



**HONG KONG**

No. 1 of 1974



I assent.

*M. S. S. S.*  
Governor

10th January, 1974.

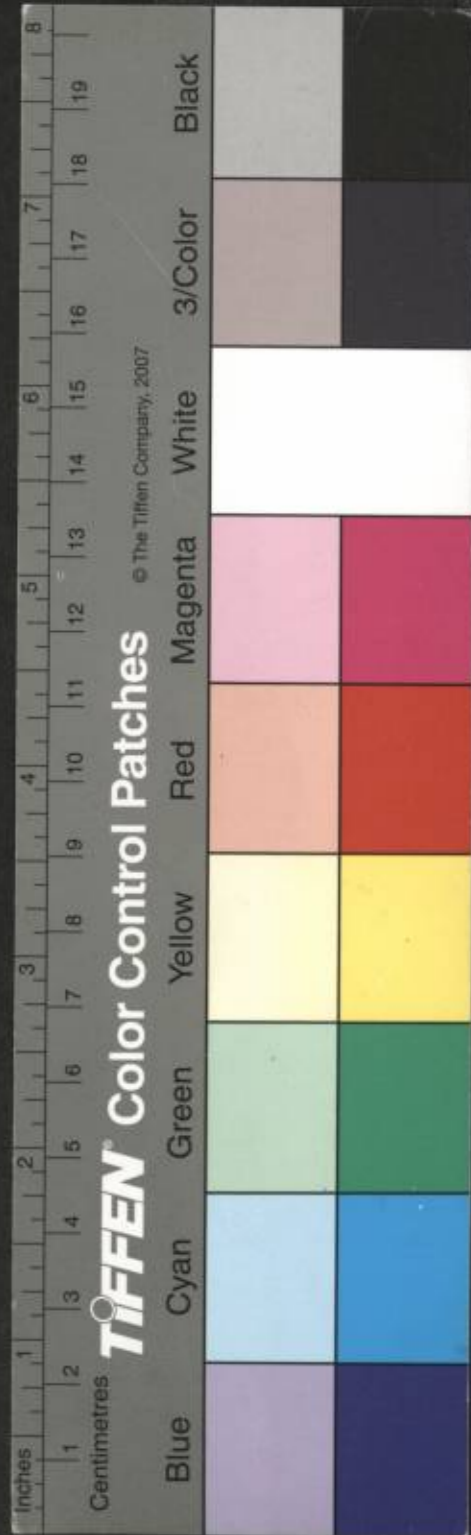
An Ordinance to enact transitional provisions relating to the repeal of Part II of the Landlord and Tenant (Consolidation) Ordinance, and for purposes connected therewith.

[11th January, 1974]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Landlord and Tenant (Consolidation) (Transitional Provisions) Ordinance 1974. Short title.

2. (1) Notwithstanding the repeal by section 2 of the Landlord and Tenant (Consolidation) (Amendment) (No. 2) Ordinance 1973 of Part II of the Landlord and Tenant (Consolidation) Ordinance (in this Ordinance referred to as the repealed Part), any application under section 57 of the repealed Part which had been made before the 15th day of December 1973 but had Transitional provisions. (78 of 1973.) (Cap. 7.)



not been determined before that date shall be determined under the repealed Part as if the Landlord and Tenant (Consolidation) (Amendment) (No. 2) Ordinance 1973 had not been enacted, and the repealed Part shall continue to have effect for the purpose of—

- (a) the determination of any such application;
- (b) a review of any such determination under subsection (2) of section 58 of the repealed Part;
- (c) an appeal under section 64 of the repealed Part in respect of a certificate issued following such review;
- (d) an application under section 65 of the repealed Part for a determination of facts in dispute on such application; or
- (e) an appeal under section 65 of the repealed Part against any increase in rent specified in a provisional certificate issued under subsection (1) of section 65 following such application.

(2) Subsection (1) shall be in addition to, and not in derogation of section 23 of the Interpretation and General Clauses Ordinance in its application to the Landlord and Tenant (Consolidation) (Amendment) (No. 2) Ordinance 1973.

(Cap. 1.)

Validation.

3. No—

- (a) certificate purporting to have been issued under subsection (1) of section 58 of the repealed Part on or after the 15th day of December 1973 and before the commencement of this Ordinance; or
- (b) review, application or appeal purporting to have been determined under subsection (2) of section 58 or section 64 or 65 of the repealed Part on or after the 15th day of December 1973 and before the commencement of this Ordinance,

shall be invalid by reason only of the repeal of the repealed Part.

Passed by the Hong Kong Legislative Council this 9th day of January, 1974.

*Urwee*  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*Urwee*  
Clerk to the Legislative Council.

**HONG KONG**

No. 2 OF 1974



I assent.

*Governor.*

*31st January, 1974.*

An Ordinance to amend the District Court Ordinance.

[1st February, 1974]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the District Court Short title. (Amendment) Ordinance 1974.

2. Section 7 of the principal Ordinance is amended—

Amendment  
of section 7.  
(Cap. 336.)

(a) by deleting "Governor" wherever it occurs and substituting the following—

"Chief Justice"; and

(b) in subsection (4), by deleting "provision of this section shall be by instrument under the Public Seal and" and substituting the following—

"provisions of this section".

Passed by the Hong Kong Legislative Council this 30th day of January, 1974.

*W. M. M. M.*  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*W. M. M. M.*  
Clerk to the Legislative Council.

**HONG KONG**

No. 3 OF 1974



I assent.

*M. M. M.*  
Governor.

31st January, 1974.

An Ordinance to amend the Magistrates Ordinance.

[1st February, 1974]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Magistrates (Amendment) Ordinance 1974. Short title.

2. Section 5 of the principal Ordinance is amended in subsection (1) by deleting "under his hand". Amendment of section 5. (Cap. 227.)

Passed by the Hong Kong Legislative Council this 30th day of January, 1974.

*W. M. M. M.*  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*Chow*

Clerk to the Legislative Council.



**HONG KONG**

No. 4 OF 1974



I assent.

*M. N. S. Chow*  
Governor.

31st January, 1974.

An Ordinance to amend the Training Centres Ordinance.

[ ]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Training Centres (Amendment) Ordinance 1974 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*. Short title and commencement.
2. Section 4 of the Principal Ordinance is amended in subsection (2) by deleting "nine" and substituting the following— Amendment of section 4. (Cap. 280.)  
"six".
3. Section 4A of the principal Ordinance is amended, in subsections (1) and (2), by deleting "of so depraved a character" Amendment of section 4A.

that he is not a fit person to be so detained" and substituting the following—

"otherwise unsuitable for committal to custody in a training centre".

Amendment  
of section 5.

4. Section 5 of the principal Ordinance is amended—

(a) in subsection (1), by deleting "four years from the date of his sentence" and substituting the following—

"three years from the date of his release";

(b) by inserting, after subsection (1), the following new subsection—

"(1A) A person who fails to comply with any requirement for the time being specified in a notice given to him under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for twelve months.";

(c) in proviso (a) to subsection (2), by deleting "four years from the date of sentence" and substituting the following—

"three years from the date he is first released"; and

(d) by deleting subsection (3).

Addition of  
section 5A.

5. The principal Ordinance is amended by adding, after section 5, the following new section—

"Effect of  
imprison-  
ment or  
further  
sentence of  
detention.

5A. If a person in respect of whom a sentence of detention in a training centre, or a supervision notice or order of recall under section 5, is in force is sentenced to imprisonment—

(a) for a term of two years or less, the sentence of detention, supervision notice or order of recall shall be suspended until the expiration of his term of imprisonment;

(b) for a term of more than two years or a new sentence of detention in a training centre is passed on him, the first-mentioned sentence of detention in a training centre, or the supervision notice or order of recall, as the case may be, shall cease to have effect."

6. Section 7 of the principal Ordinance is amended in sub- Amendment  
section (2) by deleting "detained in a training centre" in the first of section 7.  
place where it occurs and substituting the following—

"in respect of whom a sentence of detention in a training centre is in force".

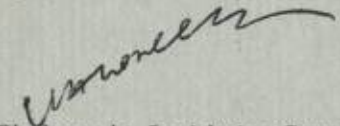
7. Section 8 of the principal Ordinance is amended— Amendment  
of section 8.

(a) in subsection (1), by deleting "rules" and substituting the following—

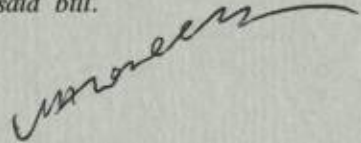
"regulations"; and

(b) by deleting subsection (2).

Passed by the Hong Kong Legislative Council this 30th day of January, 1974.

  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.



Amendment of section 4. 3. Section 4 of the principal Ordinance is amended by deleting subsection (4) and substituting the following—

“(4) When a court makes a detention order, no conviction shall be recorded against the person in respect of whom the order is made unless, in the opinion of the court, the circumstances of the offence so warrant and the court orders accordingly.”.

Repeal and replacement of section 6. 4. Section 6 of the principal Ordinance is repealed and replaced by the following—

“Recall order.

6. (1) The Commissioner may, if he is satisfied that a person against whom a supervision order is in force has failed to comply with any requirement of the order, make a recall order against such person requiring him to return to an addiction treatment centre; and thereupon such person may be arrested and taken to an addiction treatment centre and detained there.

(2) A person detained in an addiction treatment centre under subsection (1) shall be detained until the expiry of eighteen months from the date of the detention order or six months from the date of his being arrested under the recall order, whichever is the later.

(3) The Commissioner may at any time release a person in respect of whom a recall order is in force, and a supervision order shall not be made in respect of such person.”.

Addition of new section 6A. 5. The principal Ordinance is amended by adding, after section 6, the following new section—

“Effect of imprisonment or further detention order.

6A. If a person in respect of whom a detention order, a supervision order or a recall order is in force is sentenced to imprisonment—

- (a) for a term of two years or less, the detention order, supervision order or recall order shall be suspended until the expiration of his term of imprisonment;
- (b) for a term of more than two years or a new detention order is made in respect of him, the first-mentioned detention order, or the supervision order or recall order, as the case may be, shall cease to have effect.”.

6. Section 7 of the principal Ordinance is amended by deleting “further detention” in each place it occurs and substituting the following—

“recall”.

7. Section 8 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 8, and addition of new section 8A.

“Transfer to prison.

8. (1) If the Governor is satisfied, on application by the Commissioner, that a person detained in an addiction treatment centre is exercising a bad influence on other persons detained in the addiction treatment centre, the Governor may order such person to be transferred to and detained in a prison for a period not exceeding—

- (a) the balance of the period during which such person might have been detained in an addiction treatment centre; or
- (b) the term of imprisonment to which such person was liable for the offence of which he was found guilty,

whichever is the less.

(Cap. 234.)

(2) A person in respect of whom an order is made under subsection (1) shall, for the purposes of the Prisons Ordinance, be deemed to have been sentenced for the offence of which he was found guilty to a term of imprisonment for the period for which he is ordered to be transferred to and detained in a prison.

(3) Where an order is made under subsection (1) the Commissioner shall cause a certified copy thereof to be transmitted to the court that made the detention order and, notwithstanding that it made no order under section 4(4), the court may order that a conviction shall be recorded in respect of the offence in relation to which the detention order was made.

(4) Where the court makes an order under subsection (3) that a conviction shall be recorded it shall cause the Commissioner of Police to be notified accordingly.”.

Transfer of persons serving a prison sentence to an addiction treatment centre.

8A. (1) If the Governor is satisfied, on application by the Commissioner, that a person serving a sentence of imprisonment is addicted to any dangerous drug and having regard to his health, character and previous conduct, it is in his interest and the public interest that he should undergo a period of cure and rehabilitation in an addiction treatment centre, the Governor may order such person to be transferred to and detained in an addiction treatment centre.

(2) An order under subsection (1) shall not be made in respect of any such person if the balance of the term of imprisonment to which he is liable to serve is more than eighteen months, taking into account the amount of remission of sentence which may be earned by him.

(3) A person in respect of whom the Governor makes an order under subsection (1) shall be deemed to have been ordered to be detained in an addiction treatment centre in accordance with section 4(1) from the date of the making of the order.”

Amendment of section 9.

8. Section 9 of the principal Ordinance is amended by deleting “further detention” and substituting the following—  
“recall”.

Passed by the Hong Kong Legislative Council this 30th day of January, 1974.

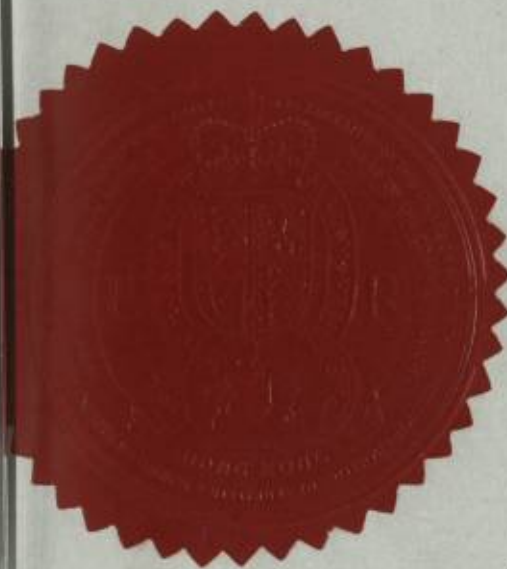
*W. M. M. M.*  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*W. M. M. M.*  
Clerk to the Legislative Council.

## HONG KONG

NO. 6 OF 1974



I assent.

*M. J. N. Leung*  
Governor.

31st January, 1974.

An Ordinance to amend the Temporary Restriction of Building Development (Pok Fu Lam and Mid-levels) Ordinance 1973.

[30th January, 1974]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Temporary Restriction of Building Development (Pok Fu Lam and Mid-levels) (Amendment) Ordinance 1974 and shall be deemed to have had effect as from 30th January 1974.

Short title and commencement.

2. Section 5 of the principal Ordinance is amended by deleting “January 1974.” and substituting the following—

Amendment of section 5.

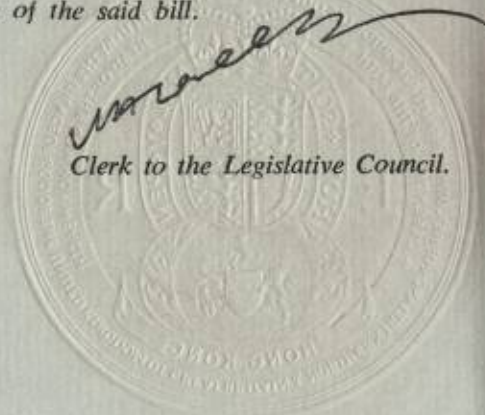
“July 1974, or on such other date as the Legislative Council may by resolution determine.”

Passed by the Hong Kong Legislative Council this 30th day  
of January, 1974.

*[Handwritten signature]*  
Clerk to the Legislative Council.

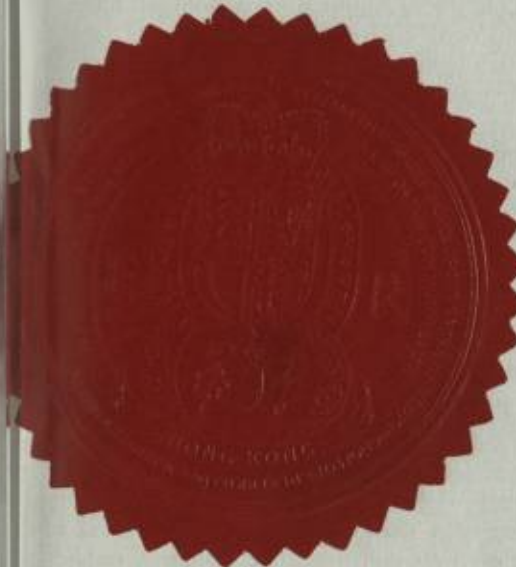
*This printed impression has been carefully compared  
by me with the bill, and is found by me to be a true and  
correctly printed copy of the said bill.*

*[Handwritten signature]*  
Clerk to the Legislative Council.



**HONG KONG**

No. 7 OF 1974



I assent.

*[Handwritten signature]*  
Governor.

14th February, 1974.

An Ordinance to provide for the establishment of an Independent  
Commission Against Corruption and matters incidental thereto.

[15th February, 1974]

Enacted by the Governor of Hong Kong, with the advice and  
consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Independent Com- Short title.  
mission Against Corruption Ordinance 1974.

2. In this Ordinance unless the context otherwise requires— Interpretation.  
“Commission” means the Independent Commission Against Cor-  
ruption established under section 3;

“Commissioner” means the Commissioner of the Independent  
Commission Against Corruption appointed under section 5  
and the Deputy Commissioner appointed under section 6;

"Crown servant" means a person holding an office of emolument, whether permanent or temporary, under the Crown in right of the Government;

"officer" means an officer of the Commission appointed under section 8;

"public body" means—

- (a) the Government;
- (b) the Executive Council;
- (c) the Legislative Council;
- (d) the Urban Council;
- (e) any board, commission, committee or other body, whether paid or unpaid, appointed by or on behalf of the Governor or the Governor in Council; and
- (f) any board, commission, committee or other body specified in the Schedule to the Prevention of Bribery Ordinance;

"public servant" means any employee or member of a public body, whether temporary or permanent and whether paid or unpaid, but the holding of a share in a company which is a public body shall not of itself constitute the holder a public servant.

3. There is hereby established the Independent Commission Against Corruption which shall consist of the Commissioner, the Deputy Commissioner and such officers as may be appointed.

4. The expenses of the Commission shall be charged to the general revenue of the Colony.

5. (1) The Governor may appoint a Commissioner who, subject to the orders and control of the Governor, shall be responsible for the direction and administration of the Commission.

(2) The Commissioner shall not be subject to the direction or control of any person other than the Governor.

(3) The Commissioner shall be appointed on such terms and conditions as the Governor may think fit.

(4) The Commissioner shall not while he holds that appointment, discharge the duties of any other office of emolument under the Crown in right of the Government of Hong Kong.

(Cap. 201.)

Establishment of the Commission.

Maintenance of the Commission.

Appointment of Commissioner.

6. The Governor may appoint a Deputy Commissioner on such terms and conditions as he may think fit.

Appointment of Deputy Commissioner.

7. (1) If the office of the Commissioner is vacant or the Commissioner is absent from duty, the Deputy Commissioner shall, save where the Governor otherwise directs, act as Commissioner.

Acting Commissioner.

(2) If both the Commissioner and the Deputy Commissioner are absent from duty, the Governor may appoint another person to act as Commissioner during that absence.

8. (1) The Commissioner may appoint such officers as the Governor thinks necessary to assist the Commissioner in the performance of his functions under this Ordinance.

Appointment of officers.

(2) The Commissioner may, if he is satisfied that it is in the interests of the Commission, terminate the appointment of an officer without assigning any reason therefor.

(3) The terms and conditions of employment of officers shall be subject to the approval of the Governor, who may vary any terms or conditions imposed by virtue of subsection (4).

(4) Subject to this section and section 11(2), the Commissioner and officers shall be employed subject to Colonial Regulations, Government regulations and such administrative rules as apply generally to public officers, except insofar as the application of such Colonial Regulations, Government regulations or rules may be modified by standing orders made under section 11(2).

9. The Commissioner may issue to such officers as he thinks fit a warrant card which shall be *prima facie* evidence of the officer's appointment as such.

Warrant card.

10. (1) Any officer authorized in that behalf may, subject to the provisions of this section, arrest or detain for further inquiries without warrant any person reasonably suspected of having committed any offence under the Prevention of Bribery Ordinance or the Corrupt and Illegal Practices Ordinance.

Power of arrest and detention.

(Cap. 201.)

(Cap. 288.)

(2) An officer who arrests a person (hereinafter referred to in this section as a "suspect") under this Ordinance shall—

- (a) deliver the suspect forthwith to a police station; or
- (b) detain the suspect in the offices of the Commission, or such other place as may be approved by the Governor,

if the Commissioner is of the opinion that further inquiries by his officers are necessary before the suspect is so delivered.

(3) If a suspect is taken to the offices of the Commission or any such place under subsection (2) he may be detained there for the purpose of further inquiries and shall thereafter be delivered to a police station there to be dealt with in accordance with the provisions of the Police Force Ordinance:

(Cap. 232.)

Provided that in no case shall any person be detained for more than forty-eight hours from the time of arrest without being charged and brought before a magistrate.

Standing orders.

11. (1) The Commissioner may make orders, which shall be known as Commission standing orders, providing for—

- (a) the control, direction and administration of the Commission;
- (b) the discipline, training, classification and promotion of officers;
- (c) the duties of officers;
- (d) the financial regulation of the Commission;
- (e) such other matters as may, in his opinion, be necessary or expedient for preventing abuse or neglect of duty and for upholding the integrity of the Commission.

(2) The Commissioner may, with the prior approval of the Governor, by standing order modify the application to officers of Colonial Regulations, Government regulations or administrative rules applicable by virtue of section 8(4).

(3) No Commission standing order shall be inconsistent with any of the provisions of this Ordinance.

Duties of the Commissioner.

12. It shall be the duty of the Commissioner, on behalf of the Governor, to—

- (a) receive and consider complaints alleging corrupt practices and investigate such of those complaints as he considers practicable;
- (b) investigate any alleged or suspected offences under the Prevention of Bribery Ordinance or the Corrupt and Illegal Practices Ordinance;
- (c) investigate any conduct of a Crown servant which, in the opinion of the Commissioner, is connected with or con-

(Cap. 201.)

(Cap. 288.)

ducive to corrupt practices and to report thereon to the Governor;

- (d) examine the practices and procedures of Government departments and public bodies, in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures which, in the opinion of the Commissioner, may be conducive to corrupt practices;
- (e) instruct, advise and assist any person, on the latter's request, on ways in which corrupt practices may be eliminated by such person;
- (f) advise heads of Government departments or of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such departments or public bodies which the Commissioner thinks necessary to reduce the likelihood of the occurrence of corrupt practices;
- (g) educate the public against the evils of corruption; and
- (h) enlist and foster public support in combatting corruption.

13. (1) For the purpose of the performance of his functions under this Ordinance the Commissioner may—

Powers of the Commissioner.

- (a) authorize in writing any officer to conduct an inquiry or examination;
- (b) enter any Government premises and require any Crown servant to answer questions concerning the duties of any Crown or public servant and require the production of any standing orders, directions, office manuals or instructions relating thereto;
- (c) require any person to provide any information which the Commissioner considers necessary;
- (d) authorize in writing any person to perform any of his duties and to exercise such powers under this Ordinance and the Prevention of Bribery Ordinance or the Corrupt and Illegal Practices Ordinance as he may specify.

(Cap. 201.)

(Cap. 288.)

(2) For the purpose of the performance of his functions under this Ordinance the Commissioner and any officer authorized in writing by him shall have access to all records, books and documents relating to the work of any Government department in the possession of any Crown servant.

Estimates. **14.** (1) In each financial year, before a date appointed by the Governor, the Commissioner shall forward to the Governor, for his approval, estimates of the expenditure of the Commission for the next financial year.

(2) The estimates shall be in such form and contain such information as the Governor may require.

Accounts. **15.** (1) The Commissioner shall maintain proper accounts of such expenditure by the Commission as the Governor may require.

(2) As soon as may be convenient after the end of each financial year, the Commissioner shall cause a statement of accounts during the previous financial year to be prepared.

Audit. **16.** (1) The Director of Audit shall at any time be entitled to have access to all accounts maintained under section 15(1) and he may require such information and explanation thereon as he thinks fit.

(2) The Director of Audit shall audit the statement of accounts prepared under section 15(2) and report thereon to the Governor.

Annual report. **17.** (1) The Commissioner shall, on or before the 31st March in each year, or by such later date as the Governor may allow, submit to the Governor a report on the activities of the Commission in the previous year.

(2) The Governor shall cause the report to be laid on the table of the Legislative Council.

Consequential amendment. (Cap. 93.) **18.** Section 6(2) of the Public Services Commission Ordinance is amended by inserting after paragraph (e) the following new paragraph—

“(f) the Commissioner and Deputy Commissioner of the Independent Commission Against Corruption and any person appointed under section 8 of the Independent Commission Against Corruption Ordinance.”.

Passed by the Hong Kong Legislative Council this 13th day of February, 1974.

*W. W. W. W.*  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*W. W. W. W.*  
Clerk to the Legislative Council.

**HONG KONG**

No. 8 OF 1974



I assent.

*M. J. M. Leung*  
Governor.

14th February, 1974.

An Ordinance to amend the Hong Kong Export Credit Insurance Corporation Ordinance.

[15th February, 1974]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Hong Kong Export Credit Insurance Corporation (Amendment) Ordinance 1974. Short title.

2. Section 9 of the principal Ordinance is amended in subsection (1) by inserting after "subsection (2)" the following— Amendment of section 9. (Cap. 1115.)  
", and the business of giving guarantees under section 9B".

3. The principal Ordinance is amended by adding after section 9A the following new section— Addition of new section 9B.

"Guarantees.

**9B.** Where—

(a) the Corporation has entered into, or proposes to enter into, a contract of insurance

under section 9 with, or for the benefit of, any person; and

- (b) another person has advanced, or proposes to advance, moneys to the first-mentioned person for the purpose of financing, in whole or in part, the acts and transactions, which are the subject matter of the contract of insurance.

the Corporation may guarantee to that other person the re-payment of the whole or any part of the moneys advanced or to be advanced by him and the payment of the whole or any part of any interest or other charges that may become payable to him in respect of those moneys.”.

Amendment  
of section  
12.

4. Section 12 of the principal Ordinance is amended—

(a) in subsection (1)—

- (i) by deleting after paragraph (d) the word “and”;
- (ii) by deleting the comma at the end of paragraph (e) and substituting the following—  
“; and”;
- (iii) by inserting after paragraph (e) the following new paragraph—

“(f) the giving of guarantees.”;

(b) by deleting subsection (2) and substituting the following—

“(2) Nothing in subsection (1) shall be construed as—

- (a) requiring the approval of the Financial Secretary to the entering by the Corporation into a particular contract of insurance or the giving by the Corporation of a particular guarantee; or
- (b) empowering the Financial Secretary to determine that the Corporation shall or shall not enter into a particular contract of insurance or give a particular guarantee,

but the Corporation shall not enter into a particular contract of insurance or give a particular guarantee unless the contract or guarantee is in accordance with the policy approved by the Financial Secretary.”.

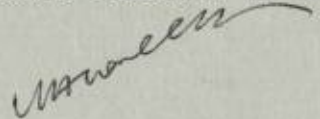
5. Section 17 of the principal Ordinance is amended in subsection (2) by deleting “fifty” and substituting the following—  
“eighty five”. Amendment  
of section  
17.

6. Section 19 of the principal Ordinance is amended by deleting “ten” and substituting the following—  
“twenty”. Amendment  
of section  
19.

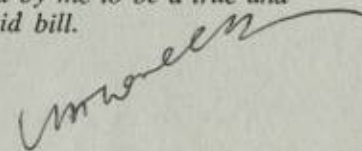
7. Section 30 of the principal Ordinance is amended by inserting after “entered into” the following—  
“, or a guarantee given.”. Amendment  
of section  
30.

8. Section 32 of the principal Ordinance is amended by inserting after “insurance” wherever it occurs the following—  
“or a guarantee”. Amendment  
of section  
32.

Passed by the Hong Kong Legislative Council this 13th day of February, 1974.

  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

**HONG KONG**

No. 9 OF 1974



I assent.

A handwritten signature in black ink, appearing to read "M. N. S. Loh".

*Governor.*

*14th February, 1974.*

An Ordinance to amend the Prevention of Bribery Ordinance.

[15th February, 1974]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Prevention of Bribery (Amendment) Ordinance 1974. Short title.

2. Section 2 of the principal Ordinance is amended in subsection (1) by— Amendment of section 2. (Cap. 201.)

(a) inserting after the definition of "child" the following—

"Commissioner" means the person appointed by the Governor to be in charge of the Independent Commission Against Corruption and includes the Deputy Commissioner;"

(b) deleting the definition of "Director";

- (c) inserting after the definition of "entertainment" the following—

"investigating officer" means any person authorized by the Commissioner to exercise the powers of an investigating officer under this Ordinance;"

Amendment  
of section 10.

3. Section 10 of the principal Ordinance is amended by inserting, after subsection (1), the following—

"(2) Where a court is satisfied in proceedings for an offence under subsection (1)(b) that, having regard to the closeness of his relationship to the accused and to other circumstances, there is reason to believe that any person was holding pecuniary resources or property in trust for or otherwise on behalf of the accused or acquired such resources or property as a gift from the accused, such resources or property shall, until the contrary is proved, be presumed to have been in the control of the accused."

Amendment  
of section 12.

4. Section 12 of the principal Ordinance is amended—

- (a) in subsection (1)(a)(i) by deleting "section 5 or 6" and substituting "section 5, 6 or 10";

- (b) in subsection (2) by adding after "year" the following—

", and shall be ordered to pay to the Crown in such manner as the court directs the amount or value of the advantage received by him or such part thereof as the court may specify";

- (c) by adding after subsection (2) the following new subsections—

"(3) In addition to any penalty imposed under subsection (1), the court may order a person convicted of an offence under section 10(1)(b) to pay to the Crown—

- (a) a sum not exceeding the amount of the pecuniary resources; or  
(b) a sum not exceeding the value of the property,

the acquisition of which by him was not explained to the satisfaction of the court.

(4) An order under subsection (3) may be enforced in the same manner as a judgment of the Supreme Court in its civil jurisdiction."

5. Section 13 of the principal Ordinance is amended—

Amendment  
of section 13.

- (a) in subsection (1) by deleting "The Attorney General, if satisfied that there are reasonable grounds for suspecting that an offence under this Ordinance has been committed by any person, may, for the purposes of an investigation into such offence, authorize in writing any police officer of or above the rank of senior inspector or any Crown servant specified in such authorization," and substituting the following—

"Where it appears to the Commissioner that an offence under this Ordinance may have been committed by any person, he may for the purposes of an investigation of such offence authorize in writing any investigating officer";

- (b) in paragraph (a) of subsection (2) by deleting "police officer or Crown servant" and substituting "investigating officer";

- (c) in subsection (3)—

(i) by deleting "a police officer or a Crown servant" and substituting "an investigating officer"; and

(ii) by deleting "police officer or Crown servant" and substituting "investigating officer".

6. Section 14 of the principal Ordinance is amended—

Amendment  
of section 14.

- (a) by deleting "Attorney General" wherever it appears and substituting in each place the following—

"Commissioner";

- (b) by deleting "Director" wherever it appears and substituting in each place the following—

"investigating officer specified in such notice";

- (c) in subsection (4) by deleting "other than the person referred to in paragraphs (a) and (b) of subsection (1)," and

- (d) by adding after subsection (4) the following new subsection—

"(5) A person who wilfully makes any false statement in answer to a notice under subsection (1) shall be guilty of an offence and shall be liable to a fine of \$20,000 and to imprisonment for one year."

Addition  
of new  
sections  
14A, 14B,  
14C, 14D  
and 14E.

7. The principal Ordinance is amended by adding after section 14 the following new sections—

"Restriction on disposal of property etc.

**14A.** (1) The Commissioner may, by written notice to a person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed under this Ordinance or against whom a prosecution for such offence has been instituted, direct that such person shall not dispose of or otherwise deal with any property specified in such notice without the consent of the Commissioner.

(2) A notice under subsection (1) shall have effect from the time of service upon the person to whom it is addressed and shall continue in force for a period of twelve months or until cancelled by the Commissioner whichever is the earlier.

(3) Nothing in subsection (2) shall prevent the Commissioner from making a further order in respect of the same property.

(4) The Commissioner may impose such terms and conditions as he thinks fit to a consent to the disposal of or other dealing with any property specified in a notice under subsection (1).

(5) A person who disposes of or otherwise deals with any property specified in a notice under subsection (1) other than in accordance with the consent of the Commissioner shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000 or the value of the property disposed or otherwise dealt with, whichever is greater, and to imprisonment for three years.

Reversal or variation of Commissioner's decision.

**14B.** (1) A person on whom a notice under section 14A(1) has been served who is aggrieved by the refusal of the Commissioner to give a consent thereunder or by the imposition of any terms or conditions to any such consent may at any time apply to the court for an order to reverse or vary the decision of the Commissioner.

(2) An applicant under subsection (1) shall give to the Commissioner such notice of the day fixed for the hearing of the application as a judge of the court may order.

(3) On the hearing of an application under subsection (1), the court may—

(a) reverse the decision of the Commissioner and consent to the disposal of or other dealing with any property specified in the notice subject to such terms and conditions as it thinks fit; or

(b) vary any of the terms and conditions imposed by the Commissioner to a consent under section 14A(4).

(4) In this section and in sections 14C, 14D and 14E "court" means the District Court.

Restraining orders.

**14C.** (1) If, on application *ex parte* by or on behalf of the Commissioner, the court is satisfied that—

(a) any property is due to a person (hereinafter in this section and in sections 14D and 14E referred to as the "suspected person"), who is the subject of an investigation in respect of an offence alleged or suspected to have been committed by him under this Ordinance or against whom a prosecution for such an offence has been instituted, from another person (hereinafter so referred to as the "third party"); or

(b) a third party is holding any property for or on behalf of or to the order of a suspected person,

the court may make an order under this subsection (hereinafter so referred to as a "restraining order").

(2) In making a restraining order the court may—

(a) impose such conditions; or

(b) exempt such property from the operation thereof (including periodic payments of money),

as it thinks fit, but subject as aforesaid, the third party on whom a restraining order is served in accordance with subsection (3) shall not dispose of or otherwise deal with any property specified in the restraining order save in accordance with directions of the court.

(3) A restraining order shall be served on the third party to whom it is directed and on the suspected person.

(4) Subject to subsection (5), a restraining order shall continue in force for a period of six months from the making thereof, but on application by or on behalf of the Commissioner the court may extend its operation for a further period of three months.

(5) Where—

- (a) a restraining order is made with respect to property of a suspected person against whom a prosecution for an offence under this Ordinance has been instituted; or
- (b) a restraining order is in force with respect to property of a suspected person against whom a prosecution for such an offence is instituted,

the restraining order shall continue in force until the proceedings on such prosecution have been finally determined.

(6) A third party on whom a restraining order has been served in accordance with subsection (3) of this section or subsection (5) of section 14D shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000 or to the value of the property disposed of or otherwise dealt with, whichever is greater, and to imprisonment for one year if, during the continuance in force of the order, he knowingly disposes of or otherwise deals with any property specified in the restraining order otherwise than in accordance with directions of the court.

**14D.** (1) The Commissioner may at any time apply *ex parte* to the court for the revocation of a restraining order.

(2) A person on whom a restraining order has been served in accordance with subsection (3) of section 14C or subsection (5) of this section may at any time apply to the court for an order revoking or varying the order.

(3) The applicant under subsection (2) shall give to the Commissioner such notice of the day fixed for

Variation and revocation of restraining orders.

the hearing of the application as a judge of the court may order.

(4) On the hearing of an application under subsection (2), the court may—

- (a) revoke the order if it is satisfied that undue hardship will be caused by its continuance in operation;
- (b) vary the order in such manner as it thinks fit.

(5) Where a restraining order has been revoked or varied under this section, notice of such revocation or the order as so varied, as the case may be, shall be served on the third party to whom it is directed and on the suspected person.

Application for directions.

**14E.** (1) The suspected person or a third party on whom a restraining order has been served in accordance with subsection (3) of section 14C or subsection (5) of section 14D may at any time apply to the court for directions.

(2) The parties to any such application shall be—

- (a) the suspected person and the third party; and
- (b) the Commissioner.

(3) A person applying for directions under subsection (1) shall give to each other party to the application such notice of the day fixed for the hearing of the application as a judge of the court may order.

(4) On the hearing of an application under subsection (1), the court may give such directions as it thinks fit.”

**8.** Section 16 of the principal Ordinance is amended—

- (a) in subsection (1) by deleting “police officer of or above the rank of senior inspector and any Crown servant” and substituting “investigating officer”;
- (b) in subsection (1)(b) by deleting “Attorney General” and substituting “Commissioner”; and
- (c) in subsection (2)(b) by deleting “police officer or Crown servant” and substituting “investigating officer”.

Amendment of section 16.

Amendment  
of section 17.

9. Section 17 of the principal Ordinance is amended—

(a) by deleting subsection (1) and substituting the following—

“(1) If it appears to the Commissioner, that there is reasonable cause to believe that in any place, other than an office, registry or other room of or used by a public body, there may be any document or thing containing any evidence of the commission of any offence under this Ordinance, the Commissioner may, by warrant directed to any investigating officer, empower such officer to enter such place, by force if necessary, and there to search for, seize and detain any such document or thing.”; and

(b) in subsection (3) by deleting “the Director or any police officer” and substituting “the Commissioner or any investigating officer”.

Amendment  
of section  
17A.

10. Section 17A of the principal Ordinance is amended in subsections (1) and (6) by deleting “Director” wherever it appears and substituting in each place the following—

“Commissioner”.

Amendment  
of section 18.

11. Section 18 of the principal Ordinance is amended in subsection (1) by deleting “Director that such person is preparing or about to leave Hong Kong, the Director, or any gazetted police officer or Crown servant authorized in that behalf by the Director,” and substituting the following—

“Commissioner that such person is preparing or about to leave Hong Kong, the Commissioner or any investigating officer”.

Amendment  
of section 29.

12. Section 29 of the principal Ordinance is amended—

(a) by deleting “police officer” wherever it appears and substituting in each place the following—

“investigating officer”; and

(b) by deleting sub-paragraph (ii) of paragraph (a) and sub-paragraph (ii) of paragraph (b).

Amendment  
of section 30.

13. Section 30 of the principal Ordinance is amended—

(a) by being renumbered as subsection (1); and

(b) by the addition of the following new subsection—

“(2) Notwithstanding anything in subsection (1), the Commissioner may disclose the identity of any person if—

(a) he has failed to comply with a notice under section 14(1)(a) or (b);

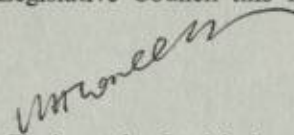
(b) a restraining order has been served on any person under section 14C(3);

(c) his residence has been searched under a warrant issued under section 17;

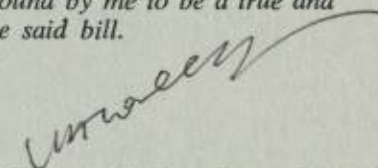
(d) he has been required to surrender any travel document under section 17A; or

(e) a warrant for his arrest has been issued under section 18.”.

Passed by the Hong Kong Legislative Council this 13th day of February, 1974.

  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

**HONG KONG**

No. 10 OF 1974



I assent.

*M. R. Leh...*  
Governor.

*14th February, 1974.*

An Ordinance to provide for the official languages of Hong Kong,  
and for their status and use.

[15th February, 1974]

Enacted by the Governor of Hong Kong, with the advice  
and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Official Languages Ordinance 1974. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpreta-  
"court" means any court, and also means any board, tribunal or tion.  
person having by law the power to hear, receive and examine  
evidence on oath.

3. (1) The English and Chinese languages are declared to Official  
be the official languages of Hong Kong for the purposes of com- languages  
munication between the Government or any public officer and and their  
members of the public. status and  
use.

(2) The official languages possess equal status and, subject to the provisions of this Ordinance, enjoy equality of use for the purposes set out in subsection (1).

Legislation.

4. (1) Every Ordinance shall be enacted and published in the English language.

(2) Nothing in subsection (1) shall be construed as restricting—

- (a) the use of Chinese words or terms in any Ordinance; or
- (b) the publication of a translation of any Ordinance into the Chinese language.

Judicial proceedings. Schedule.

5. (1) The proceedings in any court specified in the Schedule may be conducted in either the English language or the Chinese language as the court thinks fit.

(2) Proceedings in—

- (a) the Full Court;
- (b) the Supreme Court;
- (c) the District Court; and
- (d) any other court not specified in the Schedule,

shall be conducted in the English language.

(3) Notwithstanding subsections (1) and (2), any party to or witness in proceedings in any court may use either the English language or the Chinese language, or such other language as the court may permit.

Amendment of Schedule.

6. The Governor in Council may, by order published in the *Gazette*, amend the Schedule.

Consequential amendment. (Cap. 25.)

7. Section 19 of the Labour Tribunal Ordinance is amended by the deletion of subsection (1).

#### SCHEDULE

[s. 5(2).]

#### COURTS IN WHICH PROCEEDINGS MAY BE CONDUCTED IN EITHER THE ENGLISH LANGUAGE OR THE CHINESE LANGUAGE

1. Magistrates' Courts.
2. Any inquiry by a coroner.
3. Any Juvenile Court.
4. Any Labour Tribunal.
5. Any Tenancy Tribunal.

Passed by the Hong Kong Legislative Council this 13th day of February, 1974.

*W. Ma*  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*W. Ma*  
Clerk to the Legislative Council.

**HONG KONG**

No. 11 of 1974



I assent.

A handwritten signature in black ink, appearing to read 'M. J. M. Leung'.

*Governor.*

*14th February, 1974.*

An Ordinance to amend the Prisons Ordinance.

[15th February, 1974]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Prisons (Amendment) Ordinance 1974. Short title.

2. Section 2 of the principal Ordinance is amended by deleting the definition of "subordinate officers" and substituting the following— Amendment of section 2. (Cap. 234.)

"subordinate officers" means Principal Officers, Officers, Assistant Officers, Nurses, and any other officers of the Prisons Department below the rank of Chief Officer whom the Governor may declare to be subordinate officers;"

Repeal of  
section 4.

3. Section 4 of the principal Ordinance is repealed.

Amend-  
ment of  
section 17.

4. Section 17 of the principal Ordinance is amended by inserting, after "conviction", the following—  
"upon indictment".

Amend-  
ment of  
section  
17A.

5. Section 17A of the principal Ordinance is amended by inserting, after "conviction", the following—  
"upon indictment".

Amend-  
ment of  
section 18.

6. Section 18 of the principal Ordinance is amended in subsection (1) by deleting "one thousand dollars and to imprisonment for six months" and substituting the following—  
"two thousand dollars and to imprisonment for three years".

Addition  
of new  
section  
18A.

7. The principal Ordinance is amended by adding, after section 18, the following new section—

"Possession or introduction of prohibited articles by prison officers.

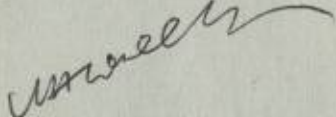
**18A.** (1) Except where authorized by rules made under section 25 or by the Commissioner, any officer of the Prisons Department or other person employed in the prisons who—

- (a) while in a prison or proceeding into or out of a prison, has in his possession, whether on his person or in any receptacle in his custody, any prohibited article;
- (b) knowingly conveys or permits or causes to be conveyed into or out of a prison, any prohibited article in any vehicle or other means of transport which is driven by him or in his charge or in which he is a passenger;
- (c) brings, throws or otherwise introduces or causes to be brought, thrown or otherwise introduced into or out of a prison, any prohibited article;
- (d) takes any prohibited article to or from any prisoner whether such prisoner is in a prison or in custody outside a prison;
- (e) deposits any prohibited article in any place whether in a prison or outside a prison, with the intent that it shall come into the possession of a prisoner.

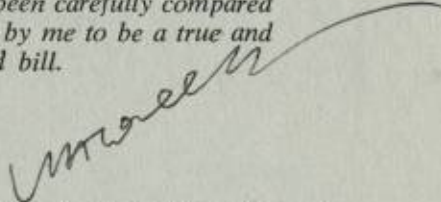
shall be guilty of an offence and shall be liable on conviction to a fine of two thousand dollars and to imprisonment for three years.

(2) In subsection (1), "prohibited article" means any fire-arm, ammunition, weapon, instrument, explosive, harmful or deleterious substance, intoxicating liquor, opium or other drug, tobacco, money, clothing, provisions, letter, paper or book."

Passed by the Hong Kong Legislative Council this 13th day of February, 1974.

  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

**HONG KONG**

No. 12 OF 1974



I assent.

*Governor.*

*20th February, 1974.*

An Ordinance to establish a Securities Commission and a federation of stock exchanges, to make provision in relation to stock exchanges and dealers in securities, to control trading in securities and the business of advising on making investments, and to provide for the protection of investors and associated matters.

[ ]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

**PART I**

**PRELIMINARY MATTERS**

1. (1) This Ordinance may be cited as the Securities Ordinance 1974.

Short title  
and com-  
mencement.

(2) The Governor may by notice published in the *Gazette* appointed the day on which this Ordinance, or any Part or provision of this Ordinance, shall come into operation and may, at different times, appoint different days for different Parts or provisions.

Interpreta-  
tion.

2. (1) In this Ordinance, unless the context otherwise requires—

“auditor” means a professional accountant registered and holding a practising certificate under the Professional Accountants Ordinance;

“banker’s books” means—

- (a) books of a banker;
- (b) cheques, orders for the payment of money, bills of exchange, and promissory notes in the possession of or under the control of a banker; and
- (c) securities in the possession or under the control of a banker, whether by way of pledge or otherwise;

“books” includes accounts and deeds;

“business”, in relation to a dealer, means the business of dealing in securities;

“certificate of registration” means a certificate of registration issued under Part VI;

“Commission” means the Securities Commission established under Part II;

“Commissioner” means the Commissioner for Securities appointed under section 6;

“committee”, in relation to a stock exchange or a company seeking approval as a stock exchange, means the management committee, executive committee, or board of directors, by whatever name it may be known, which is responsible for the day to day administration of the exchange or company, as the case may be;

“company” means a company as defined in section 2 of the Companies Ordinance, a company to which Part XI of that Ordinance applies, and any body corporate incorporated in Hong Kong having a share capital;

“constitution”, in relation to a company, means the memorandum and articles of association of the company or other instrument providing the constitution of the company;

“corporate member” means a company which carries on a business of dealing in securities and is a member of a stock exchange;

“corporation” means any company or other body corporate formed or incorporated either in Hong Kong or elsewhere; but does not include—

(a) any body corporate that is incorporated in Hong Kong and is a public authority or an organ or agency of the Crown;

(b) any corporation sole;

(c) any credit union registered under the Credit Unions Ordinance (Cap. 119.);

(d) any corporation registered under the Multi-storey Buildings (Owners Incorporation) Ordinance (Cap. 344.);

(e) any corporation which has been exempted by regulations from the provisions of this Ordinance that affect corporations, or any corporation that belongs to a class of corporations that has been so exempted;

“Council” means the Council of the Federation constituted under Part IV;

“Court” means the Supreme Court;

“dealer”, subject to section 82(1), means a person who carries on a business of dealing in securities, whether he carries on any other business or not; but does not include—

(a) a solicitor or professional accountant whose carrying on business as a dealer is wholly incidental to the practice of his profession;

(b) except where specifically provided in this Ordinance, an exempt dealer;

(c) a person who carries on a business of dealing in securities only through a registered or exempt dealer;

“dealer’s representative” means—

(a) a person in the direct employment of or acting for or by arrangement with a dealer, not being an exempt dealer, who performs for that dealer any of the functions of a dealer (other than work ordinarily performed by an accountant, clerk, or cashier) whether his remuneration is by way of salary, wages, commission, or otherwise; and

(b) where the dealer is a corporation, any officer or member of the corporation who is not a registered dealer and who performs for the corporation any of those functions (whether his remuneration is by way of salary, wages, commission, or otherwise);

“dealing in securities”, in relation to any person (whether acting as principal or agent), subject to section 3, means making or offering to make an agreement with any other person, or

(Cap. 50.)

(Cap. 32.)

inducing or attempting to induce any other person to enter into or offer to enter into any agreement—

- (a) for or with a view to acquiring, disposing of, subscribing for or underwriting securities;
- (b) the purpose or pretended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the value of securities; or
- (c) whereby that other person deposits or transfers securities to the first-mentioned person as security for the loan of a sum of money;

“defalcation” means a misapplication of money, securities, or other property;

“Disciplinary Committee” means the Securities Commission Disciplinary Committee established under section 38;

“document” includes any register, books, record, tape recording, any form of computer input or output, and any other document or similar material (whether produced mechanically, electrically, or manually, or by any other means whatsoever);

“exempt dealer” means a person declared under section 60 to be an exempt dealer for the purposes of this Ordinance;

“Federation” means the Hong Kong Federation of Stock Exchanges constituted under Part IV;

“financial year” means a period of 12 months ending on the 31st day of March in any calendar year;

“foreign stock exchange” means a stock exchange which is permitted to operate in a country or territory outside Hong Kong by the law of that country or territory or, in the case of a country or territory which has no written law relating to stock exchanges, is not prevented from operating by the law of that country or territory;

“individual member” means a natural person who carries on a business of dealing in securities on his own account, and not as a partner of a member firm or as a director of a corporate member, and is a member of a stock exchange;

“investment adviser” means any person who—

- (a) for direct remuneration carries on a business of advising other persons concerning securities; or
- (b) for direct remuneration as part of a regular business issues or circulates analyses or reports concerning securities; or

- (c) pursuant to a contract of arrangement with a client, undertakes on behalf of the client the management of a portfolio of securities, including the arranging of purchases, sales, or exchanges of securities through a dealer or exempt dealer;

but does not include—

- (i) a licensed bank;
- (ii) a solicitor or professional accountant whose carrying on business as an investment adviser is wholly incidental to the practice of his profession;
- (iii) the proprietor or publisher of, or any contributor to, a *bona fide* newspaper, magazine, journal, or other periodical publication that is generally available to the public otherwise than on subscription who only in that *bona fide* newspaper, magazine, journal, or periodical publication advises other persons concerning securities, or issues or promulgates analyses or reports concerning securities, not being the proprietor or publisher of, or a contributor to, a newspaper, journal, magazine, or other periodical publication whose principal or only object is to advise others concerning securities, or to issue or circulate analyses or reports concerning securities;
- (iv) a dealer or exempt dealer to the extent that his giving of investment advice is incidental to his carrying on business as a dealer or exempt dealer;
- (v) a trustee company registered under Part VIII of the Trustee Ordinance;
- (vi) an exempt investment adviser;

(Cap. 29.)

“investment representative” means—

- (a) a person in the direct employment of or acting for or by arrangement with an investment adviser who performs for that investment adviser any of the functions of an investment adviser (other than work ordinarily performed by an accountant, clerk or cashier) whether his remuneration is by way of salary, wages, commission or otherwise; and
- (b) where the investment adviser is a corporation, any officer or member of the corporation who is not a registered investment adviser and who performs for the corporation any of those functions (whether his remuneration is by way of salary, wages, commission or otherwise);

(Cap. 155.)

"licensed bank" means a bank licensed under the Banking Ordinance to carry on banking business in Hong Kong;

"listing", in relation to a security, means the procedure whereby a security is listed on a stock exchange;

"member firm" means a firm which carries on a business of dealing in securities and is a member of a stock exchange;

"mutual fund corporation" means any corporation which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities and which is offering for sale or has outstanding any redeemable shares of which it is the issuer;

"purchase", in relation to any securities, includes subscribing for those securities;

"registered", in relation to a dealer, dealer's representative, investment adviser, or investment representative, means registered under this Ordinance;

(Cap. 32.)

"registered company" means a company formed and registered under the Companies Ordinance;

"representative" means a dealer's representative or an investment representative;

"rules", in relation to a stock exchange, means the rules governing the conduct of the exchange or its members, by whatever name they may be called and wherever contained;

"securities" means any shares, stocks, debentures, loans, funds, bonds, or notes of, or issued by, any body, whether incorporated or unincorporated, or of any government or local government authority; and includes—

- (a) rights, options, or interests (whether described as units or otherwise) in or in respect of any of the foregoing;
  - (b) certificates of interest or participation in, or temporary or interim certificates for, receipts for, or warrants to subscribe to or purchase, any of the foregoing; or
  - (c) any instruments commonly known as securities;
- but does not include—

(Cap. 32.)

(i) any shares or debentures of any company which is a private company within the meaning of section 29 of the Companies Ordinance;

(ii) any interest arising under a partnership agreement or proposed partnership agreement (other than an agreement creating a limited partnership), unless the agreement or

proposed agreement relates to an undertaking, scheme, enterprise, or investment contract promoted by or on behalf of a person whose ordinary business is or includes the promotion of similar undertakings, schemes, enterprises, or investment contracts, whether or not that person is, or is to become, a party to the agreement or proposed agreement, or unless the agreement is or would be an agreement, or is or would be within a class of agreements, prescribed by regulations for the purposes of this paragraph;

- (iii) any negotiable receipt or other negotiable certificate or document evidencing the deposit of a sum of money, or any rights or interests arising under any such receipt, certificate, or document;

"share" means a share in the capital of a corporation; and includes the stock or any part of the stock of a corporation;

"stockbroker" means a dealer who is a member of a stock exchange, whether as an individual member, partner of a member firm, or director of a corporate member;

"stock exchange" or "exchange" means any company that is for the time being approved or deemed to be approved by the Commission under section 25;

"stock market" means a place where persons regularly meet together to negotiate sales and purchases of securities (including prices), or a place at which facilities are provided for bringing together sellers and purchasers of securities; but does not include the office of a stockbroker, or of a member firm or corporate member of a stock exchange;

"title" includes name or description;

"trust account" means a trust account established under section 84;

"underwriter" means a person who for remuneration undertakes to subscribe for or purchase on specified terms such specified securities as are offered to the public by a person issuing or selling those securities, but are not subscribed for or purchased by the public;

"unit trust" means any arrangement made for the purpose, or having the effect, of providing facilities for the participation by persons, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property whatsoever.

(2) In this Ordinance a reference to securities of a corporation is a reference to securities—

- (a) issued, made available, or granted by the corporation;
- (b) proposed to be issued, made available, or granted by the corporation; or
- (c) proposed to be issued, made available, or granted by the corporation when it is formed.

(3) In this Ordinance a security is regarded as listed on a stock exchange when the stock exchange has on the application of the company which issued the security, or on the application of any holder of the security, agreed to allow, subject to the requirements of this Ordinance, dealings in that security to take place on that exchange.

(4) A person shall not be treated as carrying on a business of dealing in securities by reason only of the fact that he is a member of a partnership which carries on such a business.

3. (1) For the purpose of determining whether or not a person has dealt in securities or has communicated an offer to acquire or dispose of securities, no account shall be taken of his having (whether as principal or as agent)—

- (a) effected any dealing through, or made an offer to acquire or dispose of securities to, a registered dealer or a registered dealer's representative, or an exempt dealer or an exempt dealer's representative;
- (b) issued a prospectus which complies with, or is exempt from compliance with, Part II of the Companies Ordinance, or in the case of a company incorporated outside Hong Kong, complies with or is exempted from compliance with Part XII of that Ordinance;
- (c) issued any document relating to securities of a corporation incorporated in Hong Kong that is not a registered company, being a document which—
  - (i) would if the corporation were a registered company be a prospectus to which section 38 of the Companies Ordinance applies, or would apply if not excluded by subsection (5)(b) of that section or by section 38A of that Ordinance; and
  - (ii) contains all the matters which, by virtue of Part XII of that Ordinance, it would be required to contain if the corporation were a company incorporated outside Hong Kong and the document were a prospectus issued by that company;

Saving for certain transactions.

(Cap. 32.)

(d) issued a form of application for shares or debentures of a company, together with—

(i) a prospectus which complies with, or is exempt from compliance with, Part II of the Companies Ordinance or, in the case of a company incorporated outside Hong Kong, complies with or is exempt from compliance with Part XII of that Ordinance; or

(ii) in the case of a corporation incorporated in Hong Kong which is not a registered company, a document which contains the matters specified in paragraph (c)(ii);

(e) issued a prospectus which has been approved by the Commissioner in relation to a mutual fund corporation or unit trust authorized by the Commission under section 15;

(f) issued a form of application for the shares of a mutual fund corporation or the units of a unit trust, being a mutual fund corporation or unit trust which has been authorized by the Commission under section 15, together with a prospectus approved by the Commissioner;

or of his having as principal, acquired, subscribed for, or underwritten securities, or effected transactions with a person whose business involves the acquisition and disposal, or the holding, of securities (whether as principal or as agent).

(2) The Commissioner may, an application being made to him in that behalf, approve a prospectus for the purposes of subsection (1)(e).

(3) Any approval under subsection (2) may be given subject to such conditions as the Commissioner thinks fit.

4. (1) Where a corporation—

- (a) is the holding company of another corporation;
- (b) is a subsidiary of another corporation; or
- (c) is a subsidiary of the holding company of another corporation,

Definition of related corporation.

that first-mentioned corporation and that other corporation are, for the purposes of this Ordinance, deemed to be related to each other.

(2) For the purposes of subsection (1), a corporation shall, subject to subsection (3), be deemed to be a subsidiary of another corporation if—

(a) that other corporation—

(i) controls the composition of the board of directors of the first-mentioned corporation;

(ii) controls more than half of the voting power of the first-mentioned corporation; or

(iii) holds more than half of the issued share capital of the first-mentioned corporation (excluding any part which carries no right to participate beyond a specified amount or a distribution of either profits or capital); or

(b) the first-mentioned corporation is a subsidiary of any corporation which is that other corporation's subsidiary.

(3) For the purposes of subsection (2), the composition of a corporation's board of directors shall be deemed to be controlled by another corporation if that other corporation by the exercise of some power exercisable by it, without the consent or concurrence of any other person, can appoint or remove all or a majority of the directors, and for the purposes of this provision, that other corporation shall be deemed to have power to make such an appointment if—

(a) a person cannot be appointed as a director without the exercise in his favour by that other corporation of such a power; or

(b) a person's appointment as a director follows necessarily from his being a director or other officer of that other corporation.

(4) In determining whether one corporation is a subsidiary of another corporation—

(a) any shares held by or power exercisable by that other corporation in a fiduciary capacity shall be treated as not held or exercisable by it;

(b) subject to paragraphs (c) and (d), any shares held or power exercisable—

(i) by any person as a nominee for that other corporation (except where that other corporation is concerned only in a fiduciary capacity); or

(ii) by, or by a nominee for, a subsidiary of that other corporation, not being a subsidiary which is concerned only in a fiduciary capacity, shall be treated as exercisable by that other corporation;

(c) any shares held or power exercisable by any person by virtue of the provisions of any debenture of the first-mentioned corporation or of a trust deed for securing any issue of any such debenture shall be disregarded; and

(d) any shares held or power exercisable by, or by a nominee for, that other corporation or its subsidiary (not being held or exercisable as mentioned in paragraph (c)) shall be treated as not held or exercisable by that other corporation if the ordinary business of that other corporation or its subsidiary, as the case may be, includes the lending of money and the shares are held or power is exercisable as aforesaid by way of security only for the purposes of a transaction entered into in the ordinary course of that business.

5. (1) Subject to this section, a person has an interest in securities for the purposes of sections 19, 67, 79, and 135 if he has authority (whether formal or informal or express or implied) to dispose of, or to exercise control over the disposal of, those securities. Interests in securities.

(2) It is immaterial for the purposes of subsection (1) that the authority of a person to dispose of, or to exercise control over the disposal of, particular securities is, or is capable of being made, subject to restraint or restriction.

(3) For the purposes of subsection (1), a person shall not be deemed not to have authority to dispose of, or to exercise control over the disposal of, particular securities by reason only that his authority is exercisable jointly with another person.

(4) For the purposes of subsection (1), where a corporation has authority (whether formal or informal or express or implied) to dispose of, or to exercise control over the disposal of, securities and—

(a) the corporation is, or its directors are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions of a person in relation to those securities; or

(b) a person, or an associate of a person, has a controlling interest in the corporation,

that person shall be deemed to have authority to dispose of, or to exercise control over the disposal of, those securities.

(5) For the purposes of subsection (4) of this section, and of subsection (4) of section 135, a person is an associate of another person if the first-mentioned person is—

- (a) a corporation that, by virtue of section 4, is deemed to be related to that other person;
  - (b) a person in accordance with whose directions that other person is accustomed or is under an obligation, whether formal or informal, to act in relation to the securities referred to in those subsections;
  - (c) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions of that other person in relation to those securities;
  - (d) a corporation that is, or the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions of that other person in relation to those securities; or
  - (e) a corporation in accordance with the directions of which, or of the directors of which, that other person is accustomed or under an obligation, whether formal or informal, to act in relation to those securities.
- (6) Where a person—
- (a) has entered into a contract to purchase securities;
  - (b) has a right to have securities transferred to him or to his order, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not; or
  - (c) has the right to acquire securities, or an interest in securities, under an option, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not,

that person shall, to the extent to which he could do so on completing the contract, enforcing the right or exercising the option, be deemed to have authority to dispose of, or to exercise control over the disposal of, those securities.

- (7) There shall be disregarded—
- (a) for the purposes of section 67, an interest in securities of a person whose ordinary business includes the lending

of money if he holds the interest only by way of security for the purposes of a transaction entered into in the ordinary course of business in connexion with the lending of money;

- (b) for the purposes of section 79, an interest in securities of a person who holds that interest only by virtue of his having control over the securities as a manager, agent, trustee, or nominee for another;
- (c) where securities referred to in section 135(4) are subject to a trust, the interest of a trustee in those securities if a person who is not a trustee has an interest in those securities by virtue of subsection (6)(b) of this section; and
- (d) for the purposes of any prescribed provision of section 19, section 67, section 79, or section 135, a prescribed interest in securities, being an interest of such person, or of the persons included in such class of persons, as is prescribed by regulations.

## PART II

### COMMISSIONER FOR SECURITIES AND SECURITIES COMMISSION

#### *Commissioner for Securities*

6. The Governor may appoint a Commissioner for Securities. Appointment of Commissioner for Securities.
7. The Commissioner shall carry out the directions of the Commission in relation to the exercise of its functions and shall have and may exercise or perform such other powers, duties, and functions as are conferred or imposed upon him by or under this or any other Ordinance. Powers, functions and duties of Commissioner.
8. (1) The Commissioner shall have an official seal which shall be affixed to all certificates of registration and other documents issued by him pursuant to this Ordinance, and shall be authenticated by his signature. Commissioner to have seal.

(2) Any certificate or other document purporting to be a certificate or document duly executed under the seal of the Commissioner shall be admissible in evidence and shall, unless the contrary is proved, be presumed to be a certificate or instrument so executed.

*Securities Commission*

Establishment of Securities Commission.

Membership of Commission.

9. There is hereby established a Securities Commission, which shall be a body corporate with perpetual succession and a common seal and in that name may sue and be sued.

10. (1) The Commission shall consist of seven members of whom—

- (a) one shall be the Commissioner;
- (b) another shall be the Registrar of Companies; and
- (c) the remaining five shall be persons appointed by the Governor.

(2) At least one of the members of the Commission appointed under subsection (1)(c) shall be a person qualified in law.

(3) Subject to this Part, a member of the Commission appointed under subsection (1)(c) shall hold office for a period of 2 years from the date of his appointment.

(4) At the expiry of his period of appointment, every retiring member of the Commission shall, subject to this Part, be eligible for reappointment.

(5) Any member of the Commission may at any time resign by giving notice in writing to the chairman of the Commission or, in the case of the chairman, by giving notice in writing to the Governor.

(6) Where any member of the Commission resigns or the office of any such member otherwise becomes vacant before the expiry of the period of his appointment, the Governor may appoint another person to hold office until the expiry of the period for which such member was originally appointed.

(7) If any member of the Commission—

- (a) has been absent from the meetings of the Commission without its permission for a period longer than 3 months;
- (b) becomes bankrupt or makes an arrangement with his creditors;
- (c) becomes incapacitated by physical or mental illness;
- (d) is found guilty, whether in Hong Kong or elsewhere, of any offence involving fraud or dishonesty or is sentenced

to a term of imprisonment for any offence (whether or not involving fraud or dishonesty);

- (e) ceases to be ordinarily resident in Hong Kong; or
- (f) is otherwise unable or unfit to discharge the functions of a member of the Commission,

the Governor may by notice in writing declare his office as a member of the Commission to be vacant.

(8) The powers of the Commission shall not be affected by any vacancy in its membership.

11. (1) The Governor shall appoint one of the members of the Commission appointed under section 10(1)(c) to be the chairman of the Commission and may revoke the appointment at any time.

Chairman and deputy chairman of Commission.

(2) If the office of chairman is vacant, or the chairman is absent from any meeting of the Commission or is incapacitated by illness or other cause from performing the duties of his office, the remaining members of the Commission may elect one of their number to act as chairman during the vacancy, absence or incapacity, as the case may be.

(3) A member of the Commission elected under subsection (2) shall, for the period that he acts as chairman, have and may exercise all the powers and functions of the chairman.

12. (1) Meetings of the Commission shall be held at such times and places as the Commission or its chairman may appoint.

Meetings of the Commission.

(2) At all meetings of the Commission four members shall form a quorum.

(3) At any meeting of the Commission, the chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(4) All questions before the Commission shall be decided by a majority of the valid votes recorded thereon. A question shall in the first instance be decided by a show of hands, but any member of the Commission may require a ballot to be held to determine the question.

(5) Subject to subsections (1) to (4) the procedure at meetings of the Commission shall be determined by the Commission, and for that purpose the Commission may make standing orders.

Functions  
of Com-  
mission.

13. The Commission shall have the following functions—

- (a) to advise the Financial Secretary on all matters relating to securities;
- (b) without prejudice to any duties imposed or powers conferred on any other person in regard to the enforcement of the law relating to securities, to be responsible for ensuring that the provisions of this Ordinance and the Protection of Investors Ordinance 1974, and the provisions of any other Ordinance so far as they relate to securities, are complied with;
- (c) to be responsible for supervising the activities of the Federation;
- (d) to take all reasonable steps to safeguard the interests of persons who invest or propose to invest in securities;
- (e) to promote and encourage proper conduct amongst members of the Federation;
- (f) to suppress illegal, dishonourable, and improper practices in relation to dealings in securities, whether on stock exchanges or otherwise;
- (g) to promote and maintain the integrity of stockbrokers and other persons dealing in securities, and encourage the promulgation by stockbrokers and other dealers in securities of balanced and informed advice to their clients and to the public generally;
- (h) to consider and suggest reforms of the law relating to securities.

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Rules.

14. (1) The Commission may, after consultation with the Federation, make rules in respect of all or any of the following matters—

- (a) the listing of securities on stock exchanges, and in particular—
  - (i) prescribing the requirements to be met before securities may be listed on exchanges;
  - (ii) prescribing the procedure for dealing with applications for the listing of securities at exchanges; and
  - (iii) providing for the cancellation of the listing of any specified securities at any stock exchange if the Commission's requirements for listing, or the requirements of the undertaking referred to in paragraph (f), are not complied with or the Commission considers that such

action is necessary to maintain an orderly market in Hong Kong;

- (b) the conditions subject to which, and the circumstances in which, any stock exchange may suspend dealings in securities;
  - (c) the procedure for and the method of allotment of any securities arising out of an offer made to members of the public in respect of those securities;
  - (d) the qualifications for membership of stock exchanges and the maximum number of persons that may be admitted to membership of any stock exchange;
  - (e) the type of business that may be carried on at stock exchanges;
  - (f) requiring companies the securities of which are listed or accepted for listing on a stock exchange to enter into an undertaking in the prescribed form with the exchange to provide such information at such times as may be specified, and to carry out such duties in relation to its securities as may be imposed, in the undertaking;
  - (g) anything which is to be or may be prescribed by rules.
- (2) No rules made under this section shall have effect until they have been approved by the Governor and published in the *Gazette*.
- (3) Nothing in this section prevents the Federation or any stock exchange from making rules on any matter mentioned in subsection (1) if those rules have been approved by the Commission and are not repugnant to any rule made by the Commission under subsection (1).

15. (1) The Commission shall have all such powers as may be necessary to enable it to carry out its functions, and in particular may—

Powers of  
Commis-  
sion.

- (a) refer complaints relating to the activities of stock exchanges to the Disciplinary Committee and, if it considers necessary, hold preliminary investigations into any such complaints;
- (b) acquire, hold, and dispose of all forms of movable and immovable property;
- (c) authorize mutual fund corporations and unit trusts for the purposes of this Ordinance.

(2) An authorization under subsection (1)(c) may be granted subject to such conditions as the Commission considers fair and reasonable.

Commission may establish committees.

16. (1) The Commission may establish standing or special committees and may refer to any such committee any matters for consideration, inquiry or management.

(2) Subject to sections 38 and 100, the Commission may delegate any of its powers, functions, and duties (other than the powers conferred by this section and the power to make rules conferred by section 14) to any committee established under subsection (1).

(3) The Commission may appoint as a member of any committee established under subsection (1) any person (including a stockbroker) who, in its opinion, appears to be qualified to be a member of the committee, whether that person is a member of the Commission or not.

(4) Every delegation under subsection (2) and every appointment under subsection (3) may be revoked by the Commission at any time, and no such delegation shall prevent the exercise or performance of any power or function or duty by the Commission.

(5) Where any committee established under subsection (1) purports to act pursuant to any delegation made under subsection (2), it shall be presumed, until the contrary is proved, to be acting in accordance with the terms of the delegation.

(6) A committee established under subsection (1) may elect any of its members to be chairman and may, subject to any direction of the Commission, regulate its procedure in such manner as it thinks fit.

*Miscellaneous Matters relating to  
Commissioner and Commission*

17. (1) The Governor may give such directions as he thinks fit (either generally or in any particular case) with respect to the exercise or performance by the Commissioner or the Commission of the powers, duties, and functions of the Commissioner or the Commission under this Ordinance.

(2) The Commissioner and the Commission shall, in the exercise or performance of any powers, duties, or functions under

Power of Governor to give directions to Commissioner and Commission.

this Ordinance, comply with any directions given by the Governor under subsection (1).

(3) The Commission shall, when required by the Financial Secretary, furnish to him reports with respect to the policy that it is pursuing or proposes to pursue in the exercise or performance of any of its powers, duties, and functions under this Ordinance.

18. (1) All expenses incurred by the Commissioner or the Commission or any other person in the administration of this Ordinance shall be met out of money provided by the Legislative Council.

Expenditure and income of Commissioner and Commission.

(2) All money (including fines and fees) received by virtue of this Ordinance by the Commissioner or the Commission (including the Disciplinary Committee) in the exercise or performance of any of their powers, duties, or functions under this Ordinance shall be paid into the general revenue.

19. (1) Except in the performance of his duties under this Ordinance, every person who has been appointed under or who is or has been employed in carrying out or in assisting any persons to carry out the provisions of this Ordinance shall preserve and aid in preserving secrecy with regard to all matters coming to his knowledge in the performance of his duties under this Ordinance, and shall not communicate any such matter to any person nor suffer or permit any person to have access to any records in the possession, custody, or control of the Commissioner.

Unlawful use of information.

(2) Nothing in subsection (1) shall preclude a person from producing any document to any court in criminal proceedings or from disclosing to any court in criminal proceedings any matter or thing coming to his notice in the performance of his official duties referred to in that subsection.

(3) Regulations made under this Ordinance may prescribe a public office for the purposes of this section, and it shall not be a contravention of subsection (1) to disclose to the holder of that public office information connected with the duties of that office.

(4) Subject to subsection (5), a member of the Commission and a person employed in the administration of this Ordinance shall not directly or indirectly effect or cause to be effected on his own account or for the benefit of any other person any transaction in securities which he knows to be, or to be of a class which is, subject to investigation or proceedings under this

Ordinance or otherwise under consideration by the Commissioner, or in respect of which a prospectus or any take-over document is, to his knowledge, being considered by the Registrar of Companies for registration under the Companies Ordinance.

(Cap. 32.)

(5) Subsection (4) does not apply to or in respect of any right of the holder of a security by virtue of being that holder—

- (a) to exchange the security or convert it to another form of security;
- (b) to participate in a scheme of arrangement approved by the Court under the Companies Ordinance;
- (c) to subscribe for other securities or dispose of a right to subscribe for other securities;
- (d) to charge or pledge the security to secure the repayment of money;
- (e) to realize the security for the purpose of repaying money referred to in paragraph (d); or
- (f) to realize the security in the course of performing a duty imposed by law.

(Cap. 32.)

(6) Where any member of the Commission or any person employed in the administration of this Ordinance is, in the course of his duties, required to consider any matter relating to—

- (a) securities in which he has an interest or any corporation in the securities of which he has an interest;
- (b) securities of the same class as securities in which he has an interest; or
- (c) a person—
  - (i) with whom he is or has been employed or associated;
  - (ii) of whom he is or has been a client; or
  - (iii) who is or was a client of a person with whom he is or was employed or associated,

he shall forthwith so inform the Commission or the Commissioner.

(7) Any person who, without lawful authority or reasonable excuse, contravenes subsection (1), subsection (4), or subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months.

### PART III STOCK EXCHANGES

20. (1) No person shall—

- (a) establish or operate a stock market that is not the stock market of a stock exchange; or
- (b) assist in the operation of a stock market that, to his knowledge, is not the stock market of a stock exchange.

Restriction on establishment of stock exchanges.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$500,000 and, in the case of a continuing offence, to a further fine of \$50,000 for each day during which the offence continues.

21. (1) No person, other than a stock exchange, shall—

- (a) take or use the title "stock exchange"; or
- (b) take or use, or have attached to or exhibited at any place, any title which resembles the title "stock exchange" or so closely resembles that title as to be calculated to deceive.

Restriction on use of the title "stock exchange".

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$100,000 and, in the case of a continuing offence, to a further fine of \$5,000 for each day during which the offence continues.

22. Any dealer who transacts a dealing in securities at or through a stock market in Hong Kong which, to his knowledge, is not the stock market of a stock exchange shall be guilty of an offence, and shall be liable on conviction to a fine of \$50,000 in respect of each such dealing.

Dealer not to deal in securities in a stock market that is not a stock exchange.

23. (1) Any authorized officer may, with the assistance of such other officers as may be necessary, without warrant—

- (a) enter and search any premises in which he reasonably suspects that an offence against section 20 or section 22 is being or has been committed; and
- (b) remove and detain any thing which he has reason to believe is evidence of the commission of the offence.

Power of entry and search, etc.

(2) Any such officer may, in the exercise of the powers conferred on him under subsection (1)—

- (a) break open any outer or inner door of any premises which he is empowered to enter under that subsection;

- (b) remove by force any person or thing obstructing him in the exercise of any such powers;
- (c) detain any person found in the premises until they have been searched.

(3) In this section "authorized officer" means the Commissioner or any police officer not below the rank of superintendent.

(Cap. 221.)

(4) The provisions of section 102 of the Criminal Procedure Ordinance (which makes provision for the disposal of property connected with offences) shall apply to any thing which has come into the possession of the Commissioner under this section in the same way as it applies to property which has come into the possession of the police.

Power to order closure.

24. (1) If any person is charged with an offence against section 20, a magistrate may, on application made by or on behalf of the Commissioner, order that any premises in which the stock market is alleged to have been operated be locked and secured until the charge is heard and determined.

(2) Any person aggrieved by the making of an order under subsection (1) and having an interest in the premises in respect of which the order was made may apply to a magistrate to have the order discharged; and on the hearing of the application the magistrate may either confirm the order or direct that it be discharged.

(3) An application under subsection (2) shall not be heard unless a copy of the application has been served on the Commissioner at least 24 hours before the hearing.

(4) If any person is convicted of an offence against section 20, the court may order the premises in which the stock exchange was operated to be locked and secured for such period not exceeding 3 months as may be specified in the order.

(5) Where any order under subsection (1) or subsection (4) has been made, any authorized officer may take such steps as may be necessary to ensure that the premises to which the order relates are locked and secured.

(6) Any person who enters or attempts to enter any premises in respect of which an order made under subsection (1) or subsection (4) is in force without the authority of the Commissioner shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000.

(7) In this section "authorized officer" means the Commissioner or any police officer.

25. (1) An application may be made to the Commission under this section by or on behalf of a registered company for the approval of the company as a stock exchange.

Power of Commission to approve a registered company as a stock exchange.

(2) On receipt of any such application and a copy of the company's memorandum and articles of association, the Commission in its discretion may, by certificate in writing under its seal, approve the company as a stock exchange if it is satisfied that the requirements specified in subsection (3) have been complied with.

(3) The requirements referred to in subsection (2) are as follows—

- (a) that the objects contained in the company's constitution include a provision giving the company power to operate a stock exchange;
- (b) that at least 20 members of the company will carry on businesses of dealing in securities independently and in competition with one another;
- (c) that the constitution of the company makes satisfactory provision for the exclusion from membership of the company of—
  - (i) a person who is not a registered dealer;
  - (ii) a person who is a director or employee of a licensed bank;
  - (iii) a person who is a solicitor or professional accountant holding a current practising certificate;
  - (iv) a person who performs any occupation, or carries on any business, for the time being prescribed by rules;
  - (v) a person who was not born in Hong Kong or who has not been ordinarily resident in Hong Kong for 5 out of the 7 years immediately preceding his application for membership of the company, unless he is, in the opinion of the Commission, a person of good reputation experienced in dealing in securities;
  - (vi) a corporation or firm which does not carry on a business solely as a dealer or as a dealer and investment adviser;
  - (vii) a corporation of which any director was not born in Hong Kong or has not been ordinarily resident in Hong Kong for 5 out of the 7 years immediately preceding the application of the corporation for membership

of the company, unless the director is, in the opinion of the Commission, a person of good reputation experienced in dealing in securities;

(viii) a corporation, unless each director of the corporation who actively participates in the corporation's business of dealing in securities is also a member of the company;

(ix) a corporation the liability of whose members is limited, unless each director of the corporation who actively participates in the corporation's business of dealing in securities is jointly and severally liable for the debts and obligations of the corporation, whether incurred before or after he became a director of the corporation;

(x) a firm of which any partner, being an individual, was not born in Hong Kong or has not been ordinarily resident in Hong Kong for 5 out of the 7 years immediately preceding the application of the firm for membership of the company, unless that individual is, in the opinion of the Commission, a person of good reputation experienced in dealing in securities;

(xi) a firm of which any partner is a corporation if that corporation is one which would be required to be excluded from membership of the company by virtue of sub-paragraph (vii);

(xii) a firm, unless each of the partners of the firm who actively participates in the firm's business of dealing in securities is also a member of the company;

(xiii) a limited partnership registered under the Limited Partnerships Ordinance, unless each partner who actively participates in the partnership's business of dealing in securities is a general partner;

(d) that the constitution of the company makes satisfactory provision—

(i) for the election by ballot at a general meeting of the company of a committee to administer the stock exchange to be operated by the company;

(ii) for all members of the company to have equal rights of voting at its general meetings;

(iii) for at least four-fifths of the membership of the committee referred to in sub-paragraph (i) to be comprised of persons who are members of the stock exchange to be operated by the company;

(iv) for the retirement of all the members of the committee at the first annual meeting of the company after approval under this section and for the retirement of at least one-third of the committee at each succeeding annual general meeting so that no person may be a member of the committee for more than 3 years without standing for re-election;

(e) that the rules of the stock exchange to be operated by the company are such as to ensure dealing in securities in such a manner as to protect purchasers, holders and sellers of securities to be dealt with on the exchange and include, in addition to any other provisions required by or under this Ordinance—

(i) a provision to the effect that, when a dealer who is a member of the company is purchasing and selling securities on his own account, he shall notify that fact to the person with whom he is dealing;

(ii) a provision prohibiting any member of the company who is a director of a corporation from acting as a dealer in the shares of that corporation;

(iii) a provision requiring the company to maintain adequate daily records of all dealings in securities on the stock exchange;

(iv) a provision requiring the company to keep the records maintained under sub-paragraph (iii) available for inspection by members of the public on payment of a fee not exceeding that prescribed by rules;

(f) that the company—

(i) has and will maintain to the satisfaction of the Commission an adequate and properly equipped place of business; and

(ii) undertakes to operate its stock market only at a place in Hong Kong approved by the Commission;

(g) that the company will make the deposits required to be made to the compensation fund established under Part X;

(h) that it is in the public interest to grant approval under this section.

(4) The Commission may, on application being made to it in writing by a company approved or deemed to be approved

under this section, authorize the company to admit to membership—

- (a) an individual who is not eligible for membership of the company by reason of his not being born in Hong Kong or not fulfilling the residential requirement for membership of the company if, in the opinion of the Commission, he is a person of good reputation experienced in dealing in securities;
- (b) a corporation of which any director was not born in Hong Kong or has not been ordinarily resident in Hong Kong for 5 out of the 7 years immediately preceding the application of the corporation for membership of the company, if, in the opinion of the Commission, the director is a person of good reputation experienced in dealing in securities;
- (c) a firm of which any partner—
  - (i) is an individual who was not born in Hong Kong or has not been ordinarily resident in Hong Kong for 5 out of the 7 years immediately preceding the application of the firm for membership of the company; or
  - (ii) is a corporation of which any director was not born in Hong Kong or has not resided in Hong Kong for 5 out of the 7 years immediately preceding the application of the firm for membership of the company, if, in the opinion of the Commission, the individual or, as the case may be, the director is a person of good reputation experienced in dealing in securities.

(5) Where, immediately before the commencement of this Part, any company was a recognized stock exchange within the meaning of section 2 of the Stock Exchanges Control Ordinance 1973, that company, subject to subsection (6), shall be deemed to be approved as a stock exchange under subsection (2).

(6) Every company to which subsection (5) relates shall, not later than 6 months after the commencement of this Part, satisfy the Commission that it has complied with the requirements of paragraphs (b), (c), (d), (e), (f), and (g) of subsection (3), except that in relation to paragraph (c) the company is not required to amend its constitution so to provide for the exclusion from membership of the company of any of those persons mentioned in sub-paragraphs (iii), (v), (vii), (x), and (xi) of that paragraph who were members of the company at the commencement of

(20 of 1973.)

this Part and who would, but for this exception, be liable under the constitution of the company to be excluded from that membership.

(7) If any company to which subsection (5) relates fails to satisfy the Commission as required by subsection (6), the Commission may, at any time while the requirements of subsection (6) remain unsatisfied, revoke the approval deemed to have been given under subsection (5).

26. (1) The Commission may revoke any approval given or deemed to have been given under section 25 on giving 14 days' notice in writing to the company of its intention to do so on the ground—

- (a) that the stock exchange operated by the company no longer has at least 20 members;
- (b) that the constitution of the company no longer complies with the requirements specified in paragraphs (c) and (d) of section 25(3);
- (c) that the rules of the stock exchange no longer comply with the requirements of section 25(3)(e);
- (d) that the stock exchange no longer maintains a place of business which complies with the requirements of section 25(3)(f) or that the exchange operates a stock market in Hong Kong at any other place of business;
- (e) that the stock exchange has failed to make any deposit or payment into the compensation fund as required under Part X; or
- (f) that the company is being wound up or has ceased to operate a stock market.

(2) The Commission may, instead of revoking the approval given or deemed to have been given under section 25, direct that the premises of the stock exchange be closed forthwith for the transaction of dealings in securities until such time as the stock exchange has, to the satisfaction of the Commission, complied with the requirement in question.

(3) Without prejudice to the exercise of its powers under subsections (1) and (2), the Commission may, where it has received a recommendation from the Disciplinary Committee pursuant to section 39(2)(a) in respect of a stock exchange which the Committee has found guilty of misconduct under that section—

Revocation of approval and suspension of dealings for misconduct, etc.

- (a) revoke the approval given or deemed to have been given under section 25; or
- (b) direct that the premises of the stock exchange be closed for the transaction of dealings in securities until the Commission revokes the direction.

(4) While a direction under subsection (2) or subsection (3) remains in force, the approval given or deemed to have been given under section 25 to the company in question shall, for the purposes of the application of sections 20 to 22, be deemed to have been revoked.

(5) Where any direction under subsection (2) or subsection (3) is in force, any authorized officer may take such steps as may be necessary to ensure that the premises to which the direction relates are locked and secured.

(6) Any person who enters or attempts to enter any premises in respect of which a direction made under subsection (2) or subsection (3) is in force without the authority of an authorized officer shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000.

(7) In this section "authorized officer" means the Commissioner or any police officer.

27. (1) Without prejudice to the powers of the Commission under section 26, the Commissioner may, after consultation with the Federation, order that all stock exchanges be closed for the transaction of dealings in securities for a period not exceeding 5 bank trading days.

(2) The Commissioner may make an order under subsection (1) on the ground that, in his opinion, the orderly transaction of business at stock exchanges is being or is likely to be prevented because—

- (a) an emergency or natural disaster has occurred in Hong Kong; or
- (b) there exists an economic or financial crisis, whether in Hong Kong or elsewhere, or any other circumstance, which is likely to prevent orderly trading from being carried on at stock exchanges.

(3) Any order made under subsection (1) or under this subsection may be renewed by a further order for a further period of not more than 5 bank trading days.

Commissioner may order closure of stock exchanges in emergencies, etc.

(4) Any dealer who deals in securities at or through a stock exchange while an order made under subsection (1) is in force in respect of the exchange (being an order which has been notified to the committee of the exchange) shall be guilty of an offence, and shall be liable on conviction to a fine of \$50,000.

(5) Where any order under subsection (1) has been made, the Commissioner may take such steps as are necessary to secure compliance with the order and may, in particular, cause the premises of stock exchanges to be locked and secured.

(6) Any person who, without the authority of the Commissioner, enters or attempts to enter the premises of a stock exchange which have been locked and secured under subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine of \$20,000.

28. Where the Commission revokes any approval given or deemed to have been given under section 25 or issues any direction under section 26, or the Commissioner makes any order under section 27, notice of the revocation, direction, or order, as the case may be, shall be published in the *Gazette*.

Revocation of approval, etc., to be notified in the *Gazette*.

29. (1) Where—

- (a) the Commission has refused to approve a registered company as a stock exchange under section 25, has revoked any approval under section 26, or has given a direction under subsection (2) or (3) of section 26 in relation to a stock exchange; or
- (b) the Disciplinary Committee has imposed any penalty on any stock exchange, or on any member of the committee of a stock exchange, pursuant to paragraph (b) or paragraph (c) of section 39(2),

Appeal against revocation of approval, etc.

the stock exchange or such member of the committee may, within 14 days—

- (i) after notification of the refusal or after the publication in the *Gazette* of notice of the revocation or direction; or
- (ii) after being notified of the decision of the Disciplinary Committee imposing the penalty,

appeal to the Governor in Council against the refusal, revocation or direction or against the decision of the Disciplinary Committee.

(2) After considering any appeal under subsection (1) the Governor in Council may confirm, reverse or vary the decision

of the Commission or of the Disciplinary Committee, as the case may be; and the decision of the Governor in Council shall be final.

(3) Where approval is refused under section 25, any approval is revoked under section 26, or any direction is made under subsection (2) or subsection (3) of section 26, that refusal, revocation or direction shall take effect immediately, notwithstanding that an appeal has been or may be made under this section.

Commission to be notified of proposed amendments to constitution and rules of stock exchange.

30. (1) No amendment to the constitution or rules of a stock exchange, whether by way of rescission, alteration, or addition, shall have effect unless the amendment has been approved by the Commission.

(2) Where it is proposed to amend the constitution or rules of a stock exchange, the committee of the stock exchange shall forward written notice of the amendment to the Commission for its approval.

(3) The Commission may, within 14 days after receipt of a notice under subsection (2), give notice that it disallows the whole or any specified part of the proposed amendment to which the notice relates.

(4) A notice under this section may be served personally or by post.

#### PART IV

##### HONG KONG FEDERATION OF STOCK EXCHANGES

Establishment of Hong Kong Federation of Stock Exchanges.

31. (1) There shall be an association of stock exchanges to be known as the Hong Kong Federation of Stock Exchanges.

(2) The Federation shall be a body corporate with perpetual succession and shall have a common seal which shall include the name of the Federation.

(3) Every stock exchange, when approved or deemed to have been approved under section 25, shall be deemed to be a member of the Federation.

(4) Any stock exchange whose approval is revoked under section 26 shall thereupon cease to be a member of the Federation.

Council of Federation.

32. (1) The Federation shall have a council, to be known as the Council of the Hong Kong Federation of Stock Exchanges,

which shall have the management of the Federation and shall perform on behalf of the Federation the functions prescribed by section 36.

(2) Two persons shall be appointed by the committee of each stock exchange from among the members of that exchange to be members of the Council.

(3) Every appointment under subsection (2) shall be made annually, not later than a date specified by the Commission.

(4) Subject to this Ordinance, a member appointed under subsection (2) shall hold office for a period of 12 months.

(5) A retiring member of the Council shall be eligible for reappointment to the Council.

(6) If any member of the Council ceases to be a member, the committee of the stock exchange which appointed him may appoint another person who is a member of that exchange to be a member of the Council in his place until the expiry of the period for which the first-mentioned person was appointed.

(7) A member of the Council may at any time resign by giving notice to the Council in writing.

(8) Notwithstanding anything to the contrary in this section, no person shall be eligible to be a member of the Council if he—

- (a) is not ordinarily resident in Hong Kong;
  - (b) is an undischarged bankrupt;
  - (c) has been convicted of an offence, whether in Hong Kong or elsewhere, involving fraud or dishonesty; or
  - (d) is serving a sentence of imprisonment or detained in a mental hospital.
- (9) If the Council is satisfied that any of its members—
- (a) has been absent from meetings of the Council for a period longer than 3 months without its permission;
  - (b) has become bankrupt or made an arrangement with his creditors;
  - (c) is incapacitated from carrying out his duties by reason of physical or mental illness;
  - (d) is no longer ordinarily resident in Hong Kong; or
  - (e) is otherwise unable or unfit to discharge the functions of a member of the Council,

it may declare his office as a member of the Council to be vacant.

(10) The powers of the Council shall not be affected by any vacancy in its membership, or any irregularity in the appointment of any member of the Council.

(11) If any stock exchange for any reason ceases to be a member of the Federation, the membership of the Council of any person appointed by the committee of that exchange shall thereupon cease.

(12) If any stock exchange fails to appoint members of the Council as required by this section, the Commission may, after giving the exchange 14 days' notice in writing of its intention to do so, appoint persons to fill the vacancies.

**33.** (1) The Council shall, at its first meeting and in each year thereafter at the first meeting after the anniversary of the date on which it was constituted, elect one of its members to be chairman of the Council, and the person so elected shall hold office during its pleasure until the election of another chairman.

(2) When a member of the Council ceases to hold office as chairman of the Council, neither he, nor any other member of the Council who is a member of the stock exchange of which he is a member, shall be eligible for election as chairman of the Council until the expiry of at least 4 years from the date on which the first-mentioned member of the Council was elected to be the chairman.

(3) If the office of chairman is vacant for more than one month, the Commission may appoint such person as it thinks fit (including a person who is not a member of the Council) to be chairman for a period not exceeding 12 months.

(4) The Council may, at its first meeting and in each year thereafter after the anniversary of the date on which it was constituted, elect any other of its members to be deputy chairman, and the person so elected shall hold office as such during its pleasure until the election of another deputy chairman.

(5) If the office of chairman is vacant, or the chairman is absent from any meeting of the Council or is incapacitated by illness or other cause from performing the duties of his office, the deputy chairman shall have and may exercise all the functions and powers of the chairman.

**34.** (1) If any member does not attend a meeting of the Council, the committee of the stock exchange which appointed

Chairman  
and deputy  
chairman of  
the Council.

Deputies of  
members.

him may appoint one of the other members of the exchange to attend the meeting as his deputy.

(2) While a person is attending any meeting as a deputy under this section, he shall be deemed for all purposes to be a member of the Council.

(3) No appointment of a deputy and no act done by him as such, and no act done by the Council while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment has not arisen or had ceased.

**35.** (1) Meetings of the Council shall be held not less often than once in every month at such times and places as the Council or its chairman may appoint. Meetings of the Council.

(2) At all meetings of the Council 4 members shall form a quorum.

(3) At any meeting of the Council the chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(4) All questions before the Council shall be decided by a majority of the members present and voting thereon.

(5) A decision taken at a meeting of the Council shall be binding on each of the members of the Federation, whether the representatives of the member were present at the meeting or not.

(6) Subject to subsections (1) to (5) the procedure at meetings of the Council shall be determined by the Council.

**36.** The Federation shall have the following functions— Functions of the Federation.

(a) to communicate the views of its members to the Commission, and to communicate the decisions of the Commission to its members;

(b) to encourage or provide facilities for the training of persons desirous of becoming stockbrokers;

(c) to provide or promote facilities for the obtaining by stockbrokers, and persons desirous of becoming stockbrokers, of professional qualifications by means of examinations;

(d) to provide means for the amicable settlement of disputes between—

(i) members of the Federation;

(ii) any members of one member of the Federation and any members of another member of the Federation; or

(iii) any member of the Federation and any members of any other member of the Federation;

- (e) to be the sole representative of members of the Federation in respect of any matter other than one involving the internal administration of the stock exchange of any such member;
- (f) to promote research into all aspects of investment in securities;
- (g) to encourage its members to improve the efficiency, methods, and procedures of the stock markets operated by them;
- (h) to fix the hours of trading on stock exchanges;
- (i) to determine all matters relating to the levying of brokerage in respect of transactions on stock exchanges, including the fixing of a uniform rate of brokerage in relation to all stock exchanges;
- (j) to establish a uniform procedure for the transaction of dealings between members of one stock exchange and members of another;
- (k) to perform any other function in relation to dealings in securities determined by the unanimous decision of the Council and approved by the Commission, not being a function which is inconsistent with this Ordinance.

Powers of  
Federation  
and Council.

37. (1) The Federation shall have all such powers as may be necessary to enable it to carry out its functions, and without prejudice to the generality of the foregoing may—

- (a) acquire, hold, or dispose of movable or immovable property;
- (b) for the purpose of financing its operations, impose levies on its members of such amounts as may be determined by the Council, with the concurrence of the Commissioner;
- (c) appoint officers and other staff on such terms and conditions as the Council thinks fit.

(2) The Council may appoint committees of its members and may delegate to any such committee any of its functions or powers (other than the power of delegation conferred by this

subsection) and may authorize such a committee to co-opt as members thereof persons who are not members of the Council.

(3) The Federation may, and if so directed by the Commission shall, make rules on any matter within its functions.

(4) Every rule made under subsection (3) shall be binding on and be enforceable against each stock exchange and against the members of each stock exchange, except to the extent that any such rule purports to exempt any specified stock exchange or any members or class of members of a stock exchange from its operation.

(5) The Federation may cause any rules made under subsection (3) to be promulgated in such manner as it thinks fit.

(6) All rules made under subsection (3) shall, subject to subsection (7), come into operation on the date on which they are made or on such later date as may be specified in the rules.

(7) No rule made under subsection (3) (not being a rule made at the direction of the Commission) shall come into operation unless it has been previously approved by the Commission.

## PART V

### SECURITIES COMMISSION DISCIPLINARY COMMITTEE

38. (1) There shall be a committee, to be known as the Securities Commission Disciplinary Committee, appointed in accordance with this section to exercise the powers and perform the functions conferred on it by this Ordinance.

Constitu-  
tion of  
Disciplinary  
Committee.

(2) The Disciplinary Committee shall be appointed by the Commission, and shall consist of five persons of whom—

- (a) one shall be the member of the Commission appointed under section 10(1)(c) who is qualified in law, or if there is more than one such member, one of those members;
- (b) two shall be other members of the Commission (other than the Commissioner);
- (c) two shall be persons nominated by the Federation.

(3) The member of the Disciplinary Committee referred to in subsection (2)(a) shall be chairman of the Disciplinary Committee.

(4) A quorum of the Disciplinary Committee shall be four persons.

(5) A decision of the majority of the members of the Disciplinary Committee shall be the decision of the Committee. In the event of there being no majority, the decision of the chairman and one other member of the Committee shall be the decision of the Committee.

Powers of  
Disciplinary  
Committee.

**39.** (1) The Disciplinary Committee may inquire into any allegation, whether made by the Commission, the Commissioner or any other person, that any stock exchange, or the committee or any member of the committee of any such exchange, has been guilty of any misconduct.

(2) If, after inquiring into any such allegation, the Disciplinary Committee is of the opinion that the allegation is proved it may, if it thinks fit, subject to the provisions of this Ordinance, do one or more of the following things—

- (a) recommend to the Commission that it exercise any of the powers conferred on it by section 26;
- (b) disqualify any member of the committee of the stock exchange from holding office as such either permanently or for such period as the Disciplinary Committee may specify;
- (c) impose a fine on the stock exchange not exceeding \$10,000;
- (d) reprimand the committee of the stock exchange or any member of the committee of the stock exchange.

(3) The Disciplinary Committee shall not, in respect of any allegation inquired into under subsection (1), impose on any stock exchange, or on the committee or any member of the committee of the exchange, any of the penalties referred to in subsection (2), or make any recommendation under that subsection, without first giving the committee of the exchange or, as the case may be, the member of the committee, an opportunity of being heard.

(4) Any stock exchange, or committee or member of the committee of a stock exchange, against which or whom an allegation of misconduct has been made, and any person appealing to the Disciplinary Committee under section 58, shall have a right to be represented by a solicitor or counsel at the inquiry under subsection (1) or on the hearing of the appeal.

(5) Where a stock exchange has been proceeded against before a court of law in respect of an offence arising out of mis-

conduct, the Disciplinary Committee shall not impose a fine under subsection (2)(c) in relation to that misconduct.

(6) For the purposes of this section "misconduct" means—

- (a) any failure by a stock exchange or the committee of a stock exchange to comply with the requirements of this Ordinance or any rules, regulations, or directions made or given thereunder;
- (b) any wilful contravention by a stock exchange or the committee of a stock exchange of the constitution or rules of the exchange;
- (c) any failure by a stock exchange or by the committee of a stock exchange to ensure that the rules of the exchange are complied with by its members;
- (d) any act or omission relating to the operation of a stock exchange which, in the opinion of the Disciplinary Committee, is or is likely to be prejudicial to the interests of members of the investing public.

**40.** After the hearing of any inquiry under section 39, or of any appeal under section 58, the Disciplinary Committee may make such order as to the payment of costs as it considers just. Costs.

**41.** Any sum ordered by the Disciplinary Committee to be paid by way of fine or costs in relation to an inquiry under section 39, or in relation to an appeal made under section 58, shall be deemed to be a civil debt due from the person ordered to pay it to the person to whom it is ordered to be paid and shall be recoverable accordingly in any court of competent jurisdiction. Recovery of penalties, costs, and expenses.

**42.** (1) The Disciplinary Committee, by notice in writing signed by the chairman and served on any person to whom it is addressed, may require the person to attend and give evidence before it at the hearing of any inquiry under section 39 or any appeal under section 58, and to produce all books, papers, and documents in that person's custody or under his control relating to the subject-matter of the inquiry or appeal, as the case may be. Evidence at hearing, etc.

(2) At any inquiry under section 39 or at the hearing of any appeal under section 58, the Disciplinary Committee may—

- (a) receive such evidence as it considers relevant to the inquiry or appeal, whether it would be admissible in a court of law or not; and

- (b) require evidence to be given on oath, either orally or in writing, and books, papers, or documents to be produced.
- (3) For the purpose of subsection (2) the chairman of the Committee may administer an oath.
- (4) Any person who, without lawful authority or reasonable excuse, refuses or fails—
- to attend and give evidence when required to do so by the Disciplinary Committee; or
  - to answer truly and fully questions put to him by a member of the Disciplinary Committee; or
  - to produce any book, paper, or document which he has been required to produce,

shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000.

Immunity of Disciplinary Committee, witnesses, solicitors and counsel.

43. The Disciplinary Committee, and witnesses and any solicitor or counsel appearing before the Disciplinary Committee, shall have the same privileges and immunities in inquiries and appeals heard under this Part as they would have if those proceedings were proceedings in a court.

Witnesses' expenses.

44. (1) Every witness giving evidence or attending to give evidence at the hearing of any inquiry under section 39 or any appeal under section 58 shall be entitled in the discretion of the Disciplinary Committee to such sum for his expenses and loss of time as the Disciplinary Committee may determine.

(2) Subject to any order made by the Disciplinary Committee as to the payment of costs or expenses, all such witnesses' expenses shall be paid out of money provided by the Legislative Council.

Rules of procedure.

45. Subject to this Part, the Commission may make rules in respect of the hearing and determination of inquiries under this Part and of appeals made under section 58.

Form and proof of orders of Disciplinary Committee.

46. (1) Every decision of the Disciplinary Committee shall be in writing signed by the chairman of the Committee and shall contain a statement of the reasons for the decision.

(2) Every document purporting to contain a decision of the Disciplinary Committee and to be signed by the Committee's chairman shall, until the contrary is proved, be deemed to be a decision of the Committee duly made.

## PART VI

### REGISTRATION OF DEALERS, INVESTMENT ADVISERS, AND REPRESENTATIVES

47. (1) Except so far as specifically provided, this Part does not apply to an exempt dealer or to an exempt investment adviser, or to the representative of an exempt dealer or exempt investment adviser, but—

Application of Part VI.

- subject to section 61, nothing in this subsection exempts an exempt dealer who carries on a business as an investment adviser from being registered as such under this part; and
- subject to section 60, nothing in this subsection exempts an exempt investment adviser who carries on a business of dealing in securities from being registered as a dealer.

(2) Where a person would, but for this subsection, be liable to a penalty for not being registered as a dealer, dealer's representative, investment adviser, or investment representative, he shall not be so liable—

- until the expiry of a period of 3 months immediately following the commencement of this Part; or
- where, before the expiry of that period, he applies for registration, until—
  - he is registered; or
  - his application is refused.

48. (1) A person (whether an individual or a body corporate, or a member of a partnership or director of a body corporate) shall not carry on a business in Hong Kong of dealing in securities, or hold himself out as carrying on such a business, unless he is registered as a dealer under this Part.

Registration as a dealer.

(2) Any person who knowingly acts in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000 and, in the case of a continuing offence, to a further fine of \$500 for each day during which the offence continues.

49. (1) A person (whether an individual or a body corporate, or a member of a partnership or director of a body corporate) shall not in Hong Kong act as an investment adviser or hold himself out to be an investment adviser unless he is registered as an investment adviser under this Part.

Registration as an investment adviser.

(2) Any person who knowingly acts in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$20,000 and, in the case of a continuing offence, to a further fine of \$200 for each day during which the offence continues.

Registration as a representative.

50. (1) No person shall—

- (a) act as a dealer's representative in Hong Kong unless he is registered as such under this Part; or
- (b) act as an investment representative in Hong Kong unless he is registered as such under this Part.

(2) Any person who knowingly acts in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and, in the case of a continuing offence, to a further fine of \$100 for each day during which the offence continues.

Grant of certificates of registration.

51. (1) Subject to sections 52 and 53, the Commissioner shall, on application by any person in the prescribed manner and on payment of the prescribed fee, issue to that person—

- (a) a certificate of registration authorizing him to carry on business as a dealer in securities;
- (b) a certificate of registration authorizing him to deal in securities as a representative of a registered dealer;
- (c) a certificate of registration authorizing him to carry on business as an investment adviser; or
- (d) a certificate of registration authorizing him to act as a representative of a registered investment adviser.

(2) A certificate of registration shall be—

- (a) valid for a period of 12 months beginning with the day on which it is issued; and
- (b) subject to such reasonable conditions as the Commissioner considers necessary.

(3) A certificate of registration issued to a dealer or investment adviser shall specify the name of the person thereby authorized to carry on a business of dealing in securities or as an investment adviser, as the case may be.

(4) The issue of a certificate of registration to a person shall not authorize such a person to carry on that business under any name other than that specified in the certificate.

(5) Notwithstanding subsection (4), if the Commissioner thinks fit, a certificate of registration to which that subsection relates may, at the request of the applicant for registration, authorize the applicant to carry on business as a dealer or investment adviser, either alone or jointly with any other person who is registered as a dealer or investment adviser, as the case may be, under such name or style as the applicant may specify.

52. (1) Subject to subsection (6), the Commissioner shall not register an applicant as a dealer unless the applicant has deposited with the Commissioner such amount as is prescribed in regulations.

Deposit required before registration as a dealer.

(2) If—

- (a) the dealer, being an individual person or member of a partnership of dealers, becomes bankrupt, the Commissioner shall pay the deposit to the dealer's trustee in bankruptcy;
- (b) the dealer, being a corporation, is ordered to be wound up by or under the supervision of the Court, the Commissioner shall pay the deposit to the liquidator of the corporation; or
- (c) the certificate of registration of the dealer is revoked, or the dealer or any servant of the dealer, or where the dealer is a partnership or a corporation any member of the partnership or director or officer of the corporation, is convicted of an offence necessarily involving a finding that he or it was guilty of a breach of trust, defalcation, fraud, or misfeasance in respect of any money or securities of a person who is a client of the dealer, the Commissioner may direct that all or any part of the deposit be forfeited.

(3) In the event of the deposit or any part of the deposit being paid to the dealer's trustee in bankruptcy or liquidator under subsection (2)(a) or subsection (2)(b), the amount paid shall be applied by the trustee or liquidator, as the case may be, in accordance with regulations made under this Ordinance for the purposes of this subsection.

(4) In the event of the deposit or any part of the deposit being forfeited under subsection (2)(c), the amount forfeited shall be applied by the Commissioner subject to and in accordance with regulations made under this Ordinance for the purposes of this subsection.

(5) Except as provided in this section or under regulations made under this Ordinance, no person may withdraw or transfer any deposit made under subsection (1).

(6) The following persons are exempt from being required to deposit the amount required under subsection (1)—

- (a) any dealer who is a stockbroker;
- (b) any corporate member or member firm of a stock exchange;
- (c) any corporation carrying on a business as a dealer each of whose directors who is engaged in dealing in securities has deposited the amount so required; and
- (d) any other dealer who belongs to a class of dealers exempted from the provisions of this section by regulations.

(7) The Commissioner shall open one or more accounts at a licensed bank into which he shall pay all sums received from dealers by way of deposit under this section, and shall then ascertain what proportion of those sums ought, in his opinion, to be retained in the accounts to enable liabilities under subsection (2), or such other liabilities as may be prescribed by regulations, to be satisfied.

(8) After ascertaining the amount required to be retained under subsection (7), the Commissioner shall cause the balance of the sums to be invested in such manner as the Financial Secretary may direct.

(9) Where the Financial Secretary has given a direction under subsection (8), he shall, as soon as practicable after the end of each financial year, by notice in the *Gazette*,—

- (a) declare a rate of interest to be paid for that financial year in respect of each sum deposited under subsection (1);
- (b) specify the manner and time of payment of that interest; and
- (c) specify an amount to be charged for management expenses incurred by the Commissioner in administering that sum under this section.

(10) As soon as practicable after the publication of the notice referred to in subsection (9), the Commissioner shall, after deducting the appropriate amount chargeable in respect of management

expenses, pay to each person who has deposited the prescribed sum under subsection (1), or to that person's duly authorized agent or personal representative, the appropriate amount of interest due in respect of that sum for the financial year in question.

(11) If any person who has made a deposit under subsection (1) ceases to be registered as a dealer and the deposit has not been or is not required to be disposed of under subsection (2), that person, or his agent or personal representative, may apply to the Commissioner for the deposit to be released to him.

(12) On making an application under subsection (11), the applicant shall—

- (a) satisfy the Commissioner by a statutory declaration—
  - (i) that he knows of no other person who has made or is entitled to make a claim in respect of the deposit;
  - (ii) if he is not the dealer who made the deposit, that he is entitled to give a good discharge for the deposit and stating the circumstances in which he is so entitled; and
- (b) provide the Commissioner with such information as will satisfy him that an advertisement in a form approved by him has been inserted once in an English language newspaper, and once in a Chinese language newspaper, circulating in Hong Kong.

(13) The Commissioner, on being so satisfied, shall cause the amount of the deposit to be released to the applicant.

53. (1) The Commissioner may refuse to register an applicant for registration under this Part—

Refusal of registration.

- (a) in the case of an applicant who is an individual, on the grounds that—
  - (i) the applicant has not provided the Commissioner with such information relating to him or any person employed by or associated with him, and to any circumstances likely to affect his method of conducting business, as may be prescribed by or under this Ordinance;
  - (ii) the applicant is detained under the Mental Health Ordinance in a mental hospital or is a patient, as defined in section 2 of that Ordinance; (Cap. 136.)
  - (iii) the applicant is an undischarged bankrupt;

(iv) it appears to the Commissioner that, by reason of the applicant, or any person employed by or associated with the applicant for the purposes of his business, having been convicted, whether in Hong Kong or elsewhere, of an offence his conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or having been convicted of an offence against this Ordinance, or having committed a breach of any regulations made under this Ordinance relating to dealers, investment advisers, or representatives, the applicant is not a fit and proper person to be registered under this Part;

(v) it appears to the Commissioner that, by reason of any other circumstances whatsoever which either are likely to lead to improper conduct of business by, or reflect discredit on the method of conducting business of, the applicant or any person employed by or associated with him, the applicant is not a fit and proper person to be registered under this Part; or

(vi) the applicant is under 21 years of age; or

(b) in the case of an applicant that is a corporation, on the grounds that—

(i) the applicant has not provided the Commissioner with such information relating to it or any person employed by or associated with it, and to any circumstances likely to affect its method of conducting business as may be prescribed by or under this Ordinance;

(ii) any director of the applicant is detained under the Mental Health Ordinance in a mental hospital or is a patient as defined in section 2 of that Ordinance;

(iii) any director of the applicant is an undischarged bankrupt;

(iv) it appears to the Commissioner that, by reason of the applicant, or any director or secretary of the applicant or any officer concerned in the management of the applicant's business or any employee of the applicant, having been convicted, whether in Hong Kong or elsewhere, of an offence its or his conviction for which necessarily involved a finding that it or he acted fraudulently or dishonestly, or having been convicted of an offence against this Ordinance, or having committed a breach of any regulations made under this Ordinance relating to dealers, investment advisers, or

representatives, the applicant is not a fit and proper person to be registered under this Part; or

(v) it appears to the Commissioner that, by reason of any other circumstances whatsoever which either are likely to lead to improper conduct of business by, or reflect discredit on the method of conducting business of, the applicant or any director or secretary of the applicant, or any officer concerned in the management of the applicant's business, or any employee of the applicant, the applicant is not a fit and proper person to be registered under this Part.

(2) The Commissioner shall not refuse an application for registration without first giving the applicant an opportunity of being heard.

(3) Where the Commissioner refuses an application for registration, he shall notify the applicant in writing of that fact and shall include in the notice a statement of the reasons for the refusal.

54. (1) An application for renewal of registration under this Part shall— Renewal of registration.

(a) be made to the Commissioner in the manner prescribed by regulations;

(b) be accompanied by the fee prescribed by regulations; and

(c) be made not later than one month before the day on which the certificate of registration, if not renewed, would expire.

(2) The Commissioner may require an applicant under this section to supply him with any further information that he considers necessary to deal with the application.

(3) The Commissioner may not refuse an application under this section except—

(a) on a ground that would entitle him to revoke the registration of a person under section 55 or section 56; or

(b) by reason of the failure of the applicant to comply with subsection (1) or with any requirement of the Commissioner under subsection (2).

(4) An application under this section may be granted subject to such reasonable conditions as the Commissioner thinks necessary.

(5) On granting an application under this section, the Commissioner shall issue the appropriate certificate of registration which shall be valid for a period of 12 months from the expiry of the certificate of registration held by the applicant at the time of his application.

(6) Nothing in this section shall be construed as preventing a certificate of registration that has been renewed from being further renewed for a further period of 12 months.

(7) The Commissioner shall not refuse an application for renewal of registration under this section without first giving the applicant an opportunity of being heard.

(8) Where the Commissioner refuses an application for renewal of registration under this section, he shall notify the applicant in writing of that fact and shall include in the notice a statement of the reasons for the refusal.

55. (1) Where any registered person—

(a) being an individual, dies; or

(b) being a corporation, is dissolved,

the registration of that person is deemed to be revoked.

(2) The Commissioner may revoke the registration of a registered person or, if he thinks it appropriate to do so, suspend the registration of such a person for such time, or until the happening of such event, as he may determine—

(a) in the case of a registered person who is an individual, if that person—

(i) becomes a mentally disordered person or a patient, as defined in section 2 of the Mental Health Ordinance;

(ii) becomes bankrupt, or compounds with his creditors or makes an assignment of his estate for their benefit;

(iii) is convicted, whether in Hong Kong or elsewhere, of an offence the conviction for which necessarily involved a finding that he acted fraudulently or dishonestly;

(iv) is convicted of an offence against this Ordinance;

(v) ceases to carry on business in Hong Kong; or

(vi) is registered as a representative and the registration of the dealer or investment adviser, in relation to

whom the certificate of registration of the representative was granted, is revoked or suspended; or

(b) in the case of a registered person that is a corporation if—

(i) the corporation goes into liquidation or is ordered to be wound up;

(ii) a receiver or manager of the property of the corporation is appointed;

(iii) the corporation has ceased to carry on business;

(iv) a levy of execution in respect of the corporation has not been satisfied;

(v) the corporation has entered into a compromise or scheme of arrangement with its creditors;

(vi) any director of the corporation is convicted, whether in Hong Kong or elsewhere, of an offence the conviction for which necessarily involved a finding that he acted fraudulently or dishonestly;

(vii) any director of the corporation is convicted of an offence against this Ordinance;

(viii) a director, secretary, or other person concerned in the management of the corporation who is required to be registered under this Part is not so registered or the registration of such a director, secretary, or other person has been revoked or suspended.

(3) The Commissioner may revoke a certificate of registration at the request of its holder.

(4) The Commissioner may at any time remove the suspension of the registration of a registered person if it appears to him desirable to do so.

(5) Every decision of the Commissioner revoking or suspending the registration of a person shall take effect from the time that it is notified to that person.

56. (1) The Commissioner may inquire into any allegation—

(a) that a registered person, whether an individual or corporation—

(i) has not provided the Commissioner, whether before or after becoming registered under this Ordinance, with such information relating to him, and to any

Powers of Commissioner in relation to misconduct etc.

Revocation and suspension of certificates of registration in certain cases.

(Cap. 136.)

circumstances likely to affect his method of conducting business, as may be required by or under this Ordinance;

(ii) is or has been guilty of any misconduct in relation to the conduct of his business; or

(iii) is no longer a fit and proper person to be registered by reason of any other circumstances which have led or are likely to lead to the improper conduct of business by him or to reflect discredit on the method of conducting his business; or

(b) that, in the case of a registered person that is a corporation, a director, secretary, or person concerned in the management of the corporation—

(i) is or has been guilty of any misconduct in relation to the conduct of his business; or

(ii) is not or is no longer a fit and proper person to be a director of, or a person concerned with the management of, the corporation.

(2) If after inquiring into any such allegation against a registered person, the Commissioner is of the opinion that the allegation is proved, he may if he thinks fit, subject to the provisions of this Ordinance, revoke the registration of that person or if he thinks it appropriate to do so—

(a) suspend the registration of the person for such time, or until the happening of such event, as he may determine; or

(b) reprimand him or, in the case of a registered person that is a corporation, reprimand any director, secretary, or person concerned in the management of the corporation.

(3) The Commissioner shall not impose any penalty under subsection (2) without first giving the registered person, and, in the case of a registered person that is a corporation, any director, secretary, or officer concerned in the management of the corporation against whom an allegation has been made under subsection (1), an opportunity of being heard.

(4) Every decision of the Commissioner imposing a penalty under subsection (2) shall take effect from the time that it is notified to the person concerned, notwithstanding that an appeal against the decision may be made under section 58 or that the time limited for the making of such an appeal has not yet

expired; but in the event of any appeal being successful, whether under section 58 or section 59, the appellant shall, subject to any direction by the Disciplinary Committee or the Court, as the case may be, be reinstated as far as practicable to the position that he would have been in if the decision of the Commissioner had not been made.

(5) For the purposes of this section "misconduct" means—

(a) any failure to comply with the requirements of any regulations made under this Ordinance with respect to dealers, investment advisers, or representatives;

(b) any failure to observe the terms and conditions of a certificate of registration;

(c) any act or omission relating to the conduct of business of a dealer, investment adviser, or representative, which is or is likely to be prejudicial to the interests of members of the investing public.

57. (1) For the purposes of sections 48 to 50 a person whose registration is revoked or suspended shall be deemed not to be registered.

Effect of  
revoking or  
suspending  
registration.

(2) Subsection (1) does not operate so as to—

(a) avoid or affect any agreement, transaction, or arrangement relating to a dealing in securities entered into by a person whose registration has been suspended or revoked, whether the agreement, transaction, or arrangement was entered into before or after the suspension or revocation of the registration; or

(b) affect any right, obligation, or liability arising under any such agreement, transaction, or arrangement.

(3) A person whose registration is revoked under section 55 or section 56 may not apply to be registered under this Part, whether as a dealer, investment adviser, or representative, until the expiration of at least 12 months from the revocation.

(4) Where the Commissioner revokes or suspends the registration of any person under section 55 or section 56 or imposes any other penalty under section 56, he shall notify that person in writing of the revocation, suspension, or other penalty, and shall include in the notice a statement of the reasons as to why the registration of the person was revoked or suspended or, as the case may be, the penalty was imposed.

Appeal to the Disciplinary Committee against refusals of application, etc.

**58.** (1) Where—

- (a) the application of any person for registration or renewal of registration under this Part is refused; or
- (b) the application of a person for registration or renewal of registration under this Part is granted subject to conditions with which he is dissatisfied; or
- (c) the registration of any registered person is revoked or suspended under section 55 or section 56; or
- (d) the deposit of a registered dealer is forfeited under section 52(2)(c),

that person may, within one month of being notified of the decision by the Commissioner, appeal to the Disciplinary Committee in accordance with any rules made under section 45.

(2) After considering the representations submitted and evidence produced by or on behalf of the appellant and the Commissioner, the Disciplinary Committee may confirm, reverse, or vary that decision.

Appeals from decisions of the Disciplinary Committee, etc. in certain cases.

**59.** (1) An appeal shall lie to the Court against any decision of the Disciplinary Committee in relation to the hearing of an appeal under section 58 by any interested party who is aggrieved by the decision of the Committee; and the Court may confirm, vary, or reverse the decision of the Committee and give such other directions as it thinks just and equitable.

(2) Every such appeal shall be made within such time and in such manner, and shall be heard in accordance with such procedure, as may be prescribed by rules of court made under the Supreme Court Ordinance.

(3) The decision of the Court on an appeal under this section shall be final.

(Cap. 4.)

Exempt dealers.

**60.** (1) The Commissioner may declare any person to be an exempt dealer for the purposes of this Ordinance if he is satisfied that the business of that person complies with the following requirements, that is to say—

- (a) the main business of that person consists of one or both of the following activities—
  - (i) carrying on some business other than the business of dealing in securities;
  - (ii) dealing in securities in one or more of the ways specified in subsection (2); and

- (b) the greater part of any business of dealing in securities done by him in Hong Kong, otherwise than in one of the ways specified in subsection (2), is effected with or through the agency of one or more of the following persons—

- (i) a registered dealer;
- (ii) an exempt dealer; or
- (iii) a member of a stock exchange outside Hong Kong.

(2) The ways of dealing in securities referred to in subsection (1) are—

- (a) issuing any document which is or is to be deemed to be a prospectus within the meaning of the Companies Ordinance or any prospectus approved by the Commissioner that is issued by a mutual fund corporation or unit trust authorized by the Commission; (Cap. 32.)
- (b) making or offering to make with any person an agreement for or with a view to the underwriting of securities by that person;
- (c) making any invitation to persons to subscribe for securities or to purchase securities on the first occasion that they are sold;
- (d) making any invitation to persons to subscribe for or purchase securities of the Government or the government of any country or territory outside Hong Kong;
- (e) effecting any transaction with a person whose business involves the acquisition and disposal or the holding of securities, being a transaction with that person as a principal.

(3) The Commissioner may revoke a declaration under subsection (1) that a person is an exempt dealer if it appears to him that—

- (a) the business of that person does not comply with the requirements set out in subsection (1); or
  - (b) the circumstances relevant to the making of the declaration have materially changed since it was made.
- (4) Without prejudice to subsection (1), the Commissioner may, by notice in the *Gazette*, declare—
- (a) any licensed bank;

(Cap. 29.)

- (b) any trustee company registered under Part VIII of the Trustee Ordinance; or
- (c) any person belonging to class of persons, or carrying on a type of business, prescribed in regulations for the purposes of this paragraph.

to be an exempt dealer for the purposes of this Ordinance.

(5) The Commissioner may at any time revoke a declaration made under subsection (4).

(6) The Commissioner shall cause to be published in the *Gazette* at least once in every year the names and addresses of all persons who are exempt dealers.

Exempt investment advisers.

61. (1) The Commissioner may declare any person to be an exempt investment adviser for the purposes of this Ordinance if he is satisfied that the business of that person complies with the following requirements, that is to say—

- (a) the investment advice is given only to a person whose business involves the acquisition and disposal or the holding of securities; or
- (b) the investment advice is given only to persons residing outside Hong Kong.

(2) The Commissioner may at any time revoke a declaration under subsection (1).

Offence to make a false representation for the purpose of obtaining a certificate of registration under this Part.

62. (1) Any person who for the purpose of obtaining a certificate of registration under this Part, whether for himself or for any other person, makes any representation, whether in writing, orally or otherwise, which he knows to be false or misleading as to a material particular shall be guilty of an offence, and shall be liable on conviction on indictment, to imprisonment for 5 years.

(2) For the purposes of subsection (1), "representation" means a representation—

- (a) of a matter of fact, either present or past; or
- (b) about a future event; or
- (c) about an existing intention, opinion, belief, knowledge, or other state of mind.

(3) Proceedings in respect of an offence against this section may be brought at any time within 6 months of the discovery of the offence.

63. (1) Every dealer and investment adviser shall forthwith notify the Commissioner in writing of any change which, while his certificate of registration is in force, may occur—

Information to be provided by dealers, etc.

- (a) in the address in Hong Kong at which he carries on the business of dealing in securities or of investment adviser, as the case may be; or
- (b) in any information supplied in or in connexion with his application for registration or renewal of registration, being information prescribed by regulations.

(2) Every dealer and investment adviser shall forthwith, on ceasing to carry on business in Hong Kong as a dealer or an investment adviser, notify the Commissioner in writing of that fact.

(3) If, at any time while a corporation is registered as a dealer or investment adviser, any person becomes or ceases to be a director of the corporation, the corporation shall within 7 days after that event notify the Commissioner in writing of the name and address of that person and also his nationality or the fact that he has no nationality.

(4) If, at any time while a person is registered as a dealer's representative or investment representative, that person leaves or enters the service of, or becomes or ceases to be an agent of, any dealer or investment adviser, that person shall within 7 days after that event notify the Commissioner in writing of the fact and of the name and address of the dealer or investment adviser.

(5) Any person who, without reasonable excuse, contravenes any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000.

64. (1) The Commissioner shall establish and maintain at his office—

Commissioner to keep a register of dealers, etc.

- (a) a register of dealers in which shall be entered the name of every registered dealer and such other particulars as may be prescribed by regulations in relation to registered dealers;
- (b) a register of investment advisers in which shall be entered the name of every registered investment adviser and such other particulars as may be prescribed by regulations in relation to registered investment adviser;
- (c) a register of dealers' representatives in which shall be entered the name of every registered dealer's representa-

tive and such other particulars as may be prescribed by regulations in relation to registered dealers' representatives; and

- (d) a register of investment representatives in which shall be entered the name of every registered investment representative and such other particulars as may be prescribed by regulations in relation to registered investment representatives.

(2) The registers kept under this section and, after registration or renewal of registration, as the case may be, all applications made for registration or renewal of registration under this Part shall, during such hours as may be prescribed and on payment of any fee prescribed by regulations, be open to inspection by members of the public.

(3) A copy of any extract of or entry in the registers kept under this section, purporting to be certified by the Commissioner, shall be admissible as evidence in any legal proceedings, whether under this Ordinance or otherwise.

65. (1) The Commissioner shall cause to be published in the *Gazette*, at such times and in such manner as he thinks proper, the names and addresses of all persons who are registered under this Part, and also—

- (a) in relation to any such person who is not a corporation, his nationality or, as the case may be, that he has no nationality; or
- (b) in relation to any such person which is a corporation, the country where the corporation is domiciled or under the law of which the corporation is incorporated.

(2) The information required by subsection (1) shall be published at least once each year.

(3) If the Commissioner at any time amends any of the registers kept by him under this Part by adding or removing the name of any person, he shall cause particulars of the amendment to be published in the *Gazette* within one month after making the amendment.

## PART VII RECORDS

66. (1) This Part applies to and in relation to—

- (a) a person who is—  
(i) a dealer;

- (ii) a dealer's representative;  
(iii) an investment adviser; or  
(iv) an investment representative; and

- (b) securities listed on a stock exchange and any other securities of a class prescribed in regulations for the purposes of this subsection.

(2) The Governor in Council may, by order, apply any of the provisions of this Part, with such modifications and additions as he thinks fit, to financial journalists.

(3) For the purposes of subsection (2) "financial journalist" means a person who, in the course of his business or employment, contributes advice concerning securities for publication in a newspaper, magazine, journal, or other periodical publication.

67. (1) A person to whom this Part applies shall maintain a register of the securities in which he has an interest and of the particulars relating to their acquisition and disposal in a manner and form approved by the Commissioner.

Certain persons to maintain registers of securities.

(2) Particulars of the securities in which a person to whom this Part applies has an interest and particulars of his interest in those securities shall be entered by that person in the register within 14 days after he becomes aware of the acquisition of the interest or after the commencement of this section, whichever is the later.

(3) Where there is a change (not being a change prescribed by regulations) in the interest or interests in securities of a person to whom this Part applies, he shall, within 14 days after he becomes aware of the change, enter in the register full particulars of the change, including the date when the change occurred and the circumstances by reason of which the change occurred.

(4) For the purposes of this section, where a person acquires or disposes of securities there shall be deemed to be a change in the interest or interests of that person.

(5) A person who contravenes any provision of this section that is applicable to him shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

68. (1) A person to whom this Part applies shall give notice to the Commissioner in the form, and containing the particulars prescribed by regulations, including the place at which he will keep the register of his interests in securities.

Certain notices to be given to the Commissioner.

Publication of names of registered dealers, etc.

Application of Part VII.