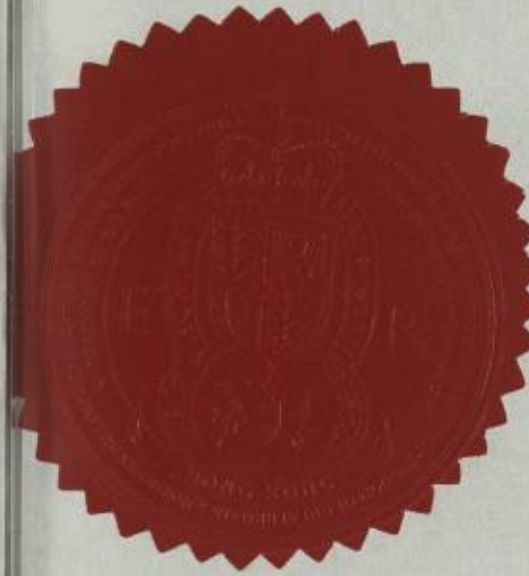


HONG KONG

No. 73 OF 1973



I assent.

M. N. Lehn
Governor.

13th December, 1973.

An Ordinance to amend the Cross-Harbour Tunnel Ordinance.

[14th December, 1973]

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 Cross-Harbour Tunnel (Amendment) Ordinance 1973. Short title.

2. The principal Ordinance is amended in Part I by adding, after section 3, the following new section— Addition of new section 3A. (Cap. 203.)

“Proof of plan. **3A.** (1) In any prosecution for an offence against this Ordinance, a copy of the plan, certified by the Director to be a copy of such plan, shall be conclusive proof of the tunnel area.

(2) Any such copy purporting to be certified by the Director shall be deemed, until the contrary is proved, to have been certified by him.”

Addition of
new Part IXA.

3. The principal Ordinance is amended by adding, after Part IX, the following new Part—

“PART IXA

OFFENCES AND PENALTIES

Obligation
to give
information
relating to
the driving
of vehicles.
(Cap. 220.)

62A. (1) Without prejudice to section 29 of the Road Traffic Ordinance, where the driver of a motor vehicle is suspected of having committed an offence against this Ordinance in the tunnel area, any person (including both the registered owner of the vehicle and the person suspected of being the driver of the vehicle at the time of the alleged offence) shall, on demand made within three months after the date of the alleged offence, give to a tunnel officer in the manner prescribed in this section the name, address and driving licence number of the person driving the vehicle at the time of the alleged offence and his relationship (if any) to the driver.

(2) A demand under subsection (1) may be made orally or by means of a notice served personally or by post on the person on whom it is made.

(3) Where a demand under subsection (1) is made orally to any person he shall—

- (a) if he was the driver of the vehicle at the time of the alleged offence—
- (i) give immediately his name and address; and
 - (ii) give the number of his driving licence to a specified tunnel officer within twenty-one days after the date of the demand; and

- (b) if he was not the driver of the vehicle at the time of the alleged offence, give the information required under subsection (1) to a specified tunnel officer either orally or in writing within twenty-one days after the date of the demand.

(4) A notice under subsection (2) shall require the person to whom it is addressed—

- (a) to furnish, within twenty-one days after the date of the notice, to a tunnel officer specified therein, a written statement, in such

form as may be specified in the notice, giving the name, address and driving licence number of the person driving the vehicle at the time of the alleged offence and his relationship (if any) to the driver; and

- (b) to sign the said statement.

(5) Subject to subsection (6), any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of two thousand dollars and to imprisonment for six months.

(6) In proceedings for an offence under subsection (5), it shall be a defence to show that the accused person did not know, and could not with reasonable diligence have ascertained, the name or address or driving licence number of the person driving the vehicle at the time of the alleged offence.

Proof in
summary
proceedings
of identity
of driver.

62B. If, in any summary proceedings for an offence under this Ordinance, there is produced to the court a statement which—

- (a) purports to have been signed by the accused person;
- (b) was furnished in accordance with a notice served on him under section 62A(2); and
- (c) states that the accused person was the driver of the vehicle at the time of the offence,

the court shall admit the statement as *prima facie* evidence that the accused person was the driver of the vehicle at the time of the offence.

Definitions
and
application.

(Cap. 220.)

62C. (1) In this Part—

“driver”, in relation to any motor vehicle, means any person who is in charge of or assisting in the control of such vehicle;

“driving licence” means a licence issued in accordance with regulations made under section 5 of the Road Traffic Ordinance;

“owner” includes the person in whose name a vehicle is registered under the Road Traffic Ordinance and the person by whom the vehicle is kept and used and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement;

"tunnel officer" means any person employed by the Company for the control, restriction and safety of traffic in the tunnel area.

(2) The powers conferred on a tunnel officer by section 62A, other than the power to make a demand by serving a notice under subsection (2) of that section, may be exercised only within the tunnel area."

Passed by the Hong Kong Legislative Council this 12th day of December, 1973.

W. W. Moon

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. Moon

Clerk to the Legislative Council.



I assent.

M. J. F. Lee

Governor.

... on a tunnel subject by section 62A, other than the power to make a demand by serving a notice under subsection (2) of that section, may be exercised only within the tunnel area."

Passed by the Hong Kong Legislative Council this 12th day of December, 1973.

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. 74 OF 1973



I assent.

M. P. M. M.
Governor.

13th December, 1973.

An Ordinance to amend the Rating Ordinance 1973.

[1st 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 Rating (Amendment) Ordinance 1973 and shall come into operation on the 1st day of January 1974.

Short title and commencement.

2. Section 28 of the principal Ordinance is amended by deleting subsection (2) and substituting the following—

Amendment of section 28. (11 of 1973.)

"(2) When an interim valuation is made in respect of a tenement which forms the whole or part of a newly constructed building, the interim valuation shall not take effect until—

- (a) (i) in relation to a tenement to be used wholly or primarily for domestic purposes, the first day of the month following the expiration of three months

(Cap. 123.) from the date of issue of an occupation permit or temporary occupation permit under the Buildings Ordinance in respect of the tenement; or

(ii) in relation to any other tenement, the first day of the month following the expiration of six months from the date of issue of an occupation permit or temporary occupation permit under the Buildings Ordinance in respect of the tenement; or

(Cap. 123.)

(b) the first day of the month following the date upon which the tenement was first occupied,

whichever is the earlier.

(3) For the purposes of subsection (2)(a), if more than one temporary occupation permit has been issued in respect of a tenement, the periods specified in sub-paragraphs (i) and (ii) thereof shall run from the date of the issue of the first of such permits."

Amendment of section 30.

3. Section 30 of the principal Ordinance is amended—

(a) in subsection (1) by deleting "If a tenement" and substituting the following—

"Subject to subsection (1A), if a tenement";

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

"(1A) Subsection (1) shall not apply where—

(a) the use to which the tenement was last put before becoming unoccupied was wholly or primarily for domestic purposes; or

(b) the tenement is intended to be used wholly or primarily for domestic purposes."; and

(c) in subsection (2) by inserting, after "subsection (1)", the following—

"or (1A)".

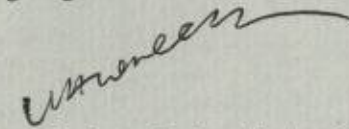
Revocation of Rating (Forms) Regulations.
(Cap. 116, sub. leg.)

4. The Rating (Forms) Regulations are revoked.

Application.

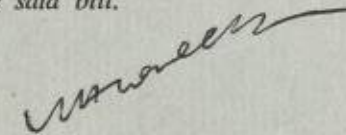
5. Section 28(2) of the principal Ordinance, as amended by this Ordinance, shall have effect in relation to a tenement which forms the whole or part of a newly constructed building the occupation permit or temporary occupation permit of which is issued on or after the 1st day of January 1974.

Passed by the Hong Kong Legislative Council this 12th day of December, 1973.



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.



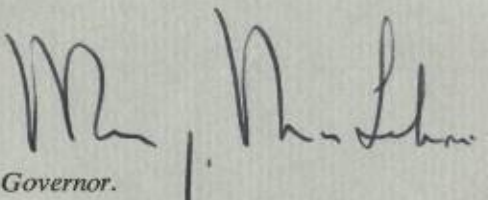
Clerk to the Legislative Council.

HONG KONG

NO. 75 OF 1973



I assent.


Governor.

13th December, 1973.

An Ordinance to make provision for the renewal of certain Crown leases.

[14th December, 1973]

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

PART I

PRELIMINARY

1. This Ordinance may be cited as the Crown Leases Ordinance 1973. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.
“Commissioner” means the Commissioner of Rating and Valuation;

“Director” means the Director of Public Works;

“lot” means any piece or parcel of ground demised under a Crown lease;

“new Crown lease” means such a lease as is deemed to be granted under Part II;

"new Crown rent" means such a rent as shall be fixed under Part II;

"published" means published in the *Gazette* and in one daily newspaper printed in the English language for circulation in Hong Kong and in one daily newspaper printed in the Chinese language for circulation in Hong Kong;

"relevant day" means 1st July 1973 or the day immediately following the day of expiration of the Crown lease, whichever is the later;

"renewable Crown lease" means a Crown lease to which the Ordinance applies by virtue of section 3;

Schedule.

"scheduled lot" means a lot specified in the Schedule;

"section" means any portion of a lot which has been—

- (a) assigned or alienated for the whole of the term created by the renewable Crown lease of the lot; or
- (b) declared to have been divided or severed from the remainder of the lot,

by or under an instrument which is registered in the Land Office and any portion of a lot retained following such assignment or alienation;

"tenement" means any land (including land covered with water) or any building, structure, or part thereof which is held or occupied as a distinct or separate tenancy or holding.

Application.

3. (1) Subject to subsection (2), this Ordinance applies—

(a) in the case of Crown leases which expired before the commencement of this Ordinance—

(i) to every such Crown lease under which land in New Kowloon or in any other part of the New Territories was demised for a term of seventy-five years and which contained a right of renewal for a further term; and

(ii) to the Crown lease of each lot specified in the Schedule; and

Schedule.

(b) in the case of Crown leases which expire after the commencement of this Ordinance—

(i) to every such Crown lease under which land in Hong Kong (other than the New Territories) is demised for a term of ninety-nine or seventy-five years and which contains a right of renewal for a further term; and

(ii) to every such Crown lease under which land in New Kowloon or in any other part of the New Territories is demised for a term of twenty-one years and which contains a right of renewal for a further term.

(2) This Ordinance does not apply to any lease to which the New Territories (Renewable Crown Leases) Ordinance applies.

(Cap. 152.)

(3) The Governor may by order amend the Schedule.

PART II

RENEWAL OF CROWN LEASES

4. (1) Where a renewable Crown lease of a lot expired before the commencement of this Ordinance and the lot had not been divided into sections before the expiration of the lease, the right of renewal contained in the lease shall be deemed to have been exercised by the person or all the persons, if more than one, entitled to that right immediately before the expiration of the lease and there shall be deemed to have been granted to such person or persons on the day following the day on which the lease expired a new Crown lease of the lot.

Renewal of Crown leases which expired before commencement of Ordinance.

(2) Where a renewable Crown lease of a lot expired before the commencement of this Ordinance and the lot had been divided into sections before the expiration of the lease, the right of renewal contained in the lease shall be deemed to have been exercised by the persons entitled to that right immediately before the expiration of the lease, and there shall be deemed to have been granted to such persons on the day following the day on which the lease expired separate new Crown leases of the sections of the lot respectively held by them under the lease.

5. (1) Where a renewable Crown lease of a lot expires after the commencement of this Ordinance and the lot has not been divided into sections before the expiration of the lease, the right of renewal contained in the lease shall, if the lease has not been renewed pursuant to the right of renewal contained therein before it expires, be deemed to have been exercised by the person or all the persons, if more than one, entitled to that right immediately before the expiration of the lease, and there shall be deemed to be granted to such person or persons on the day following the day on which the lease expired a new Crown lease of the lot.

Renewal of Crown leases expiring after commencement of Ordinance.

(2) Where a renewable Crown lease of a lot expires after the commencement of this Ordinance and the lot has been divided into sections before the expiration of the lease, the right of renewal contained in the lease shall, if the lease has not been renewed pursuant to the right of renewal contained therein, before it expires, be deemed to have been exercised by all the persons entitled to that right immediately before the expiration of the lease, and there shall be deemed to be granted to such persons on the day following the day on which the lease expired separate

new Crown leases of the sections of the lot respectively held by them under the lease.

Person entitled to renew.

6. For the avoidance of doubt, it is hereby declared that a person entitled to a right of renewal contained in a renewable Crown lease referred to in sections 4 and 5 means the person who is registered in the Land Office on the date of expiration of the lease as the owner or one of the owners of the lot to which the lease relates.

Terms of new Crown lease.

7. Every new Crown lease shall be deemed—

- (a) to be for the same term as is specified in the proviso for renewal in the renewable Crown lease of the lot or section to which the new Crown lease relates;
- (b) to commence immediately on the expiration of the term of the renewable Crown lease of the lot or section to which the new Crown lease relates;
- (c) to confer on the persons (if more than one) who were entitled to the right of renewal under the renewable Crown lease the same shares and interests as they respectively enjoyed under the renewable Crown lease immediately before its expiration.

Covenants, etc. in the new Crown lease.

8. Every new Crown lease shall be deemed to contain—

- (a) a reservation of the new Crown rent in respect of the lot or section to which the new Crown lease relates;
- (b) a covenant by the lessee to pay the new Crown rent in the same manner and on the same days as are specified in the renewable Crown lease of the lot or section to which the new Crown lease relates;
- (c) the same covenants, exceptions, reservations, stipulations, provisos and declarations (including the right of re-entry) *mutatis mutandis* as are contained in the renewable Crown lease of the lot or section to which the new Crown lease relates other than—
 - (i) the covenant to pay the Crown rent;
 - (ii) the proviso for renewal on the expiration of the term;
 - (iii) any covenant or proviso expressed not to continue to apply after the renewal of the renewable Crown lease;
- (d) a covenant by the lessee to perform, observe and comply with the covenants, exceptions, reservations, stipulations, provisos and declarations deemed to be contained in the new Crown lease by virtue of paragraph (c).

as the same may have been modified, added to or varied by any enactment) as those which applied when it was enjoying such protection, for so long as it continues on those terms and conditions;

- (h) a tenancy or sub-tenancy devised for a particular purpose and for a term not exceeding one year, where the agreement has been ratified by the Commissioner under subsection (7);
- (i) a tenancy or sub-tenancy of any premises or part thereof in respect of which an occupation permit or temporary occupation permit was issued by the Building Authority under section 21 of the Buildings Ordinance after the 14th day of December 1973.

(Cap. 123.)

(7) An agreement between a landlord and tenant, or between a principal tenant and sub-tenant, or between a prospective landlord and tenant or a prospective principal tenant and sub-tenant under paragraph (h) of subsection (6), may be submitted by the parties jointly to the Commissioner, who may endorse thereon his ratification of such agreement if satisfied that the tenancy or sub-tenancy or proposed tenancy or sub-tenancy is within the terms of that paragraph and that both parties understand the effect thereof.

(8) A dispute as to whether a tenancy or sub-tenancy or proposed tenancy or sub-tenancy is excluded by reason of subsection (6)(h) shall not be justiciable in the courts but shall be determined by the Commissioner in a summary manner on application in writing, and his decision shall be final and binding.

(9) The Governor may by order exclude from the further application of this Part any class of tenancy or sub-tenancy, any class of premises or any particular tenancy or sub-tenancy or premises.

Meaning of "domestic tenancy".

51. (1) For the purposes of section 50, "domestic tenancy" and "domestic sub-tenancy" mean a tenancy or sub-tenancy of premises let as a dwelling.

(2) Notwithstanding the purpose for which premises were let, in determining the nature of a

tenancy for the purposes of this Part, the following provisions shall apply—

- (a) in any agreement in writing between a landlord and tenant, or between a principal tenant and sub-tenant, a term that the premises shall be used for a specified purpose shall be *prima facie* evidence that the premises are being used for such purpose;
- (b) notwithstanding any evidence as to whether premises were originally let as a dwelling or not let as a dwelling, premises which are being used primarily for another purpose shall be deemed to have been let for such other purpose:

Provided that where such primary user is user as a dwelling and in breach of any term in the agreement with the landlord or principal tenant, as the case may be, then the tenant or sub-tenant shall be required to establish that such user has been agreed to by the landlord or principal tenant, expressly or by implication, or acquiesced in by him;
- (c) subject to paragraph (d), where there exists insufficient evidence as to whether premises were let as a dwelling or not let as a dwelling, the nature of the tenancy or sub-tenancy shall be determined by the primary user of the premises;
- (d) where there is evidence that premises were let otherwise than as a dwelling, or that they were being used otherwise than as a dwelling at the commencement of a sub-tenancy created out of the original tenancy, any premises the subject of such sub-tenancy shall themselves be deemed to be used otherwise than as a dwelling until the sub-tenant satisfies the court to the contrary;
- (e) the use of premises as a boarding or lodging house is a use other than as a dwelling.

(3) In determining whether premises were let, or are being used, as a dwelling, the following may be taken into account—

(Cap. 123.)

- (a) the covenants, terms and conditions in any Crown lease, tenancy or sub-tenancy;
- (b) any occupation permit given by the Building Authority under section 21 of the Buildings Ordinance, or under any Ordinance replaced thereby, in relation to the premises;
- (c) normal additional uses of premises consistent with the domestic nature of a tenancy or sub-tenancy having regard to the following—
 - (i) floor area in occupation part or full-time for such uses;
 - (ii) the number of people engaged in such uses but not dwelling on the premises;
 - (iii) the furnishings, fittings and contents of the premises; and
 - (iv) the gross profits resulting from such uses relative to the rent or proportion thereof paid by the person making such profits.
- (4) Where a dispute arises as to whether a tenancy or sub-tenancy is domestic, the landlord, tenant, principal tenant or sub-tenant may, if primary user is relevant to the dispute, apply in the specified form to the Commissioner for his certificate as to the primary user of the premises and shall specify in the form the nature of the dispute.
- (5) Subject to subsection (7), where an application under subsection (4) is made to the Commissioner, he shall inspect the premises, and may—
 - (a) where he is satisfied on the evidence available as to the primary user, issue free of charge and serve on the applicant a certificate in the specified form as to the primary user of the premises on the day of his inspection;
 - (b) where he is not so satisfied, issue free of charge and serve on the applicant a notice in the specified form declining to express an opinion as to the primary user of the premises.
- (6) A certificate issued by the Commissioner under subsection (5)(a) shall be *prima facie* evidence

of the facts set out therein and of the primary user of the premises on the day on which they were inspected.

(7) The Commissioner may by notice in the specified form served on the applicant decline to deal with an application under subsection (4) if—

- (a) he is not satisfied that a dispute exists as to the primary user of the premises; or
- (b) he has already issued a certificate under subsection (5).

(8) A landlord, tenant, principal tenant or sub-tenant may apply to the court—

- (a) within one month from the date of service of a certificate under subsection (5)(a), for a review of that certificate;
- (b) within one month from the date of service of a notice under subsection 5(b) or (7), for a determination as to whether a tenancy or sub-tenancy is domestic;
- (c) generally for a determination as to whether or not a tenancy or sub-tenancy is domestic.

(9) The court, on the hearing of an application under subsection (8), may—

- (a) affirm the certificate of the Commissioner or substitute therefor its own determination;
- (b) in the case of an application under subsection (8)(b) or (c), make a determination as to whether the tenancy or sub-tenancy is domestic.

Continuation and Termination of Tenancies

Continuation of tenancies,

52. (1) Save as provided in subsection (2) and section 53, no tenancy or sub-tenancy, whether created before or after the 15th day of December 1973, shall terminate during the continuance in force of this Part.

(2) Subject to section 50(4), a tenancy or sub-tenancy shall not by virtue of this Part continue in existence after any change in the identity of the

(2) The Land Officer on being notified by the Director of a correction under subsection (1) shall accordingly rectify the amount of the new Crown rent shown in the register of the lot or section kept in the Land Office.

12. The entry for the time being in the register in the Land Office of the amount of the new Crown rent payable in respect of a lot or section shall be conclusive evidence of the grant of the new Crown lease of the lot or section and of the new Crown rent thereof.

Evidence of renewal.

13. (1) Without prejudice to section 8(b) the Crown may in collecting the new Crown rent payable in respect of a lot or section demand from the person, whether owner, agent or occupier, who pays the rates in respect of any tenement of which land held under a new Crown lease forms part an amount equal to—

Collection of new Crown rent.

- (a) three *per cent* of the rateable value of such tenement as set out on the relevant day in the list declared under section 13 of the Rating Ordinance 1973 and such sum as may be necessary to make the same an even number of dollars; or
- (b) three *per cent* of the interim valuation of such tenement made by the Commissioner under the Rating Ordinance 1973 and such sum as may be necessary to make the same an even number of dollars.

(2) The person on whom a demand under subsection (1) is made shall pay the sum so demanded within the time specified in such demand.

(3) Where under this section any sum is paid by a person who is not an owner of the lot or section, then the amount so paid shall be a debt due to that person from the owner of the lot or section and shall be recoverable as such from any rent or other moneys for the time being due by that person to the owner.

(4) In this section "owner" in relation to a lot or section means the person whose name is registered in the Land Office as that of the owner of the lot or section or of any undivided share or other interest therein, and any person deriving title from such person by virtue of an underletting or otherwise.

14. (1) Without prejudice to any other remedy of the Crown in respect of the default in payment of the new Crown rent any sum not paid in accordance with a demand under section 13 shall be recoverable as a debt due to the Crown.

Recovering of new Crown rent.

(2) Whenever any person makes default in payment of any sum demanded under section 13 the same may be recovered by action in the District Court notwithstanding that the amount is in excess of the sum of twenty thousand dollars.

(3) In any proceedings under this section for the recovery of any sum demanded under section 13 the production of a certificate signed by the Director stating the name and last known postal address of the person who is liable to pay the same and particulars of the amount due shall be sufficient evidence of such amount and sufficient authority for the District Court to give judgment therefor.

(4) In any proceedings in the District Court under this section the Director may appear in person or may be represented either by a legal officer within the meaning of the Legal Officers Ordinance or by any other person authorized by him in writing.

(Cap. 87.)

PART III

MISCELLANEOUS

New Crown leases subject to encumbrances and interests.

15. Every new Crown lease and the land thereby deemed to be demised shall be deemed to be subject to such of the following encumbrances and interests as the land and the renewable Crown lease relating thereto were subject to immediately before the expiration of the renewable Crown lease—

- (a) any mortgage or charge, whether legal or equitable, and whether registered in the Land Office or not;
- (b) any public rights;
- (c) any other rights, easements, tenancies or other burdens of whatsoever kind or nature, except such as were created by an instrument and were not thereby expressed to continue after the date of expiration of the renewable Crown lease.

Crown lease plan.

16. (1) If a plan of a lot held under a renewable Crown lease is not annexed to the counterpart of the Crown lease kept in the Land Office, or if the plan annexed thereto is, in the opinion of the Director, inaccurate or inadequate to establish the location, position, or dimensions of the lot, the Director may cause the lot to be surveyed and a plan thereof prepared.

(2) If a plan of a section of a lot held under a renewable Crown lease is not registered in the Land Office, or if the plan so registered is, in the opinion of the Director, inaccurate or inadequate to establish the location, position, or dimensions of the

section, the Director may cause the section to be surveyed and a plan thereof prepared.

17. Upon completion under section 16 of the plan of a lot or section the Director shall cause a notice to be published declaring—

- (a) that the plan has been prepared and is available for inspection by the public;
- (b) the place and times at which the plan may be so inspected; and
- (c) that any person claiming to have an interest in any land comprised in the plan and who considers that the plan is incorrect in any manner prejudicial to such interest may, within sixty days after the date of the publication of the notice in the *Gazette*, serve upon the Director an application in writing, specifying the nature of such interest and the manner in which such person considers the plan to be incorrect and sufficient indication of the grounds for such consideration and requesting that the plan be corrected accordingly.

Completed plans to be open for inspection and method of objection thereto.

18. (1) Upon the expiration of the period specified under section 17, the Director shall consider such applications as may have been received by him pursuant to that section.

Approval of plan by Director.

(2) After consideration of such applications, or where no such applications are received by him, the Director may allow the plan to stand unamended or amend it in such manner as he thinks fit, and thereafter shall cause a notice to be published approving the plan, either in the same form as that in which it was made available to the public under section 17, or as amended in accordance with this subsection and specifying the manner in which the same has been amended.

19. (1) Any person claiming to have an interest in any land comprised in the plan as approved under section 18(2) and who considers that the plan is incorrect in any manner prejudicial to such interest may, within thirty days after the publication under that section of the notice in the *Gazette*, apply to the District Court for an order directing the Director to amend the plan in the manner specified in the application or in such other manner as the Court may think just.

Application to District Court for amendment.

(2) Notwithstanding anything contained in the Crown Proceedings Ordinance, the Director shall be named as defendant in any application made under subsection (1), and the Court may, of its own motion or on application made to it, in addition cause to be joined as co-defendant any person who it appears may be

(Cap. 300.)

affected by any order which may be made directing the amendment of the plan.

(3) An application to the District Court under this section shall be instituted by an originating summons and shall for all purposes relating to costs and fees be deemed to be an action in respect of which the value of the claim exceeds five hundred dollars but does not exceed two thousand dollars.

District Court may order the amendment of plan.

20. Where an application is made under section 19, the District Court, having heard the representations of the parties and any evidence adduced by them may, if it thinks fit, order the Director to amend the plan as approved under section 18(2), in such manner as the Court may think just.

Appeal to judge.

21. Any party to an application made under section 19 who is aggrieved by a decision of the District Court under section 20 may appeal against such decision within fourteen days after the making thereof to a judge, who may confirm, reverse or vary the decision of the District Court, and the decision of the judge on any such appeal shall be final.

Plan as approved or amended to be delivered to Land Office.

22. The plan, as approved under section 18(2), or, if amended by order of the District Court or a judge, as so amended after all applications and all appeals have been finally disposed of under sections 20 and 21, respectively, shall be delivered by the Director to the Land Officer who shall—

- (a) in the case of a lot, cause the plan to be annexed to the counterpart of the renewable Crown lease of the lot kept in the Land Office and cause the previous plan, if any, to be cancelled;
- (b) in the case of a section, cause the plan to be registered in the Land Office in respect of the section of the lot to which the renewable Crown lease relates, and cause the previous plan, if any, to be cancelled.

Breaches of covenant in renewable Crown lease.

23. (1) Nothing in this Ordinance shall be construed as a waiver by the Crown of any of its rights in respect of any breach of covenant in any renewable Crown lease.

(2) Any breach of covenant of a renewable Crown lease existing immediately before its expiration shall be deemed to be a breach of covenant of the new Crown lease and the Crown may exercise its rights (including the right of re-entry) in relation to the new Crown lease in the same manner and to the same extent as such rights could have been exercised or enforced before its expiration in relation to the renewable Crown lease.

SCHEDULE

[ss. 2 & 3.]

Lot No.	Section/Sub-section	Date of Expiration of Crown Lease
K.I.L. 3794	R.P.	7.7.1959
K.I.L. 3796	R.P.	
K.I.L. 1716		14.7.1968
K.I.L. 6382		31.12.1968
K.I.L. 6385		
K.I.L. 951	s. A	8.4.1972
K.I.L. 952	s. A	
K.I.L. 952	s. B ss. 1	
K.I.L. 952	s. B ss. 2 R.P.	
K.I.L. 952	s. B ss. 3 R.P.	
K.I.L. 952	s. B ss. 4 R.P.	
K.I.L. 952	s. B R.P.	
K.I.L. 953	s. A ss. 1 s. A	
K.I.L. 953	s. A ss. 1 R.P.	
K.I.L. 953	s. A ss. 2 s. A	
K.I.L. 953	s. A ss. 2 R.P.	
K.I.L. 953	s. A ss. 3	
K.I.L. 953	s. A ss. 4	
K.I.L. 953	s. A R.P.	
K.I.L. 953	s. B ss. 1 R.P.	
K.I.L. 953	s. B R.P.	
K.I.L. 954	s. A ss. 1 s. A	
K.I.L. 954	s. A ss. 1 R.P.	
K.I.L. 954	s. A ss. 2 s. A	
K.I.L. 954	s. A ss. 2 R.P.	
K.I.L. 954	s. A ss. 3 s. A	
K.I.L. 954	s. A ss. 3 R.P.	
K.I.L. 954	s. A ss. 4 s. A	
K.I.L. 954	s. A ss. 4 R.P.	
K.I.L. 954	s. A ss. 5	
K.I.L. 954	s. A R.P.	
K.I.L. 955		
K.I.L. 956	s. A ss. 1	
K.I.L. 956	s. A R.P.	
K.I.L. 956	s. B	
K.I.L. 956	R.P.	
K.I.L. 957	s. A ss. 1 R.P.	
K.I.L. 957	s. A ss. 2 R.P.	
K.I.L. 957	s. A ss. 3 R.P.	
K.I.L. 957	s. A ss. 4 R.P.	

<i>Lot No.</i>	<i>Section/Sub-section</i>	<i>Date of Expiration of Crown Lease</i>
K.I.L. 957	s. A R.P.	8.4.1972
K.I.L. 957	s. B ss. 1	
K.I.L. 957	s. B R.P.	
K.I.L. 957	s. C ss. 1	
K.I.L. 957	s. C R.P.	
K.I.L. 957	s. D ss. 1	
K.I.L. 957	s. D R.P.	
K.I.L. 957	s. E R.P.	
K.I.L. 957	s. F	
K.I.L. 957	s. G ss. 1 R.P.	
K.I.L. 957	s. G R.P.	
K.I.L. 957	R.P.	
K.I.L. 958	s. A ss. 1	
K.I.L. 958	s. A R.P.	
K.I.L. 958	s. B ss. 1	
K.I.L. 958	s. B R.P.	
K.I.L. 958	s. C	
K.I.L. 958	s. D	
K.I.L. 958	s. E	
K.I.L. 958	R.P.	
K.I.L. 959	s. A ss. 1 s. A	
K.I.L. 959	s. A ss. 1 R.P.	
K.I.L. 959	s. A ss. 2	
K.I.L. 959	s. A ss. 3	
K.I.L. 959	s. A ss. 4	
K.I.L. 959	s. A R.P.	
K.I.L. 959	s. B R.P.	
K.I.L. 959	R.P.	
K.I.L. 960	s. A ss. 1	
K.I.L. 960	s. A ss. 2 R.P.	
K.I.L. 960	s. A R.P.	
K.I.L. 960	s. A ss. 3 R.P.	
K.I.L. 960	s. A ss. 4	
K.I.L. 960	s. B R.P.	
K.I.L. 960	s. C R.P.	
K.I.L. 960	R.P.	
K.I.L. 961	R.P.	
K.I.L. 962	s. A R.P.	
K.I.L. 962	R.P.	
K.I.L. 963	s. A	
K.I.L. 963	R.P.	

<i>Lot No.</i>	<i>Section/Sub-section</i>	<i>Date of Expiration of Crown Lease</i>
K.I.L. 964	s. A ss. 1	8.4.1972
K.I.L. 964	s. A ss. 2 s. A	
K.I.L. 964	s. A ss. 2 R.P.	
K.I.L. 964	s. A ss. 3	
K.I.L. 964	s. A R.P.	
K.I.L. 964	R.P.	
K.I.L. 966	R.P.	
K.I.L. 967	s. A R.P.	
K.I.L. 967	R.P.	
K.I.L. 968	R.P.	
K.I.L. 970	R.P.	
K.I.L. 973	s. A	
K.I.L. 973	R.P.	
K.I.L. 975	s. A	
K.I.L. 975	R.P.	
K.I.L. 1165	s. B	
K.I.L. 1165	s. C	
K.I.L. 1165	s. D	
K.I.L. 1165	s. E	
K.I.L. 1165	s. G	
K.I.L. 1165	s. H	
K.I.L. 1165	s. I	
K.I.L. 1165	s. J R.P.	
K.I.L. 1165	s. K R.P.	
K.I.L. 1165	R.P.	
K.I.L. 1166	s. A ss. 1	
K.I.L. 1166	s. A R.P.	
K.I.L. 1166	s. B	
K.I.L. 1166	R.P.	
K.I.L. 1167		
K.I.L. 1168	s. B ss. 1 s. A	
K.I.L. 1168	s. B ss. 1 R.P.	
K.I.L. 1168	s. B R.P.	
K.I.L. 1168	s. C	
K.I.L. 1168	s. D	
K.I.L. 1168	R.P.	
K.I.L. 1169	s. A R.P.	
K.I.L. 1169	s. B	
K.I.L. 1169	R.P.	
K.I.L. 1356	R.P.	
K.I.L. 1908	s. A R.P.	

Lot No.	Section/Sub-section	Date of Expiration of Crown Lease
K.I.L. 1908	s. B	}
K.I.L. 1908	s. C	
K.I.L. 1908	s. D R.P.	
K.I.L. 1908	s. E R.P.	
K.I.L. 1908	R.P.	
K.I.L. 1929		
K.I.L. 1930	s. A	
K.I.L. 1930	s. B ss. 1	
K.I.L. 1930	s. B R.P.	
K.I.L. 1930	R.P.	
K.I.L. 2106	R.P.	
K.I.L. 2106	s. A R.P.	
K.I.L. 2425	s. A	
K.I.L. 2425	s. B	
K.I.L. 2425	s. C	
K.I.L. 2425	s. D	
K.I.L. 2425	s. E	
K.I.L. 2425	R.P.	
K.I.L. 2426		
K.I.L. 2427		
K.I.L. 2428		
K.I.L. 2429		
K.I.L. 2430		
K.I.L. 3088	R.P.	
K.I.L. 3089		
K.I.L. 3090		
K.I.L. 3091		
K.I.L. 3092		
K.I.L. 3093		
K.I.L. 3094		
K.I.L. 3095	R.P.	
K.I.L. 3096	R.P.	
K.I.L. 3097	s. A	
K.I.L. 3097	R.P.	
K.I.L. 3098		
K.I.L. 3099	s. A ss. 1	
K.I.L. 3099	s. A ss. 2	
K.I.L. 3099	s. A R.P.	
K.I.L. 3099	s. B	
K.I.L. 3099	R.P.	
K.I.L. 3137	s. A R.P.	
K.I.L. 3137	R.P.	
K.I.L. 9454		
K.I.L. 9476		

8.4.1972

Lot No.	Section/Sub-section	Date of Expiration of Crown Lease
K.M.L. 40	s. A & Extension	}
K.M.L. 40	s. B	
K.M.L. 40	s. C	
K.M.L. 40	s. D	
K.M.L. 40	s. E	
K.M.L. 40	s. F ss. 1	
K.M.L. 40	s. F R.P.	
K.M.L. 40	s. G ss. 1	
K.M.L. 40	s. G R.P.	
K.M.L. 40	s. H	
K.M.L. 40	s. I	
K.M.L. 40	s. J	
K.M.L. 40	R.P.	

14.9.1972

Passed by the Hong Kong Legislative Council this 12th day
of December, 1973.

M. M. 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.*

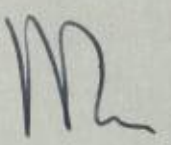
M. M. M. M. M.
Clerk to the Legislative Council.

HONG KONG

No. 76 OF 1973



I assent.


Governor.

13th December, 1973.

An Ordinance to repeal an Ordinance and to amend others.

[14th December, 1973]

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 Law Revision (Miscellaneous Amendments) Ordinance 1973. Short title.
2. The Grant Schools Building (Reimbursement) Ordinance is repealed. Repeal.
(Cap. 1105.)
3. The Ordinances specified in the Schedule are amended in the manner specified therein. Amendments.
Schedule.

SCHEDULE

[s. 3.]

Item	Ordinance	Amendment
(Cap. 60, sub. leg.)	1. Export (Certificates of Origin and Commonwealth Preference Certificates) Regulations.	<p>The Regulations are amended—</p> <p>(a) in regulation 3, by deleting "any person, whose name is entered in the authorized list kept in accordance with section 131 of the Companies Ordinance," and substituting the following—</p> <p>"any professional accountant holding a practising certificate as provided in the Professional Accountants Ordinance";</p> <p>(b) in regulation 4, by deleting paragraph (b) and substituting the following—</p> <p>"(b) where he is satisfied that such person is no longer a professional accountant holding a practising certificate as provided in the Professional Accountants Ordinance; or".</p>
(Cap. 320, sub. leg.)	2. Post Secondary Colleges Regulations.	<p>Regulation 2(i) is amended by deleting "an auditor whose name is contained in Part I of the authorized list kept under section 131 of the Companies Ordinance," and substituting the following—</p> <p>"as auditor a professional accountant holding a practising certificate as provided in the Professional Accountants Ordinance,".</p>
(Cap. 1051.)	3. Tung Wah Group of Hospitals Ordinance.	<p>Section 7(4) is amended by deleting "being a person whose name is included in Parts I and II of the list of authorized auditors kept pursuant to subsection (3) of section 131 of the Companies Ordinance," and substituting the following—</p> <p>"being a professional accountant holding a practising certificate as provided in the Professional Accountants Ordinance,".</p>
(Cap. 1111.)	4. School Medical Service Board Incorporation Ordinance.	<p>Section 8(2) is amended by deleting "an authorized auditor within the meaning of section 131 of the Companies Ordinance, and the auditor" and substituting the following—</p> <p>"a professional accountant holding a practising certificate as provided in the Professional Accountants Ordinance, who".</p>

Item	Ordinance	Amendment
5.	Chinese Permanent Cemeteries Ordinance.	<p>Section 10(2) is amended by deleting "an authorized auditor to be appointed by the Board, not being a member or ex-member of the Board, from the list of authorized auditors kept by the Registrar of Companies in accordance with the provisions of section 131 of the Companies Ordinance and such auditor" and substituting the following—</p> <p>"a professional accountant holding a practising certificate as provided in the Professional Accountants Ordinance, not being a member or ex-member of the Board, who".</p>

Passed by the Hong Kong Legislative Council this 12th day of December, 1973.

[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.

[Signature]
Clerk to the Legislative Council.



I assent.

M. W. Schenck
Governor

HONG KONG

No. 77 OF 1973



I assent.

M. N. S.
Governor.

13th December, 1973.

An Ordinance to repeal and replace the Po Leung Kuk Incorporation Ordinance.

[14th December, 1973]

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 Po Leung Kuk Ordinance 1973. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.
“advisory board” means the board established by virtue of paragraph 18 of the Schedule; Schedule.

“annual general meeting” means the annual general meeting of the corporation;

“board” means the board of directors established by paragraph 5 of the Schedule;

“chairman” means the chairman of the board;

"child" means any person who has not attained the age of twenty-one years;

"corporation" means the Society continuing to exist by virtue of section 3;

"director" means a director of the board;

"ordinary general meeting" means an ordinary general meeting of the corporation;

"ordinary member" means an ordinary member of the corporation;

(Cap. 1040.)

"repealed Ordinance" means the Po Leung Kuk Incorporation Ordinance repealed by section 11;

"secretary" means the secretary of the corporation;

"voting member" means a voting member of the corporation;

"year" means the period commencing on the 1st day of April in any year and ending on the 31st day of March in the following year.

Incorporation
of the Po
Leung Kuk.

3. (1) The Society incorporated by virtue of the repealed Ordinance shall continue to exist.

(2) The corporation—

(a) shall be known as the Po Leung Kuk and in that name may sue and be sued;

(b) shall continue to have perpetual succession; and

(c) may do and suffer all such other acts and things as bodies corporate may lawfully do and suffer.

Matters relating
to the corpora-
tion,
Schedule.

4. The provisions of the Schedule shall have effect with respect to—

(a) the objects and powers of the corporation;

(b) the membership of the corporation;

(c) the board;

(d) the advisory board;

(e) meetings and procedure,

and otherwise in relation to the corporation.

Vesting of
property.

5. (1) All the immovable property vested in the Society at the commencement of this Ordinance shall continue to be vested in the corporation for the residue of the term of years created by the respective Crown leases, subject to the covenants, conditions,

stipulations, exceptions, reservations, provisos and powers contained in and reserved by the said Crown leases.

(2) Any other property, interest, right and privilege vested in the Society at the commencement of this Ordinance shall continue to be vested in the corporation on the terms and conditions, if any, on which the same was vested at that date, and the corporation shall continue to be subject to the obligations and liabilities to which the Society was subject at the commencement of this Ordinance.

6. The board may exercise any of the powers of the corporation which are not required by this Ordinance to be exercised by the corporation in general meeting.

Board may
exercise powers
of corporation.

7. (1) The board shall cause to be kept proper books of account of all transactions of the corporation.

Accounts.

(2) Such books of account shall be open at all reasonable times to the inspection of any director and of any person appointed by the Governor in that behalf.

(3) A chairman shall within six months after the expiration of his term of office send to the Colonial Secretary a statement of the accounts of the corporation which shall—

(a) be signed by two persons who were directors during the year to which the statement relates;

(b) be audited in accordance with subsection (4); and

(c) contain the following particulars—

(i) an account of the assets and liabilities of the corporation at the end of the previous year;

(ii) an account of the receipts and disbursements of the corporation during the previous year; and

(iii) a report on the administration of the corporation during the previous year.

(4) The accounts of the corporation and the signed statement of the accounts shall be audited by an auditor who is a professional accountant holding a practising certificate as provided in the Professional Accountants Ordinance and appointed by the corporation. The auditor shall certify the statement of the accounts subject to such report, if any, as he thinks fit.

(Cap. 50.)

(5) A copy of the signed and audited statement of the accounts and the auditor's report, if any, shall within six months after the end of the year be sent to each—

(a) director;

- (b) person who was a director during that year;
- (c) member of the advisory board; and
- (d) voting member.

Director to be indemnified.

8. Every director shall be indemnified by the corporation against liability for any acts of the corporation.

Amendments and alterations. Schedule.

9. (1) The Schedule may be amended by resolution of the board with the prior approval of the advisory board.

(2) Any such resolution shall be published in the *Gazette* and shall, unless otherwise provided, come into operation on the day of such publication.

Saving.

10. Nothing in this Ordinance shall affect or be deemed to affect the rights of Her Majesty the Queen, Her Heirs or Successors, or the rights of any body politic or corporate or of any other persons except such as are mentioned in this Ordinance and those claiming by, from or under them.

Repeal. (Cap. 1040.)

11. The Po Leung Kuk Incorporation Ordinance is repealed.

SCHEDULE

[ss. 2, 4 and 9.]

Objects.

1. The objects of the corporation shall be—

- (a) to provide and maintain a temporary home for women and children who, in the opinion of the board, are in need of care and protection until proper provision is made for their marriage, adoption or settlement in life or otherwise for their welfare;
- (b) to provide accommodation as a place of refuge for the purposes of the Protection of Women and Juveniles Ordinance for women and children, and where appropriate to provide care for such persons;
- (c) to provide vocational training and education in suitable cases for women and children who are in the care of the corporation and for such other children as the board thinks fit;
- (d) to establish, maintain and manage homes and nurseries;
- (e) to establish, maintain and manage schools and other educational institutions in Hong Kong;
- (f) to establish and support, and to aid in the establishment and support of, any other charitable organizations formed for all or any of the objects of the corporation;
- (g) to provide all kinds of social services for the Hong Kong community.

Powers.

2. Without prejudice to any other Ordinance, the corporation shall have the following powers—

- (a) to acquire, take on lease, purchase, hold and enjoy any property and invest moneys upon mortgage of any immovable property or

upon the mortgages, debentures, stocks, funds, shares or investments specified in the Second Schedule of the Trustee Ordinance;

(Cap. 29.)

- (b) with the approval of the Governor, to grant, sell, convey, assign, surrender, exchange, partition, yield up, mortgage, transfer or otherwise dispose of any immovable property;
- (c) to let for any period not exceeding three years any immovable property;
- (d) with the consent of the advisory board, to let for any period exceeding three years any immovable property, or to sell, convey, assign, surrender, exchange, partition, yield up, mortgage, demise, reassign, transfer or otherwise dispose of any debentures, stocks, shares, investments, vessels or other goods or chattels vested in the corporation;
- (e) to develop and turn to account any immovable property acquired by the corporation or in which the corporation is interested, in particular by laying out and preparing the same for building purposes, constructing, altering, pulling down, decorating, maintaining, furnishing, fitting up and improving buildings and by planting, laying drainage, letting on building leases or entering into building agreements;
- (f) to demolish, resite, rebuild, construct, develop and improve any property acquired or purchased by the corporation or in which the corporation is interested, and to apply to any tribunal or court or authority for any order, licence, permission and exemption required therefor, and to do such other things as the corporation may think fit in order to carry out its objects;
- (g) to accept any gift of property, whether subject to any special trust or not, for the benefit of the corporation;
- (h) to take such steps by personal or written appeals, public meetings or otherwise as may be deemed expedient for the purpose of procuring contributions to the funds of the corporation, in the form of donations, annual subscriptions, or otherwise;
- (i) to print and publish any newspapers, periodicals, books or leaflets that the corporation may think desirable for the promotion of its objects;
- (j) with the consent of the advisory board, to borrow or otherwise raise money on such security as may be necessary and, for that purpose, to charge all or any part of the property of the corporation;
- (k) to undertake and execute any trusts or any agency business which may seem directly or indirectly conducive to any of the objects of the corporation;
- (l) to subscribe to any local or other charities and to grant donations for any public purpose and to pay a gratuity, pension or allowance on retirement to any servant or the dependants of any servant of the corporation and to make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance;
- (m) to purchase or otherwise acquire and undertake all or any part of the property, liabilities and engagements of any company,

institution, society or association having objects altogether or in part similar to those of the corporation;

- (n) to appoint a secretary and such other officers and servants, subject to such conditions as the corporation thinks fit;
- (o) to do all such other lawful things as are incidental or conducive to the attainment of the above objects;
- (p) subject to the provisions of sub-paragraphs (b), (d) and (f) with regard to approval or consent, to enter into any contract with the Government or any other person.

Common seal.

3. (1) The corporation shall have and may use a common seal, the affixing of which shall be authenticated by the signatures of the chairman and a director.

(2) Any instrument purporting to be an instrument duly executed under the seal of the corporation shall be received in evidence and shall, unless the contrary is proved, be deemed to be an instrument so executed.

Membership.

4. (1) Membership of the corporation shall consist of ordinary members and voting members.

(2) The following persons, firms and societies shall be ordinary members of the corporation—

- (a) any persons who, or firms or societies which, at the commencement of this Ordinance are members of the Society by virtue of section 13(1) of the repealed Ordinance;
- (b) any person who, or firm or society which, subscribes to the funds of the corporation such sum as may be specified by the board from time to time and approved by the Secretary for Home Affairs, and whose name is entered with the consent of the board in the register of members to be kept by the corporation.

(3) The following persons, firms or societies shall be voting members of the corporation—

- (a) any person who has been chairman of the board of the corporation;
- (b) members of the board shall *ex officio* be voting members for so long as they shall continue to be directors;
- (c) members of the advisory board shall be voting members for so long as they shall continue to be members thereof;
- (d) in addition to the persons hereinbefore mentioned the advisory board shall from time to time select not more than one hundred voting members from amongst the ordinary members of the corporation, and such voting members shall hold office for a period of three years from the date of their selection:

Provided that any person so selected shall cease to be a voting member if he shall be convicted of an offence punishable with imprisonment for a period exceeding twelve months or shall be adjudged bankrupt or make a composition or arrangement with his creditors or become of unsound mind.

(4) Voting members shall have the right to receive notice of all general meetings and to attend the same to vote thereat as hereinafter provided.

(5) Any member may at any time resign from the corporation by giving to the corporation not less than one month's notice in writing.

5. (1) There shall be a board of the corporation consisting of not less than eleven nor more than twenty directors.

Establishment of board.

(2) The persons who are members of the elected committee of the Society at the commencement of this Ordinance shall constitute the board until 1st April 1974.

6. (1) The directors shall be elected by secret ballot at the annual general meeting.

Election of directors.

(2) Every candidate for the post of director shall be a person considered by the advisory board to be held in high esteem by Chinese in Hong Kong.

(3) Prior to the annual general meeting, the chairman shall give not less than twenty-one days' prior notice in writing to all voting members inviting them to nominate persons to be directors and to submit the names of the proposed nominees for the consideration of the advisory board.

(4) A nomination of any person to be a director shall be delivered to the secretary not less than fourteen days prior to the annual general meeting.

(5) Persons so nominated, if approved by the advisory board, shall be candidates for the post of director if proposed and seconded as such at the annual general meeting.

7. (1) The directors shall subject to sub-paragraph (2) hold office for a period of one year commencing on 1st April or if they are elected after that date until 1st April next following their election.

Term of office of directors.

(2) If the election of directors for the ensuing year has not been completed on or before 31st March the directors in office on that day shall continue to hold office until the election of their immediate successors.

8. (1) If any director dies, resigns or becomes incapable of further acting, the remaining directors or a majority of them shall have power to elect any person qualified under paragraph 6(2) to fill the vacancy for the remainder of the term of office of such director.

Casual vacancies in board.

(2) If it is found impracticable for the remaining directors so to do or if the remaining directors fail to exercise their power so to do, the Governor may appoint a temporary director to act until the next annual general meeting.

9. Directors shall be eligible for re-election.

Directors may be re-elected.

10. If any director shall not be re-elected, such person shall during the next succeeding year be known as "Hip Li" (協理) and shall be entitled to attend all meetings of the board in such subsequent year and to take part in discussions but not to vote at such meetings.

Directors not re-elected.

11. As soon as possible after the election of the directors for any particular year, the directors shall elect a chairman from amongst them, and the person so elected shall be a director who has held office as vice-

Election of chairman.

chairman for not less than one year immediately preceding that year unless no such director is available.

Election of vice-chairman.

12. (1) Immediately after the election of the chairman, the directors shall elect from amongst themselves the first vice-chairman, the second vice-chairman, the third vice-chairman, the fourth vice-chairman, and the fifth vice-chairman.

(2) No person who has not been a director in a previous year shall be eligible for election as a vice-chairman unless no past director is available for election.

Procedure at election of chairman and vice-chairmen.

13. (1) The retiring chairman, or the person entitled to preside in his absence at the annual general meeting, shall preside at the elections under paragraphs 11 and 12.

(2) In the event of two or more candidates for election as chairman or vice-chairman being returned with an equality of votes at any election, the chairman of the meeting shall have a casting vote.

Casual vacancy in office of chairman.

14. In the event of the death, resignation, incapacity or absence of the chairman at any time, the first vice-chairman shall be the chairman, and the second vice-chairman, third vice-chairman, fourth vice-chairman and fifth vice-chairman shall be the first vice-chairman, the second vice-chairman, third vice-chairman and fourth vice-chairman respectively, until an election is held under paragraph 15.

Election to fill casual vacancy in office of chairman or vice-chairman.

15. (1) In the event of—

(a) the death, resignation, incapacity or absence of the chairman or any vice-chairman; or

(b) a vacancy otherwise arising in the office of chairman or any vice-chairman,

the board may elect a director to be the chairman or such vice-chairman, as the case may be, either temporarily or for the remainder of the term of office of the chairman or such vice-chairman.

(2) A member of the advisory board shall preside at any such election.

Board to manage corporation.

16. The board shall, subject to the provisions of this Ordinance, have full power and authority generally to govern the corporation and to direct and decide all matters whatsoever connected with the administration of the affairs of the corporation and the accomplishment of the objects thereof, and under such regulations as may from time to time be made by the board to supervise and manage the homes, nurseries, schools and other institutions under the control of the corporation.

Quorum and procedure at board meetings.

17. (1) At any meeting of the board, one-third of the number of the directors for the time being, or if their number is not a multiple of three then the number nearest one-third, shall form a quorum.

(2) Every question at any meeting of the board shall be decided by a majority of votes of the directors present, and in case of an equality of votes the chairman of the meeting shall have a casting vote.

Advisory board.

18. (1) There shall be an advisory board whose duty shall be to advise the directors on any matter affecting the corporation or its administration.

(2) The advisory board shall consist of not more than fifteen persons of whom the following shall be *ex officio* members—

(a) the Secretary for Home Affairs, who shall be chairman;

(b) the Director of Home Affairs;

(c) the Director of Social Welfare;

(d) an Unofficial Chinese Member of Executive Council to be nominated by the Unofficial Chinese Members of the Executive Council;

(e) an Unofficial Chinese Member of the Legislative Council to be nominated by the Unofficial Chinese Members of the Legislative Council; and

(f) the immediate past chairman of the board.

(3) The following persons shall also be members of the advisory board—

(a) not more than eight persons appointed by the Governor, who shall hold office for a period of not more than three years and shall be eligible for re-appointment;

(b) one person elected by the board from the persons who in the year preceding the year in respect of which he is elected were directors, who shall hold office for a period of one year.

(4) The advice of the advisory board shall be given at a joint meeting of the board and the advisory board, such joint meetings shall be called by the chairman—

(a) when the chairman so requires;

(b) when the board desires the advice of the advisory board;

(c) whenever the advisory board gives the chairman notice in writing that it desires to discuss with the board any specified matter affecting the corporation or its administration.

(5) The chairman shall give the directors and the members of the advisory board at least four clear days' notice in writing of any such joint meeting.

(6) At a joint meeting of the board and the advisory board, seven members, of whom at least three shall be directors and at least three shall be members of the advisory board, shall form a quorum.

(7) The Secretary for Home Affairs shall be the chairman of the joint meeting of the board and the advisory board. In his absence the Director of Home Affairs shall be the chairman, and in the absence of both the Secretary for Home Affairs and the Director of Home Affairs members present at the meeting shall elect a chairman from amongst the members of the advisory board present.

(8) The persons who are members of the Board of Direction of the Society at the commencement of this Ordinance shall be members of the advisory board until 1st April 1974.

19. (1) At any meeting of the advisory board four of the members shall form a quorum.

(2) Every question at any meeting of the advisory board shall be decided by a majority of votes of the members present and in the case

Procedure at meetings of advisory board.

of an equality of votes the chairman of the meeting shall have a casting vote.

(3) In the absence of the Secretary for Home Affairs the Director of Home Affairs shall be the chairman, and in the absence of both the Secretary for Home Affairs and the Director of Home Affairs the members of the advisory board shall elect a chairman from amongst their number present at the meeting.

Annual general meeting.

20. (1) There shall be an annual general meeting of the voting members, to be held before 31st March in each year at such place as the board may decide, and fourteen days' notice of the meeting and of the time and place appointed for the same shall be given by the secretary to the voting members.

(2) Such notice shall be deemed to have been properly given to a voting member if sent by prepaid registered post to the last known address in Hong Kong of such member.

(3) Notification of the date and time of such meeting shall also be published in two editions of a Chinese newspaper circulating in Hong Kong.

Business at an annual general meeting.

21. (1) At the annual general meeting the board shall submit a report, and the signed and audited statement of the accounts, and a balance sheet made up to 31st March of the preceding year, which shall be considered and passed if thought fit.

(2) In addition to the election of directors in accordance with paragraph 6, any matter of which not less than seven days' notice shall have been given to the board relating to the management of the corporation may be brought forward and discussed.

Chairman to preside at annual general meeting.

22. (1) At the annual general meeting the chairman shall take the chair.

(2) If the chairman shall not be present, the first vice-chairman, the second vice-chairman, the third vice-chairman, the fourth vice-chairman, or the fifth vice-chairman in order of seniority shall preside.

(3) In the absence of the chairman and vice-chairman, the voting members present may elect one of their number to preside.

Ordinary general meetings.

23. (1) An ordinary general meeting of the voting members shall be convened at any time for such purposes as the board thinks fit.

(2) Notice of a meeting convened under sub-paragraph (1) shall be sent by the secretary by prepaid post to each voting member, at his last known address in Hong Kong, at least fourteen days before the date of the meeting, and every such notice shall specify the place, date and time of such meeting.

General provisions with respect to meetings.

24. (1) The accidental omission to give notice of any meeting whatsoever to, or the non-receipt of any notice of meeting by, any person entitled to receive notice thereof shall not invalidate the proceedings at that meeting.

(2) A certificate in writing signed by the secretary and stating that a notice was addressed to a person entitled to notice of a meeting at his last known address in Hong Kong and posted by prepaid registered post

or prepaid post, as the case may be, shall be conclusive evidence of the facts contained therein.

25. (1) At any general meeting, twenty voting members shall form a quorum. If a quorum is not present within half an hour from the time appointed for any general meeting, the meeting shall stand adjourned to the same day in the following week at the same time and place. If at such adjourned meeting a quorum is not present the business may be transacted with such number of voting members as may be present.

Procedure at general meetings.

(2) The chairman of any general meeting may, with the consent of the majority present at such meeting, adjourn the meeting from time to time and from place to place. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting.

(3) At any general meeting a resolution put to the vote of meeting shall be decided on a show of hands, and every voting member shall have one vote.

(4) Subject to this Ordinance, the board may regulate the procedure at any general meeting subject to the approval of the advisory board, and (subject to such approval) may validate any decision taken at any such meeting notwithstanding any accidental non-compliance with the provisions of this Ordinance.

26. (1) The vote of a firm or society which is a voting member shall be by proxy.

Proxies.

(2) The instrument appointing any proxy shall be in writing under the hand of the person appointing the proxy or, in the case of a firm or society, under the hand of a partner of the firm or an officer of the society.

(3) The instrument appointing any proxy shall be deposited with the board before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid.

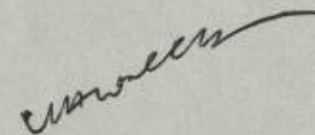
27. (1) The board may make regulations in relation to or providing for the maintenance, management, operation, regulation or supervision of any of the homes, nurseries, schools or other institutions under the control of the corporation.

Power to make regulations.

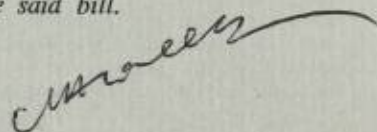
(2) Notwithstanding anything contained in section 20 of the Interpretation and General Clauses Ordinance it shall not be necessary to publish any such regulations in the *Gazette*.

(Cap. 1.)

Passed by the Hong Kong Legislative Council this 12th day of December, 1973.


Clerk to the Legislative Council.

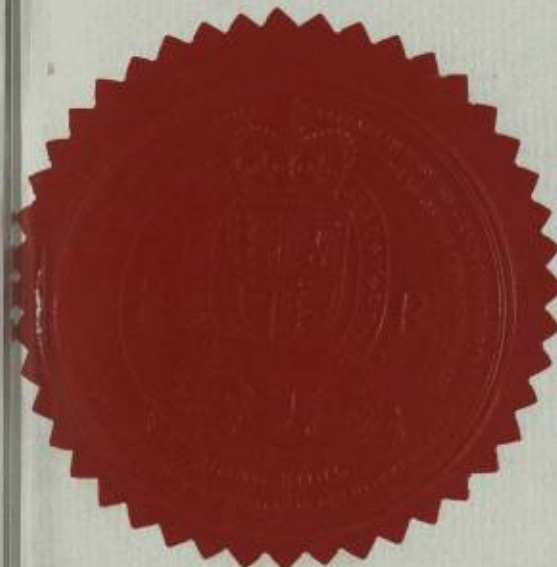
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.



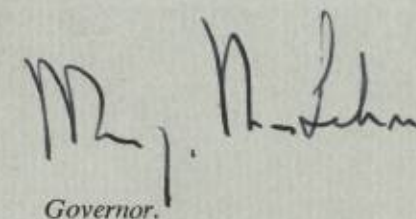
Clerk to the Legislative Council.

HONG KONG

No. 78 OF 1973



I assent.



Governor.

13th December, 1973.

An Ordinance to amend the Landlord and Tenant (Consolidation) Ordinance.

[15th December, 1973]

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) (Amendment) (No. 2) Ordinance 1973 and shall come into operation on the 15th day of December 1973.

Short title and commencement.

2. Part II of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of Part II.
(Cap. 7.)

"PART II

TENURE AND RENT OF DOMESTIC PREMISES

Interpretation and Application

Interpretation.

49. In this Part, unless the context otherwise requires—

"Building Authority" means the Building Authority under the Buildings Ordinance;

(Cap. 123.)

"Commissioner" means the Commissioner of Rating and Valuation;

"court" means the District Court;

"current rent" means the rent, exclusive of rates, payable by a tenant at the date of an application under section 57;

"fair market rent" means the rent, exclusive of rates, at which premises the subject matter of a tenancy to which this Part applies might reasonably be expected to be let on the terms of the tenancy (other than those relating to rent and duration of the tenancy) but disregarding the effect of this Part;

"landlord" includes any person, other than the Crown, who is from time to time entitled to receive rent in respect of any premises and, in relation to a particular tenant, means a person entitled to receive rent from such tenant;

"Panel" means the Rent Tribunal Panel appointed under section 69;

"principal tenant" means a tenant of premises, other than a Crown lessee, who has sublet the whole or any part or parts thereof as a separate holding or holdings;

"repealed Part II" means Part II of the Ordinance repealed by section 2 of the Landlord and Tenant (Consolidation) (Amendment) (No. 2) Ordinance 1973;

"tenancy" includes an agreement for a tenancy;

"tenant" or "sub-tenant" does not include a Crown lessee but includes—

(a) a person who, on the 15th day of December 1973, is in possession of premises the subject matter of a tenancy or sub-tenancy to which this Part applies;

(b) a person who, on the 15th day of December 1973, is the tenant or sub-tenant of premises by virtue of the repealed Part II or section 6 of the Domestic Premises (Tenure and Rent) (Temporary Provisions) Ordinance 1973;

(c) a person who retains possession of any premises by virtue of this Part; and

(d) a public body, corporation, foreign or Commonwealth Government or unincorporated body of persons who is a tenant or sub-tenant of premises the subject matter of a tenancy or sub-tenancy to which this Part applies.

Application.

50. (1) Subject to subsection (6), this Part applies to every domestic tenancy and domestic sub-tenancy in a post-war building, whether the same was effected orally or in writing and notwithstanding any provision in such tenancy or sub-tenancy, including any provision purporting generally or specifically to exclude this Part.

(2) For the purposes of this section a post-war building means—

(a) a building to which Part I does not apply by virtue of section 3(1)(a) or (d); and

(b) any building in the New Territories other than one in respect of which the District Commissioner, New Territories, certifies that it existed prior to the 17th day of August 1945.

(3) The burden of proving that a building is not a post-war building shall lie on the person so asserting; and a copy of a written permit of the Building Authority to occupy a building shall be *prima facie* evidence that a building is not post-war if the permit purports to have been issued prior to the 17th day of August 1945.

(4) The benefits and protection afforded by this Part shall, in any tenancy or sub-tenancy to which it applies, be available to the widow, widower, mother, father or any daughter or son over the age of eighteen years of the tenant or sub-tenant, as the case may be, where she or he was residing with the tenant or sub-tenant at the time of his or her death, and for the purposes of this Part references to tenant or sub-tenant shall, where applicable, be deemed to include a reference to such widow, widower, mother, father, daughter or son, and the tenancy or sub-tenancy shall be deemed to continue in existence notwithstanding the death of the tenant or sub-tenant.

(5) Tenancies and sub-tenancies to which this Part applies shall not, so long as this Part continues to affect them, be subject to Part V; but a notice of termination valid for the purposes of that Part may be served not more than six months prior to the date on which a tenancy ceases to be protected under this Part.

(6) This Part shall not apply to the following—

- (a) a tenancy or sub-tenancy of premises to which Part I applies, or of premises in respect of which there is in existence an order under section 4;
- (b) a tenancy or sub-tenancy of land unbuilt on;
- (c) a tenancy or sub-tenancy of agricultural land, which expression shall have the meaning assigned to it by section 36 of the Rating Ordinance 1973, including such a tenancy or sub-tenancy where there is on the land a dwelling house occupied by persons working the land;
- (d) a tenancy or sub-tenancy where the landlord or principal tenant is the employer and the tenant or sub-tenant is the employee in possession of the premises in accordance with the terms and conditions of his employment, being terms and conditions which require him to vacate the accommodation on ceasing to be so employed;
- (e) a tenancy held from the Crown, the Hong Kong Housing Authority, the Hong Kong Housing Society or the Hong Kong Model Housing Society, or a sub-tenancy created out of such a tenancy;
- (f) a tenancy or sub-tenancy during the period while it is enjoying protection under section 117;
- (g) a tenancy or sub-tenancy which is continuing, after ceasing to enjoy protection under section 117 (whensoever it ceased or ceases to enjoy such protection), on the same terms and conditions (save in so far

(11 of 1973.)

9. (1) Subject to subsection (9) the new Crown rent payable under a new Crown lease shall be an amount equal to three *per cent* of the rateable value of the lot or section.

New Crown rent of a lot or section held under a new Crown lease.

(2) Subject to the provisions of this section, the rateable value of a lot or section for the purposes of this section is—

- (a) the rateable value, as set out on the relevant day in the list declared under section 13 of the Rating Ordinance 1973, of the tenement of which the land comprised in the lot or section (and no other land) forms part or the aggregate of the rateable values as so set out of every tenement which includes any interest in such land (but no other land); or
- (b) the interim valuation, as ascertained by the Commissioner under the Rating Ordinance 1973, on the relevant day of the tenement of which the land comprised in the lot or section (and no other land) forms part or the aggregate of such interim valuations of every tenement which includes any interest in such land (but no other land); or
- (c) where a building on the lot or section also stands on another lot or section—

(11 of 1973.)

(i) that proportion of the rateable value, as set out on the relevant day in the list declared under section 13 of the Rating Ordinance 1973, of the tenement of which such building forms part, or of the interim valuation, as ascertained by the Commissioner under the Rating Ordinance 1973, on the relevant day of such tenement, which the area of the lot or section bears to the area of all the lots or sections on which such building stands; or

(ii) that proportion of the aggregate of the rateable values, as so set out, or of the interim valuations on the relevant day as so ascertained, of each of the tenements of which a part of such building forms part, which the area of the lot or section bears to the area of all the lots or sections on which such building stands; or

(d) the aggregate of any two or more of the foregoing, as the case may be.

(3) Where after the relevant day there is an interim valuation of—

- (a) the tenement of which the land comprised in a lot or section (and no other land) forms part;
- (b) any tenement which includes any interest in such land (but no other land);

- (c) any tenement of which a building on a lot or section and also on another lot or section forms part;
- (d) any tenement of which a part of such a building forms part,

then, with effect from the first day of the month following that in which the tenement became liable to an interim valuation, the rateable value of that lot or section is—

- (i) such interim valuation as is mentioned in paragraph (a) or (b) or the aggregate of such interim valuations; or
- (ii) that proportion of the interim valuation of the tenement referred to in paragraph (c) which the area of the lot or section bears to the area of all the lots or sections on which the building stands; or
- (iii) that proportion of the aggregate of the interim valuations of the tenements referred to in paragraph (d) which the area of the lot or section bears to the area of all the lots or sections on which the building stands; or
- (iv) the aggregate of any two or more of the foregoing,

as the case may be; and—

- (v) the rateable value, as set out on the relevant day in the list declared under section 13 of the Rating Ordinance 1973, of any tenement of which the land comprised in the lot or section (and no other land) forms part or the aggregate of the rateable values as so set out of every tenement which includes any interest in such land (and no other land); or
- (vi) the interim valuation, as ascertained by the Commissioner under the Rating Ordinance 1973, on the relevant day of any tenement of which the land comprised in the lot or section (and no other land) forms part or the aggregate of such interim valuations of every tenement which includes any interest in such land (but no other land); or
- (vii) where a building on the lot or section also stands on another lot or section—
 - (aa) that proportion of the rateable value, as set out on the relevant day in the list declared under section 13 of the Rating Ordinance 1973, of any tenement of which such building forms part, or of the interim valuation, as ascertained by the Commissioner under the Rating Ordinance 1973, on the relevant day of any such tenement, which the area or the lot or

section bears to the area of all the lots or sections on which such building stands; or

- (bb) that proportion of the aggregate of the rateable values, as so set out, or of the interim valuations on the relevant day as so ascertained, of each of the tenements of which a part of such building forms part, which the area of the lot or section bears to the area of all the lots or sections on which such building stands; or

- (viii) the aggregate of any two or more of the foregoing,

as the case may be.

(4) The reference in this Ordinance to the rateable value of a tenement as set out on the relevant day in the list declared under section 13 of the Rating Ordinance 1973 includes a reference to the rateable value of any tenement ascertained pursuant to subsection (6) and the rateable value provided for by subsection (7).

(5) The reference in this Ordinance to the rateable value or the interim valuation of a tenement made by the Commissioner under the Rating Ordinance 1973 is, in a case where such rateable value or such interim valuation is varied on appeal under section 42 of that Ordinance, a reference to such rateable value or such interim valuation as so varied.

(6) Where no rateable value of a tenement has been ascertained under the Rating Ordinance 1973 whether by reason of the exemption of such tenement from assessment to rates or otherwise, the Commissioner shall if required by the Director ascertain the rateable value thereof as if the same were assessable to rates under that Ordinance.

(7) Where on the relevant day no rates are payable under the Rating Ordinance 1973 in relation to a tenement, otherwise than by reason of any exemption under section 36 of that Ordinance, the rateable value for the purposes of this section, of the lot or section forming such tenement shall be—

- (a) the rateable value of the tenement of which the land comprised in such lot or section formed part as last ascertained by the Commissioner for rating purposes; or
- (b) the aggregate of the rateable values of—
 - (i) such tenements; or
 - (ii) the tenements which included any interest in such land; or
 - (iii) both the tenements referred to in sub-paragraph (i) and those referred to in sub-paragraph (ii),

as last ascertained by the Commissioner for rating purposes.

(8) There shall be added to the new Crown rent determined in accordance with subsection (1) such amount as may be necessary to make the same an even number of dollars.

(9) Where the person or all of the persons, if more than one, entitled to exercise the right of renewal contained in a renewable Crown lease paid or agreed in writing with the Director to pay the new Crown rent of a lot or section in an amount exceeding that which is specified in subsection (1) the new Crown rent of the lot or section shall be—

- (a) for the period from the expiration of the renewable Crown lease to the 30th June 1973 the amount so paid or agreed to be paid; and
- (b) for the period from the 1st July 1973 to the expiration of the term of the new Crown lease the amount specified in subsection (1).

10. (1) As soon as practicable after a new Crown lease of a lot or section is deemed to be granted under this Ordinance—

- (a) the Director shall notify the Land officer of the amount of the new Crown rent payable in respect of the lot or section; and
- (b) the Land Officer shall cause the amount of the new Crown rent payable in respect of the lot or section to be noted in the register of such lot or section kept in the Land Office.

(2) As soon as practicable after the making by the Commissioner after the relevant day of an interim valuation of any tenement which results in an increase in the new Crown rent payable in respect of a lot or section—

- (a) the Director shall notify the Land Officer of the increased new Crown rent; and
- (b) the Land Officer shall cause the amount of the new Crown rent noted in the register of such lot or section kept in the Land Office to be deleted and shall cause the increased new Crown rent to be noted therein.

11. (1) The Director may at any time correct clerical or arithmetical errors in a determination of the new Crown rent payable in respect of a lot or section under section 9, and if he makes such a correction he shall notify the Land Officer thereof.

New Crown rent to be noted in register in Land Office.

Correction of clerical or arithmetical errors.

tenant, principal tenant or sub-tenant which would terminate such tenancy or sub-tenancy in law.

(3) In every tenancy and sub-tenancy there shall, in the absence of any express covenant or condition, be implied a covenant to pay rent on the due date and a condition for forfeiture for non-payment within fifteen days of such date.

(4) Notwithstanding the expiration of this Part under section 74B, this section and section 53 shall continue to apply to any tenancy or sub-tenancy—

- (a) for a period of two years from the date on which any increase under this Part of the rent payable under the tenancy or sub-tenancy, other than an increase under section 56, became effective; or
- (b) until the expiry of a period of two years from the creation of the tenancy or sub-tenancy if the same was created not more than two years before the expiration of this Part.

Termination of tenancies.

53. (1) A tenancy or sub-tenancy shall terminate where—

- (a) vacant possession is delivered up;
- (b) an order of the court under subsection (2) takes effect;
- (c) the tenancy out of which the sub-tenancy was created is itself terminated;

Provided that upon such termination this Part shall apply to any tenancy thereupon arising by operation of law.

(2) A court shall not make an order for possession of premises in respect of which there is a tenancy or sub-tenancy to which this Part applies unless it is satisfied that—

- (a) any rent lawfully due from the tenant or sub-tenant has not been paid or, where any covenant or condition of the tenancy or sub-tenancy has been broken or not performed, such breach or non-performance would, but for this Part, have been a cause of forfeiture;

[*cf.* 1968, c. 23, s. 10.]

(b) the premises are required by the landlord or principal tenant for occupation as a residence for—

- (i) himself;
- (ii) his father or mother; or
- (iii) any son or daughter of his over eighteen years of age,

and the landlord or principal tenant did not become the landlord or principal tenant on or after the 15th day of December 1973:

Provided that a court shall not make an order for possession by reason only that the circumstances of the case fall within this paragraph if the court is satisfied that having regard to all the circumstances of the case, including the question whether other accommodation is available for the landlord, the tenant, the principal tenant or the sub-tenant, greater hardship would be caused by granting the order than by refusing to grant it;

- (c) the landlord or principal tenant intends to rebuild the premises;
- (d) the tenant or the sub-tenant has caused unnecessary annoyance, inconvenience or disturbance to the landlord, principal tenant or to other occupants of the premises, as the case may be:

Provided that no order shall be made under this paragraph unless the court is satisfied that the annoyance, inconvenience or disturbance had continued after a warning given by the Commissioner to the tenant or sub-tenant causing the same; or

- (e) the tenant has, at any time after the 14th day of December 1973, without the consent in writing of the landlord sublet the whole or any part of the premises of which he is the tenant.

(3) An order for possession shall take effect on such date as the court may order, but not later than three months from the date of such order; and on the making of an order for possession under subsection

(2) the court may also order the payment of rent or mesne profits.

[1968, c. 23,
s. 18(1).]

(4) Notwithstanding subsection (1)(c), if the court makes an order for possession of premises from a tenant under subsection (2), nothing in the order shall affect the right of any sub-tenant to whom the premises or any part thereof have been lawfully sublet before the commencement of the proceedings to retain possession thereof, nor shall the order operate to give a right to possession as against such sub-tenant.

[1968, c. 23,
s. 18(2).]

(5) Where a tenancy to which this Part applies is determined as a result of an order for possession under subsection (2), any sub-tenant to whom the premises the subject matter of tenancy, or any part thereof, has been lawfully sublet shall, subject to this Part, be deemed to become the tenant of the landlord on the same terms as he would have held from the tenant if the tenant's tenancy had continued.

(6) A person who has obtained an order for possession of premises under subsection (2)(b) or (c) shall not, without the previous consent of the court, for a period of twenty-four months after the date of such order—

- (a) let the premises or any part thereof; or
- (b) assign, transfer or part with the possession of the premises or any part thereof except, in the case of an order for possession under subsection (2)(c), where the assignment, transfer or parting with possession is solely to facilitate the rebuilding of the premises.

[1968, c. 23,
s. 19.]

(7) Where a landlord or principal tenant has obtained an order for possession of the premises under subsection (2) and it is subsequently made to appear to the court that the order was obtained by the misrepresentation or concealment of material facts or where such landlord or principal tenant is shown to have acted in contravention of subsection (6), the court may order the landlord or principal tenant to pay to the former tenant or sub-tenant such sum as it thinks fit by way of compensation for damage or loss sustained by that tenant or sub-tenant as a result of the order.

*Increases in Rent*Notification
of new rents.

54. (1) Where a landlord and tenant enter into a tenancy on or after the 15th day of December 1973, the landlord shall lodge with the Commissioner a notice in triplicate in the specified form stating the rent payable by the tenant, and such notice shall be signed by both the landlord and the tenant.

(2) Where a notice is lodged with the Commissioner under subsection (1), he shall record the rent payable by the tenant and shall endorse free of charge on two copies of the notice a statement to that effect and shall return one copy to the landlord and one copy to the tenant.

(3) Rent shall not be recoverable unless the landlord is in possession of a copy of a notice endorsed by the Commissioner under subsection (2).

(4) The security of tenure afforded to a tenant by section 52(4)(b) shall apply where a tenancy is created not more than two years before the expiration of this Part, notwithstanding the failure of the landlord to comply with subsection (1).

Increases
in rent by
agreement.

55. (1) Where an increase in rent is agreed between a landlord and a tenant after the 14th day of December 1973 the landlord shall lodge with the Commissioner a notice thereof in triplicate in the specified form signed by both the landlord and tenant.

(2) Where a notice is lodged with the Commissioner under subsection (1), he shall record the agreement concerning the increase in rent and shall endorse free of charge on two copies of the notice a statement to that effect and shall return one copy to the landlord and one copy to the tenant.

(3) Rent at the increased rate shall not recoverable unless the landlord is in possession of a copy of a notice endorsed by the Commissioner under subsection (2).

(4) The security of tenure afforded to a tenant under section 52(4)(a) shall apply where the rent payable by the tenant is increased by agreement, notwithstanding the failure of the landlord to lodge notice thereof under subsection (1).

(5) Where a landlord and tenant had, prior to the 15th day of December 1973, entered into a tenancy under which the rent payable by the tenant would be increased during the continuance of the tenancy by reference to fixed and ascertained periods of time, any increase in rent pursuant to that tenancy which—

(40 of 1973.)

(a) would, but for the Domestic Premises (Tenure and Rent) (Temporary Provisions) Ordinance 1973, have taken effect after the 8th day of June 1973 and before the 15th day of December 1973; or

(b) becomes due on or after the 15th day of December 1973.

shall take effect in accordance with the tenancy as if neither that Ordinance nor this section had been enacted, save that where the increase takes effect on or after the 15th day of December 1973 the security of tenure afforded to a tenant by section 52(4)(a) shall extend to such tenancy as if the rent had been increased under this Part.

Increases
in rent on
account of
rates.
[cf. 1968,
c. 23, s. 21(3).]

56. (1) Where a landlord bears the rates in respect of any premises the subject of a tenancy and those rates are increased, the landlord may, subject to subsection (2), increase the amount of the rent payable by the tenant of those premises by the amount of the increase in the rates.

(2) Where the amount of rent is increased under this section the increase shall not take effect except in pursuance of a notice of increase in the specified form served by the landlord on the tenant, specifying the increase and the date from which it is to take effect.

(3) The date specified in a notice of increase under subsection (2) shall be not earlier than the date on which the increased rates became payable.

Application
for certifi-
cate of
increase in
rent.

57. (1) Where a landlord wishes to increase the rent payable by his tenant, he may apply to the Commissioner for a certificate.

(2) An application under subsection (1) shall be made by sending a notice in duplicate in the specified form to the Commissioner.

(3) Where the Commissioner is of the opinion that, having regard to section 64, no increase in rent is due, or such increase in rent is not due within a period of six months from the date of receipt of the application under subsection (1), he may decline to deal with such application or defer dealing with such application until it appears to him that the increase in rent is due within a period of six months.

(4) Subject to subsection (3), upon receipt of an application under subsection (1) the Commissioner shall serve a copy thereof on the tenant.

(5) Within fourteen days of service on him under subsection (4) of a copy of the landlord's application the tenant may send his representations thereon in writing to the Commissioner.

(6) Where the Commissioner receives representations from a tenant under subsection (5) which indicate that the tenant disputes any fact set out in the application of the landlord, he shall determine the facts in dispute and shall then deal with the application in accordance with section 58.

58. (1) Where a landlord applies for a certificate under section 57, the Commissioner, on receipt of the representations of the tenant under section 57(5) or after one month from the receipt of the application whichever is the sooner, shall—

- (a) if satisfied that the fair market rent exceeds the current rent paid by the tenant, issue free of charge and serve on the landlord and on the tenant certificates in the specified form stating the amount, as ascertained in accordance with subsection (2), by which the current rent may be increased; or
- (b) if not satisfied that the fair market rent exceeds the current rent paid by the tenant, issue free of charge and serve on the landlord and on the tenant certificates in the specified form to that effect,

and he may endorse on the certificates such matters as he thinks proper relating to such application, which, in the case of a dispute as to facts, shall include the Commissioner's determination thereof under section 57(6).

Certificates
of increase
in rent.

(2) The amount by which the rent may be increased shall be such sum as shall be ascertained after dividing the amount by which the fair market rent exceeds the current rent by the appropriate factor:

Provided that, where the rateable value of the premises the subject matter of the tenancy does not exceed thirty thousand dollars, the amount by which the rent may be increased shall not exceed an amount equivalent to twenty-one *per cent* of the current rent.

(3) For the purposes of subsection (2), the appropriate factor shall be five or such other figure as the Legislative Council may by resolution determine.

(4) Where a certificate has been issued under subsection (1)(b) in relation to any premises, no further application under section 57 in respect of those premises shall be made by the person to whom the certificate has been issued before the expiration of one year from the date of service of the certificate.

(5) The rateable value of any premises shall be ascertained for the purposes of the proviso to subsection (2) as follows—

- (a) if the premises are a tenement which is included in the valuation list declared on the 9th day of March 1973, or subsequently included in that list following an interim valuation, the rateable value shall be that included in the list in respect of such tenement;
- (b) if the premises are not such a tenement, the rateable value shall be determined by the Commissioner in accordance with section 7 of the Rating Ordinance 1973 and the decision of the Commissioner shall be final.

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(6) In subsection (5), "interim valuation", "tenement" and "valuation list" have the meanings assigned to them in the Rating Ordinance 1973.

(11 of 1973.)

Review.

59. (1) Where the Commissioner issues a certificate under section 58, the landlord or the tenant may within fourteen days of service on him of the

certificate apply to the Commissioner by notice in duplicate in the specified form for a review of the certificate.

(2) On receipt of an application under subsection (1) and on payment by the applicant to the Commissioner of the sum of fifty dollars, the Commissioner shall appoint a tribunal consisting of three members of the Panel to review the certificate referred to in the application and shall send a copy of the application to the landlord or to the tenant, as the case may be.

(3) At any time before the determination of a review, the applicant may withdraw his application for a review by notice in writing addressed to the Commissioner.

(4) Where an application for a review is withdrawn under subsection (3) before the appointment of a tribunal under subsection (2), the Commissioner may repay to the applicant the sum of fifty dollars paid by him under that subsection.

(5) Where the Commissioner has appointed a tribunal under subsection (2), he shall immediately serve on the landlord and on the tenant a notice in the specified form informing them that a tribunal has been appointed and inviting them to submit to him within fourteen days of service of the notice any written representation they wish to have considered by the tribunal.

(6) Not less than fourteen days from the date of service of a notice under subsection (5), the Commissioner shall refer the application made under subsection (1) to the tribunal and shall place before the tribunal any written representation submitted to him pursuant to subsection (5).

(7) The tribunal shall, after considering any written representations placed before it under subsection (6), review the certificate and may—

- (a) in the case of a certificate issued under section 58(1)(a), confirm, vary or set aside the increase shown in the certificate; or
- (b) in the case of a certificate issued under section 58(1)(b), confirm that certificate or,

if satisfied that the fair market rent exceeds the current rent, determine in accordance with section 58(2) the amount by which the rent may be increased,

and make such other order as it thinks proper.

(8) The tribunal shall immediately notify the Commissioner of its decision on a review of a certificate and the Commissioner shall thereupon issue free of charge and serve on the landlord and on the tenant certificates in the specified form stating the decision of the tribunal, and shall endorse on such certificates a statement that they are in substitution for the certificate the subject of the review.

Appeal.

60. (1) A landlord or tenant aggrieved by a decision of the tribunal under section 59(7) may, within one month of the service on him of the certificate under section 59(8), appeal to the court against such decision.

(2) Where a landlord appeals under subsection (1), the tenant shall be made the respondent in the appeal and where a tenant so appeals the landlord shall be made the respondent in the appeal.

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

(a) where the decision of the tribunal relates to a certificate under section 59(8) which specifies an increase in the rent, confirm, vary or set aside such increase;

(b) where the decision of the tribunal relates to a certificate under section 59(8) which does not specify an increase, confirm that decision or, if satisfied that the fair market rent exceeds the current rent, determine in accordance with section 58(2) the amount by which the current rent may be increased,

and may make such other order as it thinks proper.

Notices of increases.

61. (1) An increase in rent specified in a certificate issued under section 58(1)(a) or 59(8), or determined by the court under section 60, shall not take effect except in pursuance of a notice of increase in the specified form served by the landlord on the

tenant, specifying the date from which the increase is to take effect.

(2) Where a landlord serves a notice of increase on the tenant under subsection (1) he shall, at the same time, send a copy of the notice to the Commissioner.

(3) The date specified in a notice under subsection (1) shall not, subject to section 64, be earlier than the first day when rent becomes due after the expiration of one month from the service of the notice.

(4) Notwithstanding this section, where proceedings on a review under section 59 or an appeal under section 60 are not concluded on the date specified in a notice under subsection (1), the failure by the tenant or sub-tenant to pay the increase in rent prior to the conclusion of such proceedings shall not be a breach of covenant to pay rent nor give rise to a right to forfeiture.

Increases in rents of sub-tenancies.

62. (1) Where an increase in the rent of a tenancy has become effective under this Part, other than under section 56, and a sub-tenancy has been created out of that tenancy, the principal tenant may, if he cannot agree with the sub-tenant an increase in the rent of the sub-tenancy, apply in the specified form to the Commissioner for a certificate to be issued under subsection (2).

(2) On receipt of an application under subsection (1), the Commissioner may serve on the principal tenant and on the sub-tenant certificates in the specified form specifying either the percentage to the nearest whole figure by which the rent of the tenancy has been increased or twenty-one *per cent*, whichever is the lesser.

(3) Where the Commissioner has issued a certificate under subsection (2), the rent of the sub-tenancy may be increased by the percentage shown in the certificate but the increase in rent shall not take effect except in pursuance of a notice of increase in the specified form served by the principal tenant on his sub-tenant, specifying the date from which the increase is to take effect.

(4) The date specified in a notice under subsection (3) shall be not earlier than one month from the date of service of the certificate under subsection (2).

(5) Where this Part does not apply to a tenancy by virtue of section 50 but does apply to a sub-tenancy created out of that tenancy, sections 54, 57, 58, 59, 60, 61 and 64 shall apply as if the sub-tenancy were a tenancy and the references therein to landlord and tenant were references to principal tenant and to sub-tenant respectively.

Increase in rent of sub-tenancy following increase in rates.

63. (1) Where—

- (a) a principal tenant bears the rates in respect of any premises the subject of a tenancy out of which a sub-tenancy has been created and those rates are increased; or
- (b) the rent of a tenancy has been increased under section 56 and a sub-tenancy has been created out of that tenancy,

the principal tenant may, if he cannot agree with the sub-tenant an increase in rent of the sub-tenancy, apply to the Commissioner in the specified form for a certificate under subsection (2).

(2) On receipt of an application under subsection (1) the Commissioner may serve on the principal tenant and on the sub-tenant certificates in the specified form stating the amount by which the rent of the sub-tenancy may be increased.

(3) Where the Commissioner has served a certificate under subsection (2), the rent of the sub-tenancy may be increased by the amount shown in the certificate, but the increase in rent shall not take effect except in pursuance of a notice of increase in the specified form served by the principal tenant on the sub-tenant specifying the date from which the increase is to take effect.

(4) The date specified in a notice of increase under subsection (3) shall be not earlier than the date on which the increased rates became payable.

Effective date for increases.

64. (1) Subject to subsection (2), no increase in rent in any tenancy pursuant to a certificate under section 58 or 59 or an order of the court under sec-

tion 60 or in any sub-tenancy under section 62 shall take effect—

- (a) in the case of a tenancy or sub-tenancy existing on the 15th day of December 1973, within a period of one year from—

(i) the date on which the rent of the tenancy or sub-tenancy was last increased before the 15th day of December 1973, whether or not such last increase was by agreement; or

(ii) the date of the tenancy or sub-tenancy,

whichever is the later; or

- (b) in any other case, within a period of two years from—

(i) the date on which the rent of the tenancy or sub-tenancy was last increased after the 14th day of December 1973 under section 55 or pursuant to a certificate under section 58 or 59 or an order of the court under section 60, or under section 62; or

(ii) the date of the tenancy or sub-tenancy entered into after 14th day of December 1973,

whichever is the later.

(2) Where the rent of a tenancy to which the repealed Part II applied has been increased under section 56 or 58 of the repealed Part II, no increase in rent for that tenancy pursuant to a certificate under section 58 or 59 or an order of the court under section 60 shall take effect within a period of two years from the date on which such previous increase took effect.

- (3) Where—

(a) the rent of any tenancy or sub-tenancy was increased before the 15th day of December 1973; or

(b) the tenancy or sub-tenancy was created before that date,

and the rent of the tenancy or sub-tenancy has been increased pursuant to a certificate under section 58 or 59 or an order of the court under section 60 or

under section 62, no order shall be made for the recovery of any increased rent or for the recovery of possession for non-payment thereof unless the landlord or principal tenant satisfies the court that one year has or will have elapsed between the previous increase in rent or the commencement of the tenancy or sub-tenancy, as the case may be, and the date on which the increase takes effect.

(4) Where the rent of a tenancy to which the repealed Part II applied has been increased under section 56 or 58 of the repealed Part II and the rent of such tenancy has been increased pursuant to a certificate under section 58 or 59 or an order of the court under section 60, no order shall be made for the recovery of any increased rent or for the recovery of possession for non-payment thereof unless the landlord satisfies the court that two years has or will have elapsed between the previous increase in rent and the date on which the increase under section 58, 59 or 60 takes effect.

(5) Where a tenancy or sub-tenancy was created after the 14th day of December 1973 or where the rent of a tenancy or sub-tenancy has been increased after that date under section 55 or pursuant to a certificate under section 58 or 59 or an order of the court under section 60, or under section 62 and the rent of the tenancy or sub-tenancy has been increased or further increased pursuant to a certificate under section 58 or 59 or an order of the court under section 60, or under section 62, no order shall be made for the recovery of any increased rent or for the recovery of possession for non-payment thereof unless the landlord or principal tenant satisfies the court that two years has or will have elapsed between the commencement of the tenancy or sub-tenancy or the previous increase in rent and the date on which the increase or further increase takes effect.

(6) For the purposes of this section rent shall, until the contrary is proved, be deemed to have been increased if the tenant or sub-tenant has made any payments, other than rates, to the landlord or the principal tenant, and such additional payments have been made as a condition of the right to occupation of the premises.

Provision
of rent
receipts.

65. (1) A landlord shall give to his tenant, and a principal tenant shall give to his sub-tenant, at the time that the tenant or sub-tenant pays his rent, a receipt for the amount of rent paid and the receipt shall contain—

- (a) the name and address of the landlord or principal tenant or the agent thereof, as the case may be;
- (b) the period in respect of which such rent was paid; and
- (c) the date of payment.

(2) A landlord or principal tenant who fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of two thousand dollars.

Obligation
to notify
subletting
of premises.

66. (1) If the tenant of premises sublets the whole or any part thereof after the 14th day of December 1973, the tenant shall within fourteen days after the subletting supply the landlord with a statement in writing of the subletting showing—

- (a) the name of the sub-tenant;
- (b) the part of the premises occupied by the sub-tenant;
- (c) the rent payable by the sub-tenant; and
- (d) the date of first occupation by the sub-tenant.

(2) A tenant who is required to supply a statement in accordance with subsection (1) and who, without reasonable excuse—

- (a) fails to supply a statement; or
- (b) supplies a statement which is false in any material particular,

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

Adjustment
of rents.

67. Where an increase in rent under this Part would result in the new rent including a number of cents, the number of cents shall be disregarded and the new rent shall be the sum remaining after the number of cents has been disregarded.

General

Proceedings
in, and
jurisdiction
of, District
Court.

68. (1) Neither the Commissioner nor any public officer employed in the Department of Rating and Valuation nor any member of a tribunal appointed under section 59(2) shall be called to give evidence in proceedings before the court and no subpoena shall be issued against the Commissioner or such public officer or member.

(2) Notwithstanding subsection (1), a subpoena *duces tecum* may be issued against the Commissioner requiring him to produce in any proceedings an application under section 51(4), 57(1), 59(1), 62(1) or 63(1), and a subpoena issued under this subsection shall be deemed to be complied with by the production of any document specified in the subpoena by any public officer employed in the Department of Rating and Valuation.

(3) The Governor may appoint any person having experience of rents and land values in Hong Kong to be a member of a panel of assessors for the purpose of proceedings before the court and a public officer to be the secretary of such panel, and may fix the fees which shall be paid to such persons:

Provided that nothing in this subsection shall authorize the payment of remuneration to any public officer.

(4) For the purpose of any proceedings, the court may call on the secretary of the panel appointed under subsection (3) to nominate an assessor to assist the court in such proceedings.

(5) Nothing in this section shall prejudice section 58 of the District Court Ordinance.

(6) The court shall have the jurisdiction conferred on it by this Part notwithstanding anything in the District Court Ordinance.

(7) Any determination or order of the court under this Part shall be final and no appeal shall lie therefrom.

Rent Tri-
bunal Panel.

69. (1) For the purposes of this Part, the Governor may appoint any person to be a member of a panel known as the Rent Tribunal Panel.

(2) Notice of appointments to the Panel shall be published in the *Gazette*.

Exercise of powers of Commissioner, (11 of 1973.)

70. (1) The Commissioner may, for the purposes of this Part, exercise any of the powers conferred on him by section 5 of the Rating Ordinance 1973.

(2) Any public officer or class of public officer employed in the Department of Rating and Valuation and authorized in writing in that behalf by the Commissioner may exercise any of the powers and perform any of the duties conferred or imposed on the Commissioner by this Part.

Forms.

71. (1) The Commissioner may specify the forms to be used under this Part.

(2) The Commissioner may publish in the *Gazette* any form specified by him under subsection (1).

(3) The Commissioner may in his discretion accept any notice or application served on him which is not in the specified form.

Enlargement of time.

72. The Commissioner may extend any time fixed by this Part for the making of any application to him.

Rules.

73. The Chief Justice may make rules regulating—

- (a) the practice and procedure in all proceedings brought before the court under this Part;
- (b) the costs which the court may award upon the determination of any proceedings under this Part;
- (c) the fees to be paid to the court in respect of any proceedings under this Part.

Service of notice.

74. Service of any notice, application, certificate or other document under this Part may be effected—

- (a) by personal service;
- (b) by the recorded delivery service, addressed to the last known place of business or residence of the person to be served; or

- (c) in the case of service on a tenant or sub-tenant, by leaving the notice, application, certificate or other document with an adult occupier of the premises in which the tenant or sub-tenant resides and to which such document relates.

Saving.

74A. Nothing in this Part shall—

- (a) authorize any increase in rent during the unexpired portion of a tenancy or sub-tenancy for a fixed term;
- (b) subject to sections 53(1)(c), (5) and (6) and section 62, afford to any sub-tenant any security of tenure greater than that enjoyed by his principal tenant; or
- (c) affect any right or remedy arising, either before or after the 15th day of December 1973, out of any breach of condition or other term in any tenancy or out of any condition providing a right or re-entry in the event of the business of the tenant being wound up or the tenant suffering execution to be levied or a receiving order in bankruptcy to be made, assigning the lease for the benefit of creditors or entering into any agreement or making any arrangement with creditors for the liquidation of debts by composition or otherwise:

Provided that a covenant to yield up possession on a specified date shall be construed as a covenant to yield up possession on such later date as may be necessary to permit the giving of notice of termination as required by Part V.

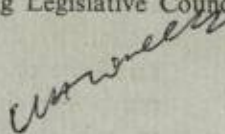
Expiry of this Part.

74B. Subject to section 52(4), this Part shall expire at midnight on the 14th day of December 1976.”

3. The Domestic Premises (Tenure and Rent) (Temporary Provisions) Ordinance 1973 is repealed.

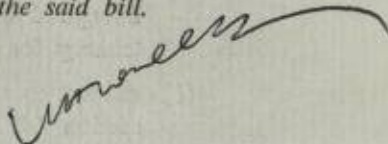
Repeal.
(40 of 1973.)

Passed by the Hong Kong Legislative Council this 12th day
of December, 1973.



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.

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