1. Introduction

• Definition of administrative law

\*Wade & Forsyth, Administrative Law, 11th ed., pp. 4-5

\*Jhaveri, Ramsden & Scully-Hill, Administrative Law in Hong Kong, 2nd ed., pp7-8, 41-86

• Purposes of administrative law

\*Jhaveri, Ramsden & Scully-Hill pp1-8 (6)

• What is judicial review / constitutional context

\*De Smith’s Judicial Review, 8th ed., §1-001, §1-014

\* Hong Kong Basic Law, Article 80

**Judicial review – empowering and key provisions**

\*s.21K of High Court Ordinance (Cap.4)

\*O.53 of Rules of the High Court

Not only decisions but statutory provisions amenable to challenge

Leung v SJ [2006] 4 HKLRD 211, §27

**Procedural exclusivity**

\*Stephen Thomson, Administrative Law in Hong Kong, pp.64-75

Jhaveri, Ramsden & Scully-Hill pp87-109

\*O’Reilly v Mackman [1983] 2 AC 237

Exclusivity Principle(**general rule**): challenges to public law matters should generally be brought by way of an application for judicial review (Order 53 in the UK) and not through ordinary actions (by writ or originating summons.

Reasoning: abuse of process if the wrong procedure is used, and the interpretation of relevant statutory provisions on remedies. Lord Diplock stated that Order 53 provides a procedure to obtain every type of remedy for infringement of rights entitled to protection in public law in one proceeding, and to use ordinary action to evade this would be an abuse

**Exceptions**:

1. Collateral Challenge: a claim for infringement of a right of the plaintiff arising under private law
2. Mutual Consent: none of the parties objects to the adoption of the procedure by writ or originating summons

\*Cocks v Thanet District Council [1983] 2 AC 286

Wandsworth LBC v. Winder [1985] AC 461

\*Roy v Kensington & Chelsea Family Practitioners Committee [1992] 1 AC 624

\* Next Digital Limited v Commissioner of Police [2021] HKCFI 1677

Mercury Communications Ltd v Director General of Telecommunications [1996] 1 WLR 48

Wong Fuk Tim v HKSAR, HCAL 1008/2011 (unrep., 12 October 2011)

**Public/private divide**

\*Stephen Thomson, Administrative Law in Hong Kong, pp.75-86

Jhaveri, Ramsden & Scully-Hill pp109-137

\*Hang Wah Chong Investment Co Ltd v AG [1981] 1 WLR 1141

\*R v Panel on Takeovers and Mergers, ex p Datafin plc [1987] 1 All ER 564

Hong Kong and China Gas Co Ltd v Director of Lands [1997] 1 HKLRD 1291

Ngo Kee Construction Co Ltd v Housing Authority [2001] 1 HKC 493

Director of Lands v Yin Shuen Enterprises Ltd (2003) 6 HKCFAR 1

Ying Ho Co Ltd v SJ (2004) 7 HKCFAR 333

R v English Schools Foundation [2004] 3 HKC 343

\*Rank Profit Industries Ltd v Director of Lands [2009] 1 HKLRD 177

\*Anderson Asphalt Ltd v SJ [2009] 3 HKLRD 215

Wan Yung Sang v Housing Authority, HCAL 135/2009 (unrep., 6 July 2011)

Tan Shih Ying v City University of Hong Kong, HCAL 36/2012 (unrep., 7 December 2012)

\*Leung Sze Ho Albert v Bar Council of the Hong Kong Bar Association [2015] 5 HKLRD 791

\*Li Fung Kei v Council of the University of Hong Kong [2018] 4 HKC 231

\*Sime Darby Motor Services Ltd v. Director of Lands [2022] 4 HKLRD 714; [2024] 2 HKLRD 319; [2024] HKCFA 26