基地調查手冊. 澳門岩土工程協會. Advanced Technovation Limited, Hong Kong.
- Wong, K., and Allen, R.J. (2009). *Code of Practice for Conduct Condition Evaluation Using CCTV in Hong Kong*, 4th Edition. Advanced Technovation Limited, Hong Kong.
- Kwan, A.K.H. (2009). Editor. *The First International Conference on Utility Management and Safety*. Advanced Technovation Limited, Hong Kong.
- Yeung, A.T., and Lo, I.M.C. (2008). Editors. *Environmental Geotechnology and Global Sustainable Development 2008*. Advanced Technovation Limited, Hong Kong.
- Yin, J.-H., Li, X.S., Yeung, A.T., and Desai, C.S. (2007). Editors. *Constitutive Modelling – Development, Implementation, Evaluation, and Application*. Advanced Technovation Limited, Hong Kong.