

Acquittal may lead to more appeals

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Neil Western

A man convicted of a "non-existent" offence was acquitted on appeal yesterday, opening the floodgates for hundreds of others to gain a similar reprieve.

In a test case Kwok Hing-man challenged his conviction for possessing 11 cartons of cigarettes suspected of being stolen or unlawfully obtained.

He said the law under which he had been charged had been repealed by the Bill of Rights three months before.

Yesterday three appeal judges, including the Chief Justice, Sir Ti Liang Yang, agreed the offence was "non-existent" and consequently quashed his conviction.

The court heard that 386 other people had been convicted under the law, many of whom would now launch appeals.

Justice Nazareth said it was difficult to see how their appeals could now be refused.

Kwok was convicted at the Kwun Tong Magistrates Court in September 1991 and put on probation for 12 months.

In May this year the Privy Council held that section 30 of the summary offences ordinance had been repealed by the Bill of Rights in June 1991.

Nazareth said it was unlikely anyone convicted under the section, which covers minor offences, would still be serving their sentence.

"They continue to be subject to the stigma of the conviction and bear the consequences of subsisting records of such conviction. Not all of the 386 persons convicted are likely to apply for leave; none the less the present application is unlikely to be a rare or exceptional one."