

"subsidiary legislation" and "regulations" mean any proclamation, rule, regulation, order, resolution, notice, rule of court, by-law or other instrument made under or by virtue of any Ordinance and having legislative effect;

"summary conviction" means a summary conviction by a magistrate in accordance with the provisions of the Magistrates Ordinance;

"summer time" means summer time as defined in section 68;

"Supreme Court" means the Supreme Court of Hong Kong;

"surname" includes a clan or family name;

"territorial waters" means such part of the sea adjacent to the coast of the Colony as is deemed by international law to constitute the territorial waters of Hong Kong;

"treaty" means a treaty, convention or agreement made with a foreign state, and any protocol or declaration attached thereto or independent thereof but referring thereto;

"triable summarily" means triable by a magistrate, in accordance with the provisions of the Magistrates Ordinance;

"trust territory" means a territory administered by the Government of any part of Her Majesty's dominions under the trusteeship system of the United Nations;

"United Kingdom" means the United Kingdom of Great Britain and Northern Ireland;

"urban areas" means the Colony, excluding the New Territories except New Kowloon;

(14 of 1955). "Urban Council" means the Urban Council established by the Urban Council Ordinance 1955;

"vessel" means any ship or boat and any description of vessel used in navigation;

"waters of the Colony" and "Colonial waters" mean—

(a) all waters, whether navigable or not, included in the Colony; and

(b) territorial waters;

"will" includes any testamentary instrument;

"words" includes figures and symbols;

"writing" and "printing" include writing, printing, lithography, photography, typewriting and any other mode of representing words in a visible form;

"year" means a year according to the Gregorian calendar;

"years of age" and words of a like meaning, when used with reference to the age of any person, mean years of age according to the English reckoning of ages.

4. (1) "Commonwealth" means collectively—

(a) the United Kingdom;

(b) any British territory; and

(c) any other state or territory which may be specified by the Governor in accordance with the provisions of subsection (3).

(2) "British territory" and "British possession" mean any state or territory which may be specified by the Governor in accordance with the provisions of subsection (3).

(3) The Governor may, by notice in the *Gazette*, order that any state or territory shall be a state or territory specified for the purposes of paragraph (c) of subsection (1) or of subsection (2).

5. Where any word or expression is defined in any Ordinance, such definition shall extend to the grammatical variations and cognate expressions of such word or expression.

6. Where reference is made in any Ordinance to property and the expressions used in relation thereto imply that such property is owned by, or belongs to, the Government, or convey a similar meaning, such reference shall be deemed to refer to such of the property of the Crown of the description mentioned as has been appropriated to the use of the Government.

7. (1) Words and expressions importing the masculine gender include the female.

(2) Words and expressions in the singular include the plural and words and expressions in the plural include the singular.

8. Where any Ordinance authorizes or requires any documents to be served or any notice to be given by post or by registered post, whether the expression "serve" or "give" or "send" or any other expression is used, the service or notice shall be deemed to be effected by properly addressing, pre-paying the postage thereon and dispatching by post or by registered post, as the case may be, to the last known postal address of the person to be served or given notice, an envelope containing the document or notice, and, unless the contrary is proved, such service or notice shall be deemed to have been effected at the time at which the envelope would be delivered in the ordinary course of post.

Definitions of "Commonwealth" and "British territory".

Grammatical variations and cognate expressions.

References to Government property.

Provisions for gender and number.

Service by post.

Chinese terms.

9. (1) Chinese words and terms, whether or not in Chinese characters and whether or not in apposition to English words, shall be deemed to form part of any Ordinance in which they appear and shall be construed according to Chinese language and custom.

(2) If there is any conflict in any Ordinance between the meaning of Chinese words or terms and English words used therein, the meaning of the English words shall prevail.

References to pounds sterling.

10. (1) Any reference in any law to a number of pounds sterling shall have effect as if such reference included a reference to sixteen times that number of Hong Kong dollars.

(2) The Governor in Council may from time to time, by notice in the *Gazette*, amend subsection (1) to provide that reference to a number of pounds sterling in any law shall include a reference to a number of Hong Kong dollars greater or less than sixteen times the number of pounds sterling.

PART III.

GENERAL PROVISIONS AS TO ORDINANCES.

Ordinance to be public Ordinance.

11. Every Ordinance shall be a public Ordinance and shall be judicially noticed as such.

Sections and schedules.

12. (1) Every section of an Ordinance shall have effect as a substantive enactment without introductory words.

(2) Every schedule to or table in any Ordinance and any notes to such schedule or table shall be construed and have effect as part of such Ordinance.

Citation of Ordinance.

13. (1) Where any Ordinance is referred to, it shall be sufficient for all purposes to cite such Ordinance by—

- (a) the title, short title or citation thereof;
- (b) its number among the Ordinances of the year in which it was enacted; or
- (c) by any chapter number lawfully given to it under the authority of any Ordinance providing for the issue of a revised or other editions of the laws of Hong Kong.

(2) Any reference made to any Ordinance, in accordance with the provisions of subsection (1), may be made according to the title, short title, citation, number or chapter number used in copies of Ordinance printed by the Government Printer.

14. (1) Where it is provided that any Ordinance may, as to the whole or any part thereof, be cited with any other Ordinance or with any group of Ordinances, all such Ordinances shall be read and construed together, and any such group shall be construed as including such first mentioned Ordinance.

Collective citation.

(2) Where it is provided that two or more Ordinances may together be cited by a collective short title or citation containing therein the years of the first and last of such Ordinances, such short title or citation shall be construed to include all the Ordinances covered by the same, or any of them.

15. (1) Where in any Ordinance a reference is made to another Ordinance, such reference shall be deemed to include a reference to such last mentioned Ordinance as the same may from time to time be amended.

Reference to Ordinance as amended.

(2) Where any Ordinance repeals and re-enacts, with or without modification, any provision of a former Ordinance, references in any other Ordinance to the provision so repealed shall be construed as references to the provision so re-enacted.

16. In any Ordinance a description or citation of a portion of an Ordinance shall be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Citation of part of Ordinance.

17. (1) Any reference in any Ordinance to "any Ordinance" or to "any enactment" shall be construed as a reference to any Ordinance for the time being in force.

Construction of reference to Ordinance, section, etc.

(2) Where in any Ordinance there is a reference to a section, Part, Chapter or schedule by number or letter only, and not in conjunction with the title or short title of any other Ordinance, such reference shall be construed as a reference to the section, Part, Chapter or schedule of that number or letter contained in the Ordinance in which such reference occurs.

(3) Where in any section of any Ordinance there is a reference to a subsection, paragraph, sub-paragraph or other division by number or letter only, and not in conjunction with the number of any section of that or of any other Ordinance, such reference shall be construed as a reference to the subsection, paragraph, sub-paragraph or other division of that number or letter contained in the section in which such reference occurs.

(4) The provisions of subsections (2) and (3) shall apply *mutatis mutandis* to subsidiary legislation.

(5) Any reference to an Ordinance in any Ordinance shall include a reference to any subsidiary legislation made under the Ordinance to which reference is made.

Marginal notes.

18. (1) Where any section, subsection or paragraph of any Ordinance is taken verbatim from, or is substantially similar to, a section, subsection or paragraph of any imperial enactment, there may be added to the marginal note of the section, subsection or paragraph of the Ordinance a reference, in abbreviated form, to such section, subsection or paragraph of the imperial enactment.

(2) A reference added under subsection (1) shall not have any legislative effect and shall not in any way vary, limit or extend the interpretation of any Ordinance.

(3) A marginal note to any provision of any Ordinance shall not have any legislative effect and shall not in any way vary, limit or extend the interpretation of any Ordinance.

General principles of interpretation.

19. An Ordinance shall be deemed to be remedial and shall receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Ordinance according to its true intent, meaning and spirit.

PART IV.

COMMENCEMENT, DISALLOWANCE, AMENDMENT AND REPEAL.

Commencement of Ordinance.

20. Every Ordinance shall—

- (a) be published in the *Gazette*; and
- (b) come into operation on the expiration of the day next preceding the day of such publication or, if it is provided in the Ordinance or in some other law that such Ordinance shall come into operation on some other day, then it shall come into operation on the expiration of the day next preceding such other day.

Disallowance.

21. (1) Where any Ordinance is disallowed by Her Majesty, such disallowance shall be notified by the Governor by notice in the *Gazette*; and from and after the date of publication of such notice the Ordinance shall cease to have effect.

(2) Where notice of disallowance of any Ordinance is notified in accordance with the provisions of subsection (1), the provisions of section 23 shall apply in respect of such disallowance as if the words "disallowance" and "disallowed" were substituted therein for the words "repeal" and "repealed" respectively.

(3) Any Ordinance repealed or amended by any Ordinance disallowed shall revive and continue in force in its original form with effect from the date of publication of the notice referred to in subsection (1).

22. Any Ordinance which amends any other Ordinance shall be read and construed as one with the amended Ordinance, and the amended Ordinance may, in the amending Ordinance, be referred to as the "principal Ordinance", "principal regulations" or as the case may be.

Ordinance and amending Ordinance to be read as one.

23. Where an Ordinance repeals in whole or in part any other Ordinance, the repeal shall not—

Effect of repeal generally.

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of any Ordinance so repealed or anything duly done or suffered under any Ordinance so repealed;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any Ordinance so repealed;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any Ordinance so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Ordinance had not been passed.

24. Where any Ordinance repealing in whole or in part any former Ordinance is itself repealed, such last repeal shall not revive the Ordinance or provision previously repealed, unless provision is made to that effect.

Repealed Ordinance not revived.

25. Where any Ordinance repeals in whole or in part any other Ordinance and substitutes other provisions therefor, the repealed Ordinance shall remain in force until the substituted provisions come into operation.

Repeal and substitution.

26. Where any Ordinance which has been amended by any other Ordinance is repealed, such repeal shall include the repeal of all those provisions of such other Ordinance by which such first mentioned Ordinance was amended.

Repeal of amended Ordinance to include amendments.

27. Upon the expiry or lapse of any Ordinance, the provisions of section 23 shall apply as if such Ordinance had been repealed.

Effect of expiry of Ordinance.

PART V.
SUBSIDIARY LEGISLATION.

General provision with regard to power to make subsidiary legislation.

28. Where an Ordinance confers power on any authority to make subsidiary legislation, the following provisions shall have effect with reference to the making thereof—

- (a) when any subsidiary legislation purports to be made in exercise of a particular power or powers, it shall be deemed also to be made in exercise of all other powers thereunto enabling;
- (b) no subsidiary legislation shall be inconsistent with the provisions of any Ordinance;
- (c) subsidiary legislation may at any time be amended by the same authority and in the same manner by and in which it was made:

Provided that where such authority has been replaced wholly or in part by another authority, the power conferred hereby upon the original authority may be exercised by the replacing authority concerning all matters or things within its jurisdiction as if it were the original authority;

- (d) where any Ordinance confers power on any authority to make subsidiary legislation for any general purpose, and also for any special purpose incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose;
- (e) subsidiary legislation may provide that a contravention or breach thereof shall be punishable on summary conviction by such fine not exceeding two thousand dollars or by such term of imprisonment not exceeding six months as may be specified in the subsidiary legislation or by both such fine and imprisonment;
- (f) subsidiary legislation may amend any forms contained in the Ordinance under which such subsidiary legislation is made and may prescribe new forms for the purpose thereof and for the purposes of such subsidiary legislation; and
- (g) subsidiary legislation may provide for the imposition of fees and charges in respect of any matter with regard to which provision is made in such subsidiary legislation or in the Ordinance under which such subsidiary legislation is made.

Fees and charges.

29. (1) Where provision is made by any subsidiary legislation in respect of fees or other charges, such subsidiary legislation may provide for all or any of the following matters—

- (a) specific fees or charges;

- (b) maximum or minimum fees or charges;
- (c) maximum and minimum fees or charges;
- (d) the payment of fees or charges either generally or under specified conditions or in specified circumstances;
- (e) the exemption of any person or class of persons from the payment of fees or charges; and
- (f) the reduction, waiver or refund, in whole or in part, of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.

(2) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for by any subsidiary legislation, such reduction, waiver or refund may be expressed to apply or be applicable either generally or specially—

- (a) in respect of certain matters or transactions or classes of matters or transactions;
- (b) in respect of certain documents or classes of documents;
- (c) in respect of the occurrence or the termination of any event;
- (d) in respect of certain persons or classes of persons; or
- (e) in respect of any combination of such matters, transactions, documents, events or persons,

and may be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified therein.

30. Subsidiary legislation shall have the same force and effect and shall be as binding and shall be construed for all purposes as if it had been contained in the Ordinance under which it was made.

Effect of subsidiary legislation.

31. Where any Ordinance confers power to make any subsidiary legislation, expressions used in the subsidiary legislation shall have the same meaning as in the Ordinance conferring the power, and any reference in such subsidiary legislation to "the Ordinance" shall be construed as a reference to the Ordinance conferring the power to make such subsidiary legislation.

Construction of subsidiary legislation.

32. Where an Ordinance is not to come into operation on or before the expiration of the day next preceding the day of the publication thereof and confers power to make any appointment, to make any subsidiary legislation, to issue notices, to prescribe forms or to do any other thing for the purposes of the Ordinance, such power may be exercised at any time after the publication of the Ordinance in the *Gazette*:

Exercise of statutory powers between enactment and commencement of Ordinance.

Provided that any appointment, subsidiary legislation, instrument, notice, form or thing made, granted, issued, prescribed, given or done under such power shall not, unless the appointment, subsidiary legislation, instrument, notice, form or thing is necessary for bringing the Ordinance into operation, come into operation or have any effect until the Ordinance comes into operation.

Acts done under subsidiary legislation deemed done under Ordinance.

33. An act shall be deemed to be done under an Ordinance or by virtue of the powers conferred by an Ordinance or in pursuance or execution of the provisions of or under the authority of an Ordinance, if it is done under or by virtue of or in pursuance or execution of or under the authority of subsidiary legislation made under any power contained in that Ordinance.

Placing of rules, regulations and by-laws before Legislative Council.

34. (1) All rules, regulations and by-laws shall be laid on the table of the Legislative Council at the next meeting thereof after the publication in the *Gazette* of such rules, regulations or by-laws.

(2) Where rules, regulations or by-laws have been laid on the table of the Legislative Council, in accordance with the provisions of subsection (1), the Legislative Council may, by resolution passed at the next meeting of the Legislative Council held after the meeting at which they were so laid, provide that any such rules, regulations or by-laws shall be amended in any manner whatsoever, and if any such resolution is so passed, the said rules, regulations or by-laws shall, without prejudice to anything done thereunder, be deemed to be amended as from the date of publication in the *Gazette* of such resolution.

(3) Any resolution passed by the Legislative Council in accordance with subsection (2) shall be published in the *Gazette* not later than fourteen days after the passing thereof or within such further period as the Governor may allow in any particular case.

Approval of Legislative Council to subsidiary legislation.

35. Where any Ordinance provides that subsidiary legislation shall be subject to the approval of the Legislative Council or of any other authority, or contains words to the like effect, then—

- (a) the subsidiary legislation shall be submitted for the approval of the Legislative Council or other authority; and
- (b) the Legislative Council may by resolution or the other authority may by order amend the whole or any part of the subsidiary legislation.

Effect of repeal on subsidiary legislation.

36. (1) Where any Ordinance—

- (a) repeals any former Ordinance and substitutes other provisions therefor; or
- (b) repeals any former Ordinance and re-enacts such former Ordinance with or without modification,

any subsidiary legislation made under the former Ordinance and in force at the commencement of the repealing Ordinance shall, so far as it is not inconsistent with the repealing Ordinance, continue in force and have the like effect for all purposes as if made under the repealing Ordinance.

(2) Where any subsidiary legislation is continued in force by virtue of subsection (1), such subsidiary legislation may be from time to time amended as if it had been made under the repealing Ordinance.

37. Where any form is prescribed by or under any Ordinance, Forms. deviations therefrom, not affecting the substance of such form, shall not invalidate it.

PART VI.

POWERS.

38. Where any Ordinance confers power upon any person to—

- (a) make any subsidiary legislation;
- (b) make any instrument; or
- (c) exercise any power,

Presumption of lawful exercise of power.

and the Ordinance conferring the power prescribes conditions, subject to the observance, performance or existence of which any such power may be exercised, such conditions shall be presumed to have been duly fulfilled if in the subsidiary legislation or instrument exercising the power there is a statement that the subsidiary legislation or instrument is made, or the power exercised, in exercise of, or in pursuance of, the power conferred by such Ordinance, or a statement to the like effect.

39. (1) Where any Ordinance confers any power or imposes any duty, then the power may be exercised and the duty shall be performed from time to time as occasion requires.

Exercise of powers.

(2) Where any Ordinance confers any power or imposes any duty on the holder of any public office as such, then the power may be exercised and the duty shall be performed by the holder for the time being of that public office.

40. (1) Where any Ordinance confers upon any person power to do or enforce the doing of any act or thing, all such powers shall be deemed to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.

Construction of enabling words.

(2) Without prejudice to the generality of subsection (1), where any Ordinance confers power—

- (a) to provide for, prohibit, control or regulate any matter, such power shall include power to provide for the same by the

licensing thereof and power to prohibit acts whereby the prohibition, control or regulation of such matter might be evaded;

- (b) to grant a licence, Crown lease, permit, authority, approval or exemption, such power shall include power to impose reasonable conditions subject to which such licence, Crown lease, permit, authority, approval or exemption may be granted;
- (c) to approve any person or thing, such power shall include power to withdraw approval thereof;
- (d) to give directions, such power shall include power to couch the same in the form of prohibitions.

(3) Without prejudice to the generality of subsection (1), whenever in any Ordinance the expression "as the Governor may appoint" or "as the Governor may direct" or "as the Governor may specify" or "as the Governor may prescribe" or "as may be designated by the Governor", or any similar expression referring to the Governor, appears and no power is expressly conferred upon the Governor to make the appointment, give the direction or specification, prescribe or make the designation, as the case may be, such power shall nevertheless be deemed to be conferred.

(4) Subsection (3) shall have effect in relation to the Governor in Council, a public officer, a public body or other person as it has effect in relation to the Governor.

Power to issue licences, etc. discretionary.

41. (1) Where any Ordinance confers power upon any person to issue, grant, give or renew any licence, Crown lease, authority, approval or permit, the person so empowered shall have a discretion either to issue, grant, give or renew or to refuse to issue, grant, give or renew such licence, Crown lease, authority, approval or permit.

(2) Nothing in this section shall affect any right which may be conferred by any Ordinance upon any person to appeal against a refusal to issue, grant, give or renew any licence, Crown lease, authority, approval or permit.

Power to appoint includes power to suspend, dismiss, re-appoint, etc.

42. Where any Ordinance confers a power or imposes a duty upon any person to make any appointment or to constitute or establish any board, tribunal, commission, committee or similar body, then the person having such power or duty shall also have the power—

- (a) to remove, suspend, dismiss or revoke the appointment of, and to re-appoint or reinstate, any person appointed in exercise of such power or duty;
- (b) to revoke the appointment, constitution or establishment of, or to dissolve, any board, tribunal, commission, committee or

similar body appointed, constituted or established, in exercise of such power or duty, and to re-appoint, re-constitute or re-establish the same; and

- (c) to specify the period for which any person appointed in exercise of such power or duty shall hold such appointment:

Provided that where the power or duty of such person so to act is only exercisable upon the recommendation, or is subject to the approval or consent, of some other person, then such power shall only be exercisable upon such recommendation or subject to such approval or consent.

43. (1) Where any Ordinance confers powers or imposes duties upon a specified public officer, such public officer may delegate any other public officer or the person for the time being holding any office designated by him to exercise such powers or perform such duties on his behalf, and thereupon, or from the date specified by such specified public officer, the person delegated shall have and may exercise such powers and perform such duties.

Delegation by specified public officers.

(2) Nothing in subsection (1) shall authorize a specified public officer to delegate any person to make subsidiary legislation or to hear any appeal.

(3) Where any Ordinance confers any power or imposes any duty upon a specified public officer and such power is exercised or such duty is performed by any other public officer, the specified public officer shall, unless the contrary is proved, be deemed to have delegated the latter public officer under subsection (1) to exercise the power or perform the duty.

(4) In this section "specified public officer" means the person for the time being holding any public office which has been specified, either generally or for the purposes of any particular Ordinance, under this section by the Governor by notice in the *Gazette*.

44. (1) Where any Ordinance confers power upon any person to delegate the exercise on his behalf of any of the powers or the performance of any of the duties conferred or imposed upon him under any Ordinance—

Effect of delegation of powers and duties.

- (a) such delegation shall not preclude the person so delegating from exercising or performing at any time any of the powers or duties so delegated;
- (b) such delegation may be conditional, qualified or limited in such manner as the person so delegating may think fit;
- (c) where the delegation may be made only with the approval of some person, such delegation may be conditional, qualified or limited in such manner as the person whose approval is required may think fit; and

(d) the delegation may be to a named person or to the person for the time being holding any office designated by the person so delegating.

(2) The delegation of any power shall be deemed to include the delegation of any duty incidental thereto or connected therewith and the delegation of any duty shall be deemed to include the delegation of any power incidental thereto or connected therewith.

Exercise of powers in special cases.

45. Where any Ordinance confers any power or imposes any duty upon the holder of any public office and either—

- (a) that office has been abolished; or
- (b) no person has been appointed to discharge the functions of that office,

those powers and duties may be exercised or performed—

- (i) in the case of making subsidiary legislation, by the Governor; and
- (ii) in any other case, by the holder of such other public office as the Governor may by order direct.

Power to make public instruments and perform acts.

46. Where any Ordinance confers power upon any person to make, issue or approve any proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list, such power shall include power—

- (a) to amend or suspend such proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list;
- (b) to substitute another proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list for one already made, issued or approved;
- (c) to withdraw approval of any proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list so approved; and
- (d) to declare the date of the coming into operation, and the period of operation, of any such proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list.

Power to relate back appointment

47. Any appointment made under the provisions of any Ordinance may be declared to have effect as from the date upon which the person appointed in fact began to exercise the powers and perform the duties of his appointment, not being a date earlier than the commencement of the Ordinance under which the appointment is made.

PART VII.

BOARDS AND COMMITTEES.

48. Where any Ordinance confers power upon any person to appoint any persons to be members of any board, tribunal, commission, committee or similar body, the person so appointing may appoint a chairman, a deputy chairman, a vice-chairman and a secretary of such board, tribunal, commission, committee or similar body.

Power to appoint chairman.

49. Where any Ordinance confers power upon any person to appoint any persons to be members of any board, tribunal, commission, committee or similar body, the person so empowered may appoint any public officer, by his official designation, to be a member of such board, tribunal, commission, committee or similar body, and, on such appointment and until such appointment shall be revoked or otherwise determined, the person for the time being holding the public office in question shall be a member of such board, tribunal, commission, committee or similar body.

Power to appoint public officer to board, etc.

50. Where any board, tribunal, commission, committee or similar body is established by or under any Ordinance, any person who is empowered by such Ordinance to appoint any or all of the members thereof may—

Appointment of alternates.

- (a) appoint one or more duly qualified persons to be alternate members of the same, and any one such alternate member may attend any meeting of the same when a substantive member is temporarily unable to attend for any reason; and
- (b) appoint a duly qualified person to be a temporary member of the same in the place of any substantive member who is precluded by illness, absence from the Colony or any other cause from exercising his functions as such,

and when attending any meeting of such board, tribunal, commission, committee or similar body, such alternate or temporary member shall be deemed for all purposes to be a member of the same.

51. Where any board, tribunal, commission, committee or similar body is established by or under any Ordinance, the powers of such board, tribunal, commission, committee or similar body shall not be affected by—

Powers of board, etc. not affected by vacancy.

- (a) any vacancy in the membership thereof;
- (b) any defect in the appointment or qualification of a person purporting to be a member thereof; or
- (c) any minor irregularity in the convening of any meeting thereof.

Power of majority and exercise of powers.

52. (1) Where any Ordinance confers a power or imposes a duty upon a body or number of persons consisting of or being not less than three, such power may be exercised or duty performed in the name of that body or number of persons by a majority of those persons.

(2) Whenever such body or number of persons is assembled, the chairman or other member presiding shall have a casting as well as a deliberative vote, in all matters in which a decision is taken by vote by whatever name such vote may be called.

(3) The exercise of any power vested in such body or number of persons may be signified either by the chairman or other person presiding at the meeting or other deliberation at which such power was exercised or at which, as the case may be, authority to exercise it was conferred, or by any person from time to time authorized by such body or persons to signify the exercise of such power.

Seal.

53. Where any Ordinance constitutes any board, tribunal, commission, committee or similar body to be a body corporate having perpetual succession and a common seal, and any document requires to be sealed with such common seal, then such common seal shall be affixed by the chairman of such board, tribunal, commission, committee or similar body, or by any member thereof appointed by the chairman for that purpose, and shall be authenticated by the signature of the chairman or such member.

PART VIII.

PUBLIC OFFICERS AND PUBLIC CONTRACTS.

References to public officer.

54. In any Ordinance, instrument, warrant or process of any kind, any reference to a public officer, or to a person holding a public office by a term designating his office, shall include a reference to any person for the time being lawfully discharging the functions of that office, or of any part of such functions, and any person appointed to act in or perform the duties of such office, or any part of such duties, for the time being.

Change of title of office.

55. The Governor may, by notice (which may be given retrospective effect) in the *Gazette*, declare a change in title of any public office or Government department, and such change of title shall have effect from the date specified in such notice or, if no date is specified therein, from the date of publication thereof in the *Gazette* and with effect from such day, any reference in any Ordinance to the former title of such public office or Government department shall be read and construed as a reference to that office or department by such new title as the Governor may have so declared.

56. Where any Ordinance confers power upon any person to appoint or name a person to have and exercise any powers or perform any duties, the person so empowered may either appoint a person by name or direct the person for the time being holding any office designated by him to have and exercise such powers or perform such duties; and thereupon, or from the date specified by the person so empowered, the person appointed by name or the person holding the office aforesaid shall have and may exercise such powers or perform such duties accordingly until such appointment be revoked or otherwise determined.

Appointment of officers by name or office.

57. (1) When any Ordinance confers a power or imposes a duty upon a public officer and such public officer is unable to exercise the powers or perform the duties of his office, owing to absence or inability to act from illness or any other cause, the Governor may, by notice in the *Gazette*, direct that such power shall be had and may be exercised and such duty shall be performed by a public officer named by, or by a public officer holding the office designated by, the Governor, subject to such conditions, exceptions and qualifications as the Governor may direct.

Filling vacancy.

(2) Any direction by the Governor under subsection (1) may be given—

- (a) in anticipation of any absence or inability occurring; or
- (b) subsequently thereto and may relate back to the commencement of such absence or inability.

(3) Where any Ordinance confers powers or imposes duties upon a public officer and a new post is subsequently created in the same or another Government department, the Governor may, by notice in the *Gazette*, direct that the said powers and duties or any of them shall be exercised by any holder of the new post so created, either to the exclusion of or in addition to the first named public officer or otherwise.

58. (1) Where the holder of any public office is on leave of absence pending the relinquishment by him of such office, another person may be appointed to the same public office.

Power to appoint while holder on retirement leave.

(2) Where two or more persons are holding the same public office by reason of an appointment made in accordance with subsection (1), then, for the purposes of any Ordinance and in respect of any power conferred or duty imposed upon the holder of such office, the person last appointed to the office shall be deemed to be the holder thereof.

59. In any contract or other document, signed, executed or made by the Governor or by any public officer on behalf of the Governor or the Government or of any Government department, it shall not be necessary to name the Governor or such public officer, but it shall be

Contracts by public officer.

sufficient to name the office held by the Governor or such public officer, and the Governor or public officer shall be deemed to be a party thereto as if the Governor or such public officer were a corporation sole with perpetual succession for this purpose.

Effect of past contracts by public officer.

60. Any contract or other document signed, executed or made before the commencement of this Ordinance by the Governor or by any public officer on behalf of the Governor or the Government or of any Government department shall be enforceable as if the office of Governor or such public officer had, at the time of such execution or making, been a corporation sole with perpetual succession for this purpose.

Omission of title after signature of public officer immaterial.

61. The omission to add the title of the public office held by the Governor or any public officer signing or executing any contract or other document after the signature of such officer shall not exclude such contract or other document from the operation of sections 59 and 60.

PART IX.

CROWN, GOVERNOR AND GOVERNOR IN COUNCIL.

Signification of orders of Governor and Governor in Council.

62. (1) Where any Ordinance confers a power or imposes a duty upon the Governor or the Governor in Council to make any subsidiary legislation or appointment, give any directions, issue any order, authorize any thing or matter to be done, grant any exemption, remit any fee or penalty, or exercise any other power or perform any other duty, the exercise of such power or the performance of such duty may be signified—

- (a) in the case of the Governor, under the hand of the Colonial Secretary;
- (b) in the case of the Governor in Council, under the hand of the Clerk of Councils.

(2) Notwithstanding the provisions of subsection (1), proclamations shall be made or issued only under the hand of the Governor himself.

Delegation by Governor.

63. (1) Where any Ordinance confers powers or imposes duties upon the Governor, he may delegate any person by name or the person holding any office designated by him to exercise such powers or perform such duties on his behalf and thereupon, or from the date specified by the Governor, the person so delegated shall have and may exercise such powers and perform such duties.

(2) Without prejudice to the provisions of any Letters Patent or Royal Instructions relating to the appointment of a deputy to the Governor, nothing in subsection (1) shall authorize the Governor to delegate any person to make subsidiary legislation, issue proclamations or to determine any appeal.

(3) Where any Ordinance confers powers or imposes duties upon the Governor and such power is exercised or such duty is performed by any public officer, the Governor shall, unless the contrary is proved, be deemed to have delegated such public officer under subsection (1) to exercise the power or perform the duty.

64. (1) Where any Ordinance confers upon any person a right of appeal, other than by way of petition, to the Governor in Council against any decision of any person, public officer or public body, such appeal shall be governed by rules made in accordance with subsection (2).

Appeals to Governor in Council.

(2) The Governor in Council may make rules governing the procedure to be followed in appeals, other than by way of petition, to the Governor in Council.

(3) The conferring by any Ordinance of a right of appeal to the Governor in Council shall not prevent any person from applying to the Supreme Court for an order of *mandamus*, *certiorari*, prohibition, injunction or any other order, instead of appealing to the Governor in Council, where an application for such an order would lie, but no proceedings by way of *mandamus*, *certiorari*, prohibition, injunction or other order shall be taken against the Governor in Council in respect of any such appeal to the Governor in Council or any proceedings connected therewith.

(4) The Governor in Council, when considering any appeal to him (whether by way of petition or otherwise, and whether such appeal is made by virtue of any Ordinance or otherwise) shall act in an administrative or executive capacity and not in a judicial or quasi-judicial capacity and shall be entitled to consider and take into account any evidence, material, information or advice in his absolute discretion.

(5) The Governor in Council, when considering any appeal to him (whether by way of petition or otherwise and whether such appeal is made by virtue of any Ordinance or otherwise) against any decision of any person, public officer or public body, may confirm, vary or reverse such decision or substitute therefor such other decision or make such other order as the Governor in Council may think fit.

65. Any reference to the Sovereign or to the Crown shall be construed as a reference to the Sovereign for the time being.

References to the Sovereign.

Saving of rights of Crown.

66. No Ordinance shall in any manner whatsoever affect the right of or be binding on the Crown unless it is therein expressly provided or unless it appears by necessary implication that the Crown is bound thereby.

PART X.

TIME AND DISTANCE.

Standard time.

67. (1) Standard time means the mean time of the 120th meridian East of Greenwich, that is to say eight hours in advance of Greenwich Mean Time.

(2) Whenever any expression of time occurs in any Ordinance, the time referred to shall be held to be—

- (a) summer time, during the period thereof;
- (b) at all other times, standard time.

Summer time.

68. (1) Summer time in the Colony shall be one hour in advance of standard time as defined in section 67.

(2) The period of summer time shall be the period between 3.30 (standard time) in the morning of the first Sunday after the 15th April and 3.30 (summer time) in the morning of the first Sunday after the 15th October in each year.

(3) Nothing in this section or section 67 shall affect the use of Greenwich Mean Time for the purposes of astronomy, meteorology, navigation or aviation, or affect the construction of any document mentioning or referring to a point of time in connexion with any of these purposes.

References to "a.m." and "p.m."

69. The expression "a.m." indicates the period between midnight and the following noon, and the expression "p.m." indicates the time between noon and the following midnight. Where two such expressions occur conjunctively in relation to any specified hour or in conjunction with the word "sunset" or "sunrise", they shall be construed as relating to a consecutive period of time.

Provision where no time prescribed.

70. Where no time is prescribed or allowed within which any thing shall be done, such thing shall be done without unreasonable delay, and as often as due occasion arises.

Computation of time.

71. In computing time for the purposes of any Ordinance—

- (a) a period of days from the happening of any event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;

(b) if the last day of the period is a public holiday the period shall include the next following day, not being a public holiday;

(c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day is a public holiday, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next following day, not being a public holiday;

(d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, no public holiday shall be reckoned in the computation of that time.

72. Where in any Ordinance a time is prescribed for doing any act or taking any proceeding and power is given to a court, public body, public officer or other authority to extend such time, then the power may be exercised by the court, public body, public officer or other authority although the application for the same is not made until after the expiration of the time prescribed. Power to extend time

73. In the measurement of any distance for the purposes of any Ordinance, that distance shall be measured in a straight line on a horizontal plane. Distance.

74. Any summons, notice, warrant or other process may be issued, served or executed and any arrest, search or seizure may be carried out or made on any day, whether a public holiday or not, and at any hour of the day or night. Warrants, etc. valid on public holiday.

PART XI.

IMPERIAL ENACTMENTS.

75. An imperial enactment shall be judicially noticed as such and shall be read with such modifications as to names, localities, courts, officers, persons, moneys, penalties or otherwise as may be necessary to make the same applicable to the circumstances of the Colony. Modifications.

76. An imperial enactment may be cited by a short title or citation, if any, or by reference to the regnal or calendar year in which it was passed or by the number assigned to any statutory instrument or statutory rule and order. Citation of imperial enactments.

77. A reference in any law to an imperial enactment or to any provision, part or division thereof shall be construed as a reference to the same as the same may be from time to time amended and as a reference to any imperial enactment or to any provision, part or division thereof, substituted therefor. Construction of reference to imperial enactment.

References to subsidiary legislation under imperial Acts.

78. A reference in any law to any imperial Act shall include a reference to any Order in Council, rule, regulation, proclamation, order, notice, rule of court, by-law or other instrument made under or by virtue thereof and having legislative effect.

Construction of imperial enactments.

79. Any imperial enactment shall be construed in accordance with the terms thereof and of any interpretation statute applicable thereto and, to the extent to which no provision is made in the imperial enactment or in such statute for the interpretation thereof, in accordance with the provisions of this Ordinance as if such imperial enactment were itself an Ordinance; and any reference in this Ordinance to an Ordinance shall, in the interpretation of an imperial enactment, include a reference to imperial enactments.

Proof of imperial enactments.

80. A copy of—

- (a) any printed collection purporting to be printed or published by authority; or
- (b) the *Gazette*, purporting to be printed by the Government Printer,

containing any imperial enactment, shall be *prima facie* evidence in all courts and for all purposes whatsoever of the due making and tenor of such imperial enactment, without any proof being given that such copy was so printed.

PART XII.

FEES, PENALTIES, OFFENCES AND PROCEEDINGS.

Attempts to commit offences.

81. (1) A provision in any Ordinance which creates or results in the creation of an offence shall be deemed to include a provision that an attempt to commit such an offence shall itself constitute an offence which may be dealt with and punished in like manner as if the offence had been committed.

(2) Where a person is charged with an offence, he may be convicted of having attempted to commit that offence although he was not charged with the attempt.

(3) Nothing in this section shall affect any law relating to attempts to commit offences at common law.

Reference to an offence to include attempts, etc.

82. (1) Where—

- (a) any Ordinance confers a power or imposes a duty which is to be exercised or performed consequent upon a conviction of an offence or in relation to a person who is detained in custody for an offence; or

(b) a reference is otherwise made in any Ordinance to an offence, then that power or duty or that reference shall be deemed to be also exercisable or performable consequent upon a conviction of, or include a reference to, as the case may be—

- (i) an attempt to commit that offence;
- (ii) aiding, abetting, counselling or procuring that offence; and
- (iii) a conspiracy to commit that offence.

(2) Subsection (1) shall apply to powers of imposing pecuniary penalties and of forfeiture, seizure and search, and to powers and discretions to cancel, suspend or refuse to issue any licence, permit or other authorization, but nothing in this section shall apply to any offence for which a sentence of death may be imposed, or be deemed to authorize the imposition of any sentence of imprisonment otherwise than in default of payment of any pecuniary penalty which may be imposed by virtue of this section.

83. Where any act constitutes two or more offences, whether under the same Ordinance or otherwise, the offender shall be liable to be prosecuted and punished for any or all such offences but shall not be liable to be punished twice for the same offence.

Acts constituting two or more offences.

84. Where a person by whom an offence under any Ordinance has been committed is a company and it is proved that the offence was committed with the consent or connivance of a director or other officer concerned in the management of the company, the director or other officer shall be guilty of the like offence.

Liability of directors, etc.

85. The imposition of a penalty or fine by or under any Ordinance shall not relieve any person from liability to answer in damages to a person injured.

Imposition of penalty not to bar civil action.

86. Where in any Ordinance a penalty is prescribed for an offence under that Ordinance, such provision shall imply—

- (a) that such offence shall be punishable upon conviction by a penalty not exceeding the penalty prescribed; and
- (b) if the amount of the fine is unspecified, that such offence shall, without prejudice to any law against excessive or unreasonable fines or assessments, be punishable by a fine of any amount.

Penalties prescribed to be deemed maximum penalties.

87. Where in any Ordinance a penalty is set out at the foot of any section or part thereof the same shall mean that any contravention of that section or part shall be an offence under such Ordinance punishable upon conviction by a penalty not exceeding the penalty so set out.

Statement of penalty at end of section.

88. Where in any Ordinance more than one penalty is prescribed for an offence, the use of the word "and" shall mean that the penalties may be inflicted alternatively or cumulatively.

Certain penalties may be cumulative.

Trial of offences.

89. (1) Where any provision in any Ordinance creates, or results in the creation of, an offence, the offence shall be triable summarily only, unless—

- (a) the offence is declared to be treason, felony or misdemeanor;
- (b) the words "upon indictment" appear; or
- (c) the offence is declared to be a "misdemeanor triable summarily".

(2) Where any provision in any Ordinance creates, or results in the creation of, an offence and—

- (a) the offence is declared to be treason, felony or misdemeanor; or

(b) subject to subsection (4), the words "upon indictment" appear, the offence shall be triable only upon indictment.

(3) Where any provision in any Ordinance creates, or results in the creation of, an offence and the offence is declared to be a "misdemeanor triable summarily", the offence shall be triable either on indictment or summarily.

(4) Where any provision in any Ordinance creates, or results in the creation of, an offence and the offence is declared to be triable either summarily or upon indictment or to be punishable on summary conviction or on indictment, the offence shall be triable either on indictment or summarily.

(5) Nothing in this section shall affect—

(Cap. 227).

- (a) the powers conferred upon a magistrate by the Magistrates Ordinance or by any other law to try an indictable offence summarily; or
- (b) the powers conferred upon the District Court by any law to try indictable offences.

Punishment of misdemeanor.

90. Where an offence is a misdemeanor by any law and no punishment is provided therefor, that offence shall be punishable by imprisonment for seven years and a fine of fifty thousand dollars.

Evidence of signature of fiat, etc.

91. Where the fiat, authorization, sanction, consent or authority of the Governor or any other public officer is necessary before any prosecution or action is commenced, or for any purpose whatsoever in connexion with any proceeding, any document purporting to bear the fiat, authorization, sanction, consent or authority of the Governor, or such public officer, as the case may be, shall, until the contrary is proved, be received as evidence in any proceeding without proof being given that the signature to such fiat, authorization, sanction, consent or authority is that of the Governor or such public officer.

92. Where an act or omission constitutes an offence and the penalty for such offence is varied between the time of the commission of such offence and the conviction therefor, the offender shall be liable to the penalty prescribed at the time of the commission of the offence. Amendment of penalty.

93. Any fine or penalty imposed by or under the authority of any Ordinance shall be paid into the general revenue of the Colony: Disposal of fines and penalties.

Provided that the Governor may direct the payment to any aggrieved person, or to any person whose information or evidence has led to the conviction of the offender or to the recovery of the fine or penalty, of such proportion of the fine or penalty as he may think fit.

94. (1) Where under any Ordinance any movable property is adjudged by any court or other authority to be forfeited, it shall be forfeited to the Crown, and the net proceeds thereof, if it is ordered by a competent authority to be sold, shall be paid into the general revenue of the Colony. Disposal of forfeits.

(2) Nothing in this section shall affect any provision in any Ordinance whereby any portion of any forfeit or of the proceeds of any forfeit is expressed to be recoverable by any person or may be granted by any authority to any person.

95. (1) The Legislative Council may by resolution award compensation, by way of either a single payment or periodical payments, from the general revenue of the Colony to any person injured in the execution of a moral or legal duty to assist in the prevention of or resistance to crime or any offence, or to the dependants of a person so injured who dies as a result of such injury. Award of compensation.

(2) Any award made under this section may be made subject to such conditions as may be specified in such resolution and may at any time be varied or revoked by the Legislative Council by resolution.

(3) No award made under this section shall be assignable or transferable or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever other than a debt due to the Government.

96. Any fee or charge made payable by or under any Ordinance to the Crown or the Government or to any public body or public officer, not being a fee or charge which is regulated by rules of court— Reduction, etc. of fees and charges.

- (a) may be reduced or varied by order of the Governor:

Provided that no variation thereof shall cause such fee or charge to exceed the original figure;

- (b) may be remitted or refunded, in whole or in part, in any particular case and on any special ground by the Governor;
- (c) subject as aforesaid shall be paid into or from the general revenue of the Colony.

Collection
of fees.

97. (1) Where by any Ordinance the signature of the Governor or of any public officer is required to any certificate, authorization, consent, licence, permit or exemption, or any alteration, transfer or renewal thereof, addition thereto or endorsement thereon, or any copy of the same, and no fee for such signature is prescribed by law, there shall be payable for such signature such fee as the Governor may prescribe by notice in the *Gazette*.

(2) Where any Ordinance requires or authorizes the issue of any document by a public officer, such public officer may, subject to any directions of the Governor, issue a duplicate of such document, upon payment of such fee as may be prescribed by law or as the Governor may prescribe by notice in the *Gazette* if no fee is prescribed by law.

(3) Where any Ordinance requires or authorizes any alteration, transfer, or endorsement of or addition to any certificate, authorization, consent, licence, permit or exemption by a public officer, such fee shall be payable therefor as may be prescribed by law or as the Governor may prescribe by notice in the *Gazette* if no fee is prescribed by law.

(4) Where an extract of any document, book, record or instrument may be properly certified by a public officer as a true extract of such document, book, record or instrument, such fee shall be payable for the certifying of the extract by such officer as may be prescribed by law or as the Governor may prescribe by notice in the *Gazette* if no fee is prescribed by law.

PART XIII.

MISCELLANEOUS.

Gazette to
be evidence
of matters
therein.

98. A copy of the *Gazette* containing any Ordinance or any instrument, or of any copy of any Ordinance or any instrument, purporting to be printed by the Government Printer, shall be *prima facie* evidence in all courts and for all purposes whatsoever of the due making and tenor of such Ordinance or instrument, without any proof being given that such copy of the *Gazette* was so printed.

Reprint of
Ordinances.

99. The Government Printer may, with the authority of the Governor, print copies of any Ordinance with all additions, omissions, substitutions and amendments effected by any amending Ordinances, and such copies shall be deemed to be authentic copies of the Ordinance so amended as at the date of such printing.

Perform-
ance of acts
for which
payment
required.

100. (1) Where any person, public officer, Government department or public body is required to do anything for which a fee is to be paid or a charge made under any Ordinance, such person, public officer, Government department or public body may decline to do that thing until the fee or charge is paid or, where the precise amount of the

payment to be made cannot be ascertained until the thing is done, until there be paid such amount as may be estimated to be the correct amount by the person, public officer or the responsible officer of the Government department or public body required to do the thing.

(2) Where a thing has been done for which an estimated amount shall have been paid, such amount shall be adjusted to the correct amount either by means of a further payment or by a refund of the amount overpaid.

101. The Governor may from time to time, by notice in the *Gazette*, amend all or any of the Schedules.

Amendment
of Schedules.

102. (1) The following Ordinances are hereby repealed—

Repeals.

(a) the Interpretation Ordinance;

(Cap. 1).

(b) the Official Signatures Fees Ordinance;

(Cap. 88).

(c) the Public Officers (Conviction of Crime) Ordinance;

(Cap. 91).

(d) the Compensation (Special Cases) Ordinance; and

(Cap. 118).

(e) the Summer Time Ordinance 1953.

(20 of 1953).

(2) Subsection (3) of section 25 of the Buildings Ordinance 1955, section 8 of the Holidays Ordinance and sections 18 to 22 inclusive of the Law Amendment (Miscellaneous Provisions) Ordinance are hereby repealed.

(68 of 1955).

(Cap. 149).

(Cap. 23).

FIRST SCHEDULE.

[s. 3.]

BOUNDARIES OF THE CITY OF VICTORIA.

On the north—The Harbour;

On the west—A line running due north and south drawn through the north-west angle of Inland Lot No. 1299 and extending southwards a distance of 850 feet from the aforesaid angle;

On the south—A line running due east from the southern extremity of the western boundary until it meets a contour in the vicinity of the Hill above Belchers 700 feet above principal datum, that is to say, a level 17.833 feet below the bench-mark known as "Rifleman's Bolt", the highest point of a copper bolt set horizontally in the east wall of the Royal Navy Office and Mess Block Naval Dockyard, and thence following the said contour until it meets the eastern boundary;

On the east—A line following the west side of the Government Pier, Bay View and thence along the west side of Hing Fat Street, then along the north side of Causeway Road to Moreton Terrace. Thence along the west side of Moreton Terrace to the south-east corner of Inland Lot No. 1580 and produced in a straight line for 80 feet, and thence along the north side of Cotton Path and produced until it meets the west side of Wong Nei Chong Road on the east side of Wong Nei Chong Valley and thence to the south-east angle of Inland Lot No. 1364, produced until it meets the southern boundary.

SECOND SCHEDULE.

[s. 3.]

BOUNDARIES OF THE COLONY.

On the south—The parallel of latitude 22°09' north between the points where it is intersected by the meridian of longitude 114°30' east of Greenwich and the line of the western boundary.

On the north—A line drawn from the point where the meridian of longitude 113°52' east of Greenwich intersects the parallel of latitude touching the extreme south-west point of the shore of Deep Bay to the said south-west point of the shore of Deep Bay; thence along the high water mark upon the shore of Deep Bay to the estuary of the Sham Chun River; thence by a line drawn as described in the agreement delineating the northern frontier of the New Territories signed by James Haldane Stewart LOCKHART and WONG Tsun-shin at Hong Kong on the 19th day of March, 1899, and following the high water mark in Mirs Bay to the point where the meridian of longitude 114°30' east of Greenwich intersects the mainland high water mark;

On the east—The meridian of longitude 114°30' east of Greenwich between the points where it intersects the mainland high water mark and the parallel of latitude 22°09' north;

On the west—The meridian of longitude 113°52' east of Greenwich between the point where it intersects the parallel of latitude touching the extreme south-west point of the shore of Deep Bay and the north coast of Lantau Island. The boundary then follows the western coast line of Lantau Island including the waters appertaining thereto to the extreme south-west point thereof and thence runs in a south-easterly direction to the extreme south-west point of Tai A Chau Island in the Soko Island Group and continues in the same straight line to the point at which it intersects the parallel of latitude 22°09' north.

THIRD SCHEDULE.

[s. 3.]

BOUNDARIES OF THE HARBOUR.

On the east—A straight line drawn from the westernmost extremity of Siu Chau Wan Point to the westernmost extremity of Ah Kung Ngam Point (sometimes known as Kung Am);

On the west—A straight line drawn from the westernmost point of Island of Hong Kong to the westernmost point of Green Island, thence a straight line drawn from the westernmost point of Green Island to the easternmost point of Tsing Yi Rock, thence a straight line drawn true north from the easternmost point of Tsing Yi Rock to Tsing Yi, thence along the eastern and northern coast lines of Tsing Yi to the westernmost extremity of Tsing Yi and thence a straight line drawn true north therefrom to the mainland.

FOURTH SCHEDULE.

[s. 3.]

AREA OF KOWLOON.

"Kowloon" means that portion of the peninsula of Kaulung which was ceded to Great Britain by the Emperor of China on the 24th day of October, 1860.

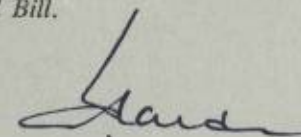
FIFTH SCHEDULE.

[s. 3.]

AREA OF NEW KOWLOON.

"New Kowloon" means that portion of the New Territories which is delineated in red and shown upon a plan marked "New Kowloon" dated the 8th day of December, 1937, signed by the Director of Public Works, countersigned by the Governor and deposited in the Land Office.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 26th day of October, 1966, and is found by me to be a true and correctly printed copy of the said Bill.



Deputy Clerk of Councils.

(Secretariat GR85/3231/47III)

HONG KONG

No. 32 OF 1966.



I assent.

Governor.

27th October, 1966.

An Ordinance further to amend the Magistrates Ordinance.

[28th October, 1966.]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

1. This Ordinance may be cited as the Magistrates (Amendment) Ordinance 1966. Short title.

2. Section 30 of the Magistrates Ordinance (hereinafter referred to as the principal Ordinance) is amended in subsection (3) by the deletion of the full stop and the insertion at the end thereof of the following— Amendment of section 30. (Cap. 227).

“or until it is withdrawn by any magistrate.”.

3. Section 54 of the principal Ordinance is amended by— Amendment of section 54.

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

(b) the insertion of the following new subsection—

“(2) A warrant issued under subsection (1) may remain in full force until it is executed or until it is withdrawn by any magistrate.”.

Addition of
new section
99.

4. The principal Ordinance is amended by the addition, after section 98, of the following new section—

"Issue of
summons or
warrant
for non-
payment of
fine.

99. (1) Where under any enactment a fine is imposed by a magistrate on a person and the fine is not paid forthwith or in such manner as may be allowed or directed, subject to such enactment, a magistrate may—

- (a) issue a summons to such person to appear before a magistrate, and, if that person does not appear in answer to the summons, issue a warrant to apprehend him; or
- (b) issue, in the first instance, a warrant to apprehend such person.

(2) On the appearance of such person before a magistrate in consequence of a summons or warrant issued under subsection (1), the magistrate may commit him to prison for such period as may be in accordance with the scale provided by section 67:

Provided that—

- (a) where the enactment under which the fine was imposed lays down a term of imprisonment either in addition to any pecuniary penalty or in lieu thereof, the period of imprisonment imposed under section 67 shall not exceed such a term;
- (b) in respect of the non-payment of a fine by a person to whom time has been allowed for payment or who has been directed to pay by instalments under section 40—

(i) a warrant of commitment to prison shall not be issued unless the magistrate first makes inquiry as to his means in his presence; and

(ii) after making such inquiry, the magistrate may, if he thinks fit, instead of issuing a warrant of commitment to prison, make an order extending the time allowed for payment or varying the amount of the instalments or the times at which the instalments were, by the previous direction of a magistrate, directed to be paid."

5. The principal Ordinance is amended by the repeal of Part VIII and the replacement thereof by the following—

Repeal
and replace-
ment of
Part VIII.

"PART VIII.

Miscellaneous.

Rules.

131. The Chief Justice, with the approval by resolution of the Legislative Council, may make rules for the carrying into effect of this Ordinance and for any matter ancillary thereto.

Regulations
as to costs
and fees.

132. (1) The Chief Justice, with the approval by resolution of the Legislative Council, may make regulations—

- (a) as to the fees to be taken (if any) at the magistrates' court in respect of any proceedings or of the issuing, service or execution of any process or otherwise;
- (b) as to the costs (if any) to be allowed for the attendance of witnesses or for legal assistance or otherwise;
- (c) fixing a scale of such fees and costs;
- (d) exempting any particular class of cases from the payment of any such fees or costs.

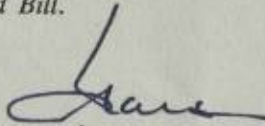
(2) A table of the fees and costs for the time being in force shall be hung up in some conspicuous part of the magistrates' court.

(3) A magistrate may refuse to do any act for which any fee is payable unless such fee has been paid, and, where any such act is done and the fee due thereon remains unpaid, any magistrate may summon the person from whom such fee is due and the fee may be recovered in the manner provided in this Ordinance for the recovery of a fine.

Amendment
of First
Schedule.

133. The Governor in Council may by order amend the First Schedule."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 26th day of October, 1966, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

(Secretariat L/M B 1844/65 in GR9/3231/53)

HONG KONG

No. 33 OF 1966.



I assent.

Governor.

27th October, 1966.

An Ordinance to make provision for the better establishment of the identity of certain portions of ground situated at Pok Fu Lam in the Island of Hong Kong with the parcels and plots of ground at the said Pok Fu Lam that were demised under a Crown Lease dated the 1st day of January, 1893.

[28th October, 1966.]

WHEREAS—

Preamble.

(1) by the said Crown Lease the said parcels of ground were demised respectively to the persons whose names are set out in a schedule to the said Lease for the terms of years stated in that schedule:

(2) the said parcels of ground are set out and described in the said schedule and were according to the said Lease more particularly delineated and described on a plan of Pok Fu Lam deposited in the Land Office:

(3) it appears that in association with the demise of a number of the said parcels of ground certain plots of ground were set aside as land for use in cultivation to be held at annual rents additional to those required to be paid in respect of such parcels of ground:

(4) the said plan of Pok Fu Lam has been mislaid and cannot now be found in consequence of which some difficulty arises as to the identity as aforesaid of the said parcels and plots of ground;

(5) for the avoidance of doubts and in the interests of the rightful lessees under the said Lease it is considered expedient that such identity be clearly established:

NOW, THEREFORE, BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

Short title.

1. This Ordinance may be cited as the Crown Lease (Pok Fu Lam) Ordinance 1966.

Interpretation.

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

“demised” means demised under the Lease;

“Director” means the Director of Public Works or his duly authorized representative;

“Lease” means the Indenture of Lease dated the 1st day of January, 1893, and made between the Crown of the one part and the several persons whose names are set out in the schedule to the Lease of the other part, whereby certain parcels of ground situated at Pok Fu Lam in the Island of Hong Kong were demised;

“original plan” means the plan of Pok Fu Lam mentioned in the Lease as being deposited in the Land Office;

“parcel” means any of the parcels of ground demised and set out and described in the schedule to the Lease;

“plot” means any of those plots of ground that in association with the demise of certain of the parcels appear to have been set aside as land for use in cultivation to be held at annual rents additional to the rents required to be paid in respect of such parcels;

“published” means published in the *Gazette* and in one daily newspaper printed in the English language for circulation in the Colony and in one such newspaper printed in the Chinese language.

Governor may direct the preparation of a plan.

3. As soon as may be after the commencement of this Ordinance the Governor may direct the Director to prepare a plan with the object of replacing for all purposes the original plan.

Preparation of plan.

4. On receipt of the direction under section 3, the Director shall prepare the plan and may cause such data and information to be obtained as he thinks fit for the purpose of assisting in the preparation of the plan.

5. The plan shall delineate and describe the parcels and plots in so far as is possible from existing records and the data and information obtained and shall—

Contents of plan.

- (a) indicate the position of each parcel and that of any plot set aside in association with the demise thereof;
- (b) give as far as practicable the current postal address of each parcel and any such plot;
- (c) give any other available information relevant to the establishment of the position of the parcels and plots.

6. Upon completion of the plan the Director shall cause a notice to be published declaring—

Completed plan to be open to inspection; and method of objection thereto.

- (a) that the plan has been prepared and is available for inspection by the public;
- (b) a suitable place at which the plan may be so inspected and the hours during which it shall be open to such inspection;
- (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 that is prejudicial to such interest may, within sixty days after the date of the publication of such notice in the *Gazette*, or within such longer period as the Governor may allow in any particular case, 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 together with sufficient indication of the grounds for such consideration, and requesting that the plan be corrected accordingly.

7. (1) Upon the expiration of the period specified or allowed under section 6, the Director shall consider the applications (if any) received by him pursuant to that section and may direct such further data and information to be obtained relative to any such application as he thinks fit.

Approval of plan by Director.

(2) After consideration of such applications and, if he has so directed, of any such further data and information obtained, 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 form as made available to the public under section 6, or as amended in accordance with this subsection and specifying the manner in which the same has been amended.

Application to District Court for amendment of plan.

8. (1) Any person claiming to have an interest in any land comprised in the plan as approved under subsection (2) of section 7 and who considers that such plan is incorrect in any manner that is prejudicial to such interest may, within thirty days after the publication under that subsection 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.

(18 of 1957).

(2) Notwithstanding anything contained in the Crown Proceedings Ordinance 1957, the Director shall be named as defendant in any application made under subsection (1), and the court, of its own motion or on application made to it, may in addition cause to be joined as co-defendant any person who it appears may be affected by any order which may be made directing the amendment of the plan.

(3) In any case in which a person to be joined as a co-defendant in proceedings under this section is absent from the Colony or cannot, after reasonable inquiry, be found, the court may in its discretion appoint a solicitor to represent such person.

(4) 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 the plan.

9. Where an application is made under section 8 within the time specified therein, 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 subsection (2) of section 7, either in the manner specified in the application or in such other manner as the court may think just.

Appeal to a judge.

10. Any party to an application made under section 8 who is aggrieved by a decision of the District Court under section 9 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 take the place of original plan.

11. The plan, as approved under subsection (2) of section 7, 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 9 and 10, respectively, shall be deemed for all purposes to be the original plan; and the Director shall cause a notice to be published stating that the plan stands as so approved, or, where the plan is so amended, specifying the manner in which it is amended.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 26th day of October, 1966, and is found by me to be a true and correctly printed copy of the said Bill.

Deputy Clerk of Councils.

(Secretariat BL14/3220/60)

HONG KONG

No. 34 OF 1966.



I assent.

Governor.

27th October, 1966.

An Ordinance further to amend the Waterworks Ordinance and to validate surcharges under the Waterworks Regulations.

[28th October, 1966.]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

1. This Ordinance may be cited as the Waterworks (Amendment and Validation) Ordinance 1966. Short title.

2. Section 17 of the Waterworks Ordinance (hereinafter referred to as the principal Ordinance) is amended by— Amendment of section 17. (Cap. 102).

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

(b) the insertion of the following new subsection—

“(2) Notwithstanding anything contained in subsection (1), where any surcharge is imposed under regulations for non-payment of any amount due, the surcharge shall be recoverable as a debt due to the Crown and may

be added to the amount due, but no interest shall be recoverable whether on the surcharge or on the amount due.”.

Amendment
of section 29.

3. Subsection (1) of section 29 of the principal Ordinance is amended by the insertion, after paragraph (e), of the following new paragraph—

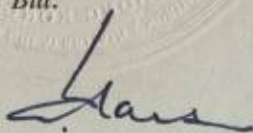
“(ee) the imposition of a surcharge, at the discretion of the Accountant General, for non-payment of the whole or any part of the amount due for charges for water;”.

Validation.

4. For the avoidance of doubt, it is hereby declared that anything done before the commencement of this Ordinance in purported exercise of the power of surcharge under Appendix I of the Waterworks Regulations shall be deemed to have been lawfully done.

(Vol. IX,
p. 158).

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 26th day of October, 1966, and is found by me to be a true and correctly printed copy of the said Bill.



Deputy Clerk of Councils.

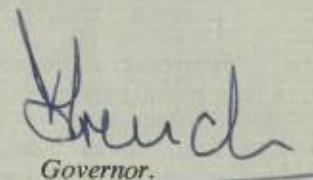
(Secretariat FIN28/3231/5111)

HONG KONG

No. 35 OF 1966.



I assent.



Governor.

24th November, 1966.

An Ordinance to amend the District Court (Civil Jurisdiction and Procedure) Ordinance 1962 and to make related amendments to other enactments.

[]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

1. This Ordinance may be cited as the District Court (Civil Jurisdiction and Procedure) (Amendment) Ordinance 1966, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*.

Short title
and com-
mencement.

2. Sections 3, 4, 5 and 12 of the District Court (Civil Jurisdiction and Procedure) Ordinance 1962 (hereinafter referred to as the principal Ordinance) are amended by the deletion of the words “five thousand dollars” wherever they occur and the substitution therefor of the following—

Amendment
of sections 3,
4, 5 and 12.
(22 of 1962).

“ten thousand dollars”.

Amendment
of section 8.

3. Section 8 of the principal Ordinance is amended—

(a) by the deletion in subsection (1) of the words "five thousand dollars" wherever they occur and the substitution therefor of the following—

"ten thousand dollars"; and

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

(3) Nothing in subsection (1) shall have the effect of giving jurisdiction to the Court in any proceedings relating to the recovery of any land or the title to any hereditament, where the annual rent or the rateable value, determined in accordance with the provisions of the Rating Ordinance, or the annual value of the land or hereditament, whichever is the least, exceeds five thousand dollars."

(Cap. 116).

Amendment
of section 21.

4. Subsection (1) of section 21 of the principal Ordinance is amended by the deletion in paragraphs (a) and (d) of the words "five thousand dollars" and the substitution therefor of the following—

"ten thousand dollars".

Transitional
provisions.

5. (1) For the avoidance of doubts, it is hereby declared that, where any action or matter commenced in the Supreme Court before the commencement of this Ordinance has been brought within the jurisdiction of the District Court by reason of any amendment effected by section 2, 3 or 4, the Supreme Court or a judge thereof may order the transfer of such action or matter to the District Court under section 11 of the principal Ordinance.

(2) Notwithstanding anything contained in section 14 of the principal Ordinance, where any action or matter commenced in the Supreme Court before the commencement of this Ordinance is ordered to be transferred from the Supreme Court to the District Court by reason of any amendment effected by section 2, 3 or 4, then, as regards so much of the proceedings as takes place in the Supreme Court before transfer, the District Court may, if satisfied that there was sufficient reason for bringing the action in the Supreme Court and subject to any order of the Supreme Court, make an order allowing costs on the Supreme Court scale or on any District Court scale.

(3) In relation to any action or matter commenced in the Court before the commencement of this Ordinance, a judge may refuse to make an order under subsection (1) of section 10 of the principal Ordinance, if the action or matter has been brought within the jurisdiction of the Court by reason of any amendment effected by section 2, 3 or 4.

Supplemen-
tary amend-
ments.

6. The enactments specified in the first column of the Schedule are amended to the extent and in the manner set out in the second column thereof.

SCHEDULE.

[s. 6.]

SUPPLEMENTARY AMENDMENTS.

Short title.	Amendment.
1. Estate Duty Ordinance.	Section 16 is amended in subsection (2) by the deletion of "five thousand dollars" and the substitution therefor of the following— "ten thousand dollars".
2. Inland Revenue Ordinance.	Section 75 is amended by the deletion in subsection (2) of "five thousand dollars" and the substitution therefor of the following— "ten thousand dollars".
3. Rating Ordinance.	Section 36 is amended by the deletion of "five thousand dollars" and the substitution therefor of the following— "ten thousand dollars".
4. Buildings Ordinance 1955.	Section 23 is amended by the deletion in subsection (6) of "five thousand dollars" and the substitution therefor of the following— "ten thousand dollars".
5. Legal Practitioners Ordinance 1964.	Section 61 is amended by the deletion in subsection (3) of the words "five thousand dollars" in both places where they occur and the substitution therefor of the following— "ten thousand dollars".

(Cap. 111,
1959 Reprint).

(Cap. 112,
1956 Reprint).

(Cap. 116).

(68 of 1955,
1960 Reprint).

(16 of 1964).

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 23rd day of November, 1966, and is found by me to be a true and correctly printed copy of the said Bill.

Deputy Clerk of Councils.

(Secretariat GR20/3231/52II)

HONG KONG

No. 36 OF 1966.



I assent.

Heuch.
Governor.

24th November, 1966.

An Ordinance to make provision for the granting of legal aid in civil actions to persons of limited means and for purposes incidental thereto or connected therewith.

[]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

PART I.

PRELIMINARY.

1. This Ordinance may be cited as the Legal Aid Ordinance 1966, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*. Short title and commencement.

2. In this Ordinance, unless the context otherwise requires— Interpretation.
“aided person” means a person to whom has been granted a legal aid certificate which is still in force and, where such a person is an infant, includes his guardian;

"assignment" and "assigned" include assignment of solicitor or counsel by the Director, selection of solicitor or counsel by an aided person and briefing of counsel by a solicitor;

(16 of 1964). "counsel" means a person who is enrolled as a barrister on the roll of barristers maintained in accordance with the provisions of the Legal Practitioners Ordinance 1964, and who, at the material time, is not suspended from practice;

"court" means any court, tribunal or person in respect of proceedings before which legal aid may be granted;

"Director" means the Director of Legal Aid appointed under the provisions of section 3 and any Deputy Director and Assistant Director of Legal Aid so appointed;

"guardian", in relation to an infant, includes, without prejudice to the generality of the expression, such person as the Director considers might properly be appointed by the court to be the next friend or guardian *ad litem* of the infant;

"judge" means a judge of the Supreme Court or the District Court, as the case may be;

"legal aid" means legal aid granted under the provisions of this Ordinance;

"legal aid certificate" means a legal aid certificate granted under section 10;

"order for costs" includes any judgment, order, decree, award or direction for the payment of the costs of one party in the proceedings by another party, whether given or made in those proceedings or not;

"panel" means the appropriate panel maintained in accordance with section 4;

"person" does not include a body of persons corporate or unincorporate so as to authorize legal aid to be granted to such a body;

(16 of 1964). "solicitor" means a person enrolled on the roll of solicitors maintained in accordance with the provisions of the Legal Practitioners Ordinance 1964, and who, at the material time, is not suspended from practice.

Appoint-
ments.

3. (1) The Governor may appoint a person to be the Director of Legal Aid and may also appoint such number of Deputy Directors of Legal Aid and Assistant Directors of Legal Aid as he may think fit.

(2) No person shall be appointed to be, or shall act temporarily as, the Director of Legal Aid or a Deputy Director of Legal Aid or an Assistant Director of Legal Aid unless he is legally qualified.

(3) Notwithstanding any provision of any other law, the Director of Legal Aid and every Deputy Director of Legal Aid and every Assistant Director of Legal Aid shall, for the purposes of this Ordinance and when acting for any aided person, have the right to plead and a right of audience in all courts in the Colony.

4. (1) The Director shall prepare and maintain panels of counsel and solicitors willing to investigate, report and give an opinion upon applications for the grant of legal aid and to act for aided persons. Panels of
counsel and
solicitors.

(2) The Director shall prepare and maintain such separate panels—

(a) for different purposes;

(b) for different courts;

(c) for counsel and solicitors willing to act only in a limited number of cases for persons granted legal aid,

as may be prescribed.

(3) Any counsel and solicitor shall be entitled to have his name included on the panels or any of them unless the Director is satisfied that there is good reason for excluding him by reason of his conduct when acting or assigned to act for persons receiving legal aid or of his professional conduct generally.

(4) The Director shall not include the name of a counsel or solicitor on any panel unless he is satisfied that such counsel or solicitor has a current practising certificate and shall remove from the panels the name of any counsel or solicitor who does not have a current practising certificate.

(5) Subject to the provisions of subsection (2) of section 25, any counsel or solicitor may at any time request the Director to remove his name from any panel and the Director shall comply with such request.

PART II.

SCOPE OF LEGAL AID.

5. (1) The proceedings in connexion with which legal aid may be granted are civil proceedings of the description mentioned in Part I of the Schedule, except proceedings mentioned in Part II of the Schedule. Proceedings
in respect of
which legal
aid can be
granted.
Schedule.

(2) The Legislative Council may, by resolution, amend the Schedule.

6. Legal aid shall consist of representation, on the terms provided for by this Ordinance, by the Director or by a solicitor and, so far as necessary, by counsel including all such assistance as is usually Scope of
legal aid.

given by solicitor or counsel in the steps preliminary or incidental to any proceedings or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings.

Financial
limitations

7. (1) Subject to the provisions of this Ordinance, legal aid shall be available to any person whose disposable income does not exceed five hundred dollars a month:

Provided that a person shall be refused legal aid if he has a disposable capital of more than three thousand dollars.

(2) The Legislative Council may, by resolution, amend the amounts of disposable income and disposable capital specified in subsection (1).

PART III.

APPLICATIONS FOR LEGAL AID AND GRANT OF CERTIFICATE.

Application
for legal aid.

8. (1) Any person who, whether in his own right or in a representative capacity, wishes to be granted legal aid shall apply therefor to the Director.

(2) Every application for legal aid shall be in such form and accompanied by such statutory declaration, verifying the facts stated in the application, as may be prescribed.

(3) If the person who wishes to be granted legal aid is an infant, the application under this section shall be made on behalf of the infant by his guardian.

(4) Where any application is made on behalf of an infant under the provisions of subsection (3)—

(a) a reference in section 9 or in paragraph (a) of section 10 to an applicant shall be construed as a reference to the guardian and the infant jointly or to either of them severally; and

(b) a reference in paragraph (b) or (c) of section 10 to an applicant shall, in any case where the infant is unmarried and the guardian is a near relative (as defined in subsection (5)) of the infant, be construed as a reference to both the guardian and the infant and in every other case shall be construed as a reference to the infant only.

(5) In subsection (4), the expression "near relative" means—

(a) in the case of a legitimate child, the father or, if the father is dead, the mother;

(b) in the case of an adopted child, an adopting parent;

(c) in the case of an illegitimate child, the mother.

9. Where an application for legal aid is made under the provisions of section 8, the Director may—

Power of
Director
to make
inquiries.

(a) make such inquiries as he thinks fit as to the means and condition of the applicant and as to the merits of the case;

(b) require the applicant to furnish such information and such documents as the Director may require for the purpose of considering the application;

(c) require the applicant to attend personally before the Director;

(d) refer the application, or any matter arising out of the application, to counsel or solicitor, whose name is on the appropriate panel, to investigate the facts and make a report thereon or to give any opinion thereon or on any question of law arising out of the application;

(e) take or cause to be taken such steps as may be necessary to conserve the interests of the applicant pending determination of his application;

(f) defray expenses incidental to any of the foregoing matters out of any funds in his control which are available for the purpose.

10. The Director may grant to the applicant a certificate that the applicant is entitled under the provisions of this Ordinance to legal aid in connexion with any proceedings if he is satisfied—

Grant of
legal aid
certificates.

(a) that the applicant has reasonable grounds for taking, defending or continuing such proceedings or being a party thereto;

(b) that the applicant does not have disposable capital of a total value of more than three thousand dollars or such other amount as may have been substituted therefor by resolution under subsection (2) of section 7; and

(c) that the disposable income of the applicant does not exceed five hundred dollars per month or such other amount as may have been substituted therefor by resolution under subsection (2) of section 7.

11. The Director may, in such circumstances and manner as may be prescribed, revoke or discharge any legal aid certificate.

Revocation
and dis-
charge of
certificates.

12. If, in relation to any proceedings to which a person who has made an application for legal aid or an aided person is a party, any other party makes application for legal aid, the provisions of this Ordinance shall apply to both such parties:

Application
for aid by
more than
one party.

Provided that the Director shall not himself act for either such party but shall assign counsel or solicitor to be selected by the aided

person, if he so desires, or otherwise by the Director from the panel to act for each aided person.

Endorsement
of legal aid
certificate.

13. (1) Where a legal aid certificate is granted, the Director may act for the aided person or may assign counsel or solicitor, to be selected by the aided person if the latter so desires, or otherwise selected by the Director from the panel so to act, and the Director shall, subject to subsection (1) of section 14, endorse on the legal aid certificate the name of any counsel and solicitor so assigned.

(2) The Director may, if he is of the opinion that any proceedings are, or may become, of exceptional difficulty or importance, state in the certificate that the aided person should be represented by two counsel, one of whom may be leading counsel, in such proceedings.

Filing of
legal aid
certificate.

14. (1) Before taking any other step in the proceedings the Director or the solicitor so assigned shall file the legal aid certificate in the registry of the court in which the proceedings are pending or are to be taken and no court fee shall be charged in respect of the filing of the certificate.

(2) Where counsel or solicitor is assigned to act after a legal aid certificate is filed in court, or in any case where a new assignment is made in lieu of counsel or solicitor assigned previously, the Director shall not be required to endorse on the certificate the name of the counsel or solicitor so assigned, or newly assigned, as the case may be, but may, instead, give notice of such assignment or new assignment by letter to the proper officer of the court in which proceedings are pending.

(3) Where any legal aid certificate is so filed the aided person shall, for so long as it remains in force—

- (a) not be liable in respect of any proceedings to which the certificate relates for court fees or for fees payable for the service of process or for any fees due to the bailiff in connexion with the execution of process;
- (b) be entitled to be supplied free of charge with a copy of the judge's notes of evidence in any proceedings to which the certificate relates; and
- (c) not, except where express provision is made in this Ordinance, be liable for costs to any other party in any proceedings to which the certificate relates.

Stay of
proceedings
upon making
of applica-
tion for
legal aid.

15. (1) Where litigation has been instituted and any party makes an application for legal aid, the Director shall, as soon as practicable after the application is made, notify the other party or each of the other parties, and file in the court in which the litigation is pending, a memorandum of such notification and no fee shall be charged in respect of the filing of the memorandum.

(2) Where any memorandum is so filed, then, unless otherwise ordered by a judge of the court in which the litigation is pending, all proceedings in the litigation shall, by virtue of this section, be stayed for a period of fourteen days, and during such period (unless otherwise ordered by any such judge) time fixed by or under any law or otherwise for the doing of any act or the taking of any step in the proceedings shall not run:

Provided, however—

- (a) that the filing of the memorandum shall not operate to prevent the making of—
 - (i) an interlocutory order for an injunction or for the appointment of a receiver or manager or receiver and manager; or
 - (ii) an order to prevent the lapse of a caveat against dealings with land; or
 - (iii) any other order which, in the opinion of a judge of the court in which the litigation is pending, is necessary to prevent an irremediable injustice;
- (b) that, unless otherwise ordered by a judge of the court in which the litigation is pending, the filing of the memorandum shall not operate to prevent the institution or continuance of proceedings to obtain, enforce or otherwise carry into effect any such order as is mentioned in paragraph (a) of this proviso or a decree to the like effect.

(3) The time during which proceedings are stayed by virtue of this section may be reduced or extended by order of a judge of the court in which the litigation is pending.

16. (1) Where a legal aid certificate has been filed in any court, and the proceedings to which the certificate relates have been heard in that court, and the aided person desires to prosecute any appeal or proceedings in the nature of an appeal therefrom, he shall not be entitled to prosecute such appeal or proceedings in the nature of an appeal as an aided person unless he files, in the court in which the appeal or proceedings are to be heard, a certificate from the Director or from counsel nominated from the appropriate panel by the Director stating that the Director or such counsel has thoroughly examined the appellant's case and is of the opinion that the appellant has good grounds of appeal, which grounds, together with the reasons therefor, shall be set out in detail in the certificate.

Appeals by
aided
persons.

(2) If any aided person prosecutes any such appeal or proceedings in the nature of an appeal without having filed the certificate referred to in subsection (1) he shall be deemed not to be an aided person.

PART IV.

COSTS AND CONTRIBUTIONS.

Court may order payment of costs by aided person in certain event.

17. (1) Where it appears to a court or judge that a legal aid certificate has been obtained by fraud or misrepresentation, the court or judge may order the aided person to pay the costs of the Director and of the counsel and solicitor who acted for him or the costs of the other party, or the costs of the Director and such counsel and solicitor and such party.

(2) In subsection (1) a reference to an "aided person" shall include, in any case where the legal aid certificate has been cancelled before the making of the order, the person who immediately before such cancellation was the aided person.

(3) Where it appears to a court or judge that an aided person has acted improperly in bringing or defending any legal proceedings or in the conduct of them, the court or judge may order the aided person to pay the costs of the Director and of the counsel or solicitor who acted for him or the costs of the other party, or the costs of the Director and such counsel and solicitor and such party.

(4) Where an order is made under subsection (1) or subsection (3), the costs shall be taxed as if the party ordered to pay them were not an aided person.

(5) The costs so ordered to be paid shall, unless otherwise directed by the order, include fees and charges of the nature referred to in paragraphs (a) and (b) of subsection (3) of section 14.

Contributions by aided person.

18. (1) An aided person may be required to pay to the Director a contribution towards the sums payable on his account by the Director.

(2) Any contribution payable by an aided person to the Director in accordance with any provision of this Ordinance shall be a debt due to the Director. The amount of such contribution and, if the contribution is less than the net liability of the Director on account of the aided person, a sum equal to the deficiency shall be a first charge for the benefit of the Director on any property which is recovered or preserved for the aided person in the proceedings.

(3) Any contribution payable by an aided person to the Director shall be paid in such manner as may be prescribed.

Award of costs.

19. (1) A court may make an order for costs in favour of or against an aided person in the same manner and to the same extent as it may make an order for costs in favour of or against any other person.

(2) Where a court makes an order for costs against an aided person, or an agreement is entered for the payment of costs by an aided person,

there shall be paid by the Director on behalf of the aided person to a party not receiving legal aid or to his solicitor—

(a) the amount of such costs as may be due from the aided person to the party not receiving legal aid, in any case in which the latter party was a defendant or respondent in the proceedings or, in the case of any appeal, was a respondent therein; or

(b) an amount not exceeding the contribution to be paid by the aided person to the Director, after deduction therefrom of any sums payable by the Director on behalf of the aided person, in any other case.

(3) Any sums received by virtue of an order or agreement for costs made in favour of an aided person shall be paid to the Director.

20. There shall be paid by the Director to counsel and solicitor acting for an aided person such fees and costs for so acting as may be prescribed.

Costs of counsel and solicitors.

21. (1) This section shall have effect for the purpose of adapting in relation to this Ordinance any right (however and whenever created or arising) which a person may have to be indemnified against expenses incurred by him.

Adaptation of rights to indemnity.

(2) In determining for the purposes of any such right the reasonableness of any expenses, the possibility of avoiding them or part of them by taking advantage of this Ordinance shall be disregarded.

(3) Where a person having any such right to be indemnified against expenses incurred in connexion with any proceedings receives legal aid in connexion with those proceedings, then (without prejudice to the effect of the indemnity in relation to his contributions, if any, to the Director) the right shall operate also for the benefit of the Director as if the expenses incurred by the Director on behalf of the said person in connexion with the proceedings had been incurred by such person.

(4) Where—

(a) a person's right to be indemnified against expenses incurred in connexion with any proceedings arises by virtue of an agreement and is subject to any express condition conferring on those liable thereunder any right with respect to the bringing or conduct of the proceeding; and

(b) those liable have been given a reasonable opportunity of exercising the right so conferred and have not availed themselves of that opportunity,

the right to be indemnified shall be treated for the purposes of subsection (3) as not being subject to that condition.

(5) Nothing in subsections (3) and (4) shall be taken as depriving any person or body of persons of the protection of any law or, save as provided in subsection (4), as conferring any larger right to recover money for the benefit of the Director in respect of any expenses than the person receiving legal aid would have had if the expenses had been incurred by him.

(6) Where under subsection (3) a person's right to be indemnified against expenses incurred in connexion with any proceedings operates for the benefit of the Director, any sum recovered for the benefit of the Director shall be deducted from the total of all sums payable by the Director in respect of such proceedings and the balance remaining shall be the maximum recoverable from such person.

22. Subject to the provisions of section 18, no person who, pursuant to any reference under this Ordinance, makes any investigation or report or gives any opinion or certificate or who acts for an aided person, shall take or agree to take or seek from an aided person any fee, profit or reward (pecuniary or otherwise) in respect thereof.

Prohibition against taking fees from aided person.

PART V.

MISCELLANEOUS.

23. (1) Any person seeking or receiving legal aid who—

- (a) wilfully fails to comply with any regulations as to the information to be supplied by him; or
- (b) in furnishing any information required by such regulations knowingly makes any false statement or false representation,

shall be guilty of an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

(2) Any proceedings for an offence under subsection (1) may, notwithstanding any law prescribing the time within which such proceedings may be brought, be brought within two years after the commission of the offence or within six months next after the first discovery thereof by the prosecutor, whichever is the shorter.

24. (1) The like privileges and rights as those which arise from the relationship of client, counsel and solicitor acting in their professional employment shall arise from the following relationships, that is to say—

- (a) the relationship between an applicant for legal aid and the Director and counsel and solicitor to whom the application is referred;

Proceedings for misrepresentations, etc.

Privileges attaching to certain relationships.

- (b) the relationship between an aided person and the Director and counsel and solicitor assigned to act for him in any proceedings to which a legal aid certificate relates.

(2) Notwithstanding anything contained in subsection (1), the privileges therein referred to shall not arise in relation to any information tendered to the Director concerning the property or income of the applicant for a legal aid certificate.

(3) Save as provided by this Ordinance, the rights conferred by this Ordinance on an aided person shall not affect the rights or liabilities of other parties to the proceedings or the principles on which the discretion of any court or tribunal is normally exercised.

25. (1) An aided person shall not without the leave of the Director discharge any counsel or solicitor assigned to act under this Ordinance for him.

Legal aid not to discontinue without leave.

(2) Subject to the provisions of subsection (3), counsel or solicitor assigned to act for an aided person shall not discontinue his aid without the leave of the Director.

(3) Nothing in this section shall prejudice the right of counsel or solicitor to refuse, or to give up, a case on reasonable grounds.

26. (1) Any person aggrieved by any order or decision of the Director made under any provision of this Ordinance may appeal therefrom to the Registrar of the Supreme Court in chambers.

Appeal from decision of Director.

(2) An appeal under this section shall be by notice in writing to attend before the Registrar of the Supreme Court without a fresh summons, within seven days of the order or decision complained of, or such further time as may be allowed by the Registrar.

(3) Unless otherwise ordered by the Registrar, there shall be at least one clear day between service of the notice of the appeal and the day of hearing.

(4) A decision of the Registrar on an appeal under this section shall be final, save that the Registrar may refer any appeal, and shall refer an appeal against any decision of the Director under subsection (3) of section 4, for decision of a judge of the Supreme Court in chambers, in which event the decision of the judge shall be final.

27. The expenses of legal aid shall be met by the Director from moneys provided by the Legislative Council.

Expenses of legal aid.

28. (1) The Governor in Council may make regulations prescribing any matter which by this Ordinance is to be or may be prescribed and generally for the better carrying out of this Ordinance.

Regulations.

(2) Without prejudice to the generality of subsection (1) regulations may—

- (a) regulate all matters relating to fees, charges and costs in relation to proceedings to which an aided person is a party;
- (b) remit or provide for the remission of any fees or charges in any such proceedings;
- (c) make provision as to the information to be given by a person seeking or receiving legal aid;
- (d) make provision as to the proceedings which are or are not to be treated as distinct proceedings for the purposes of legal aid and as to the apportionment of sums recoverable or recovered by virtue of any order for costs made generally with respect to proceedings treated as distinct proceedings;
- (e) make provision as to the cases in which a person may be refused legal aid by reason of his conduct when seeking or receiving legal aid (whether in the same or in a different matter);
- (f) make provision for the recovery of sums due in respect of legal aid and for making effective the charge created by this Ordinance on property recovered or preserved for an aided person, including provision—
 - (i) for the enforcement of any order or agreement for costs made in favour of a person who has received legal aid; and
 - (ii) for making counsel or solicitor's right to payment wholly or partly dependent on his performance of any duties imposed on him by regulations made for the purposes of this paragraph;
- (g) make any provision necessary to meet the special circumstances where—
 - (i) a person seeks legal aid in a matter of special urgency;
 - (ii) a person begins to receive legal aid after having consulted counsel or solicitor in the ordinary way with respect to the same matter, or ceases to receive legal aid before the matter in question is finally settled; and
 - (iii) there is any relevant change of circumstances while a person is receiving legal aid;
- (h) make provision as to the manner in which the rate of a person's disposable income and the amount of his disposable capital are to be computed for the purpose of this Ordinance and the court, person or authority by whom such computation shall be made;

- (i) determine whether any resources are to be treated as disposable income or disposable capital and for taking into account fluctuations of income;
- (j) determine the contribution towards costs and expenses to be made by an aided person;
- (k) ensure that the resources of a person seeking or receiving legal aid shall not be treated as including the subject matter of the dispute;
- (l) determine the extent to which any resources of a person's husband or wife shall be treated as that person's resources for the purpose of this Ordinance;
- (m) provide, in relation to infants and other special cases, for taking into account the resources of other persons;
- (n) prescribe the extent and limit of the liability for costs of an aided person against whom an order for costs is made;
- (o) prescribe the scale of fees which shall be paid to a solicitor or counsel submitting a report or opinion under section 9 or a certificate under section 16;
- (p) prescribe the scale of fees and costs which shall be paid to a solicitor or counsel acting for an aided person;
- (q) provide for the cases in which and the extent to which an aided person may be required to give security for costs and the manner in which it may be given;
- (r) modify any provision of this Ordinance so far as it appears to be necessary to meet the circumstances where a person seeking or receiving legal aid—
 - (i) is not resident in Hong Kong;
 - (ii) is concerned in a representative, fiduciary or other capacity;
 - (iii) is concerned jointly with or has the same interest as other persons whether receiving legal aid or not; or
 - (iv) has available to him rights and facilities making it unnecessary for him to take advantage of this Ordinance or has a reasonable expectation of receiving financial or other help from a body of which he is a member;
- (s) provide for the application of this Ordinance in relation to persons who have applied to be admitted or who have or might have been admitted to take, defend or be a party to any proceedings as paupers;
- (t) prescribe any forms to be used under this Ordinance.

(3) The regulations may apply generally to all legal matters, whether relating to proceedings in court or otherwise, or may apply to any specified class of matters or proceedings or to all matters or proceedings other than matters or proceedings of a specified class.

Transitional provisions.

29. (1) Subject to the provisions of this Ordinance, no person shall, after the commencement of this Ordinance, be admitted to take, defend or be a party to any proceedings as a pauper.

(2) Notwithstanding any other provision of this Ordinance, legal aid shall not be available to any person in respect of any cause of action which arose before the commencement of this Ordinance, except to a person who has before the commencement of this Ordinance applied to be admitted or been admitted to take, defend or be a party to any proceedings as a pauper or who would, in the opinion of the Director, have been so admitted if he had applied before such commencement.

SCHEDULE.

[s. 5.]

PROCEEDINGS FOR WHICH LEGAL AID MAY BE GIVEN UNDER SECTION 5.

PART I.

Description of proceedings.

1. Civil proceedings in any of the following courts—
 - (a) Full Court;
 - (b) Supreme Court;
 - (c) District Court.
2. Civil proceedings before any person to whom a case is referred in whole or in part by any of the said courts.

PART II.

Excepted proceedings.

1. Proceedings wholly or partly in respect of—
 - (a) defamation;
 - (b) breach of promise of marriage;
 - (c) the loss of services of a woman or girl in consequence of her rape or seduction;
 - (d) the inducement of one spouse to leave or remain apart from the other.
2. Relator actions.
3. Proceedings for the recovery of a penalty where the proceedings may be taken by any person and the whole or part of the penalty is payable to the person taking the proceedings.
4. Election petitions under the Urban Council Ordinance 1955.
5. In the District Court, in the case of a defendant, proceedings where the only question to be brought before the court is as to the time and mode of payment by him of debt (including liquidated damages) and costs.

(14 of 1955).

6. In the District Court, proceedings for damages for assault and battery.
7. In the District Court, proceedings where the only question to be brought before the court is as to the payment of a debt not exceeding five hundred dollars.
8. Proceedings incidental to any proceedings mentioned in this Part of this Schedule.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 23rd day of November, 1966, and is found by me to be a true and correctly printed copy of the said Bill.

Deputy Clerk of Councils.

(Secretariat GR9/3221/49III)

HONG KONG

No. 37 of 1966.



I assent.

Governor.

8th December, 1966.

An Ordinance further to amend the Medical Clinics Ordinance 1963.

[9th December, 1966.]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

1. (1) This Ordinance may be cited as the Medical Clinics (Amendment) (No. 2) Ordinance 1966. Short title and commencement of section 3.
- (2) Section 3 shall not come into operation until the 1st day of January, 1967.
2. Section 2 of the Medical Clinics Ordinance 1963 (hereinafter referred to as the principal Ordinance) is amended by the deletion, in paragraphs (b) and (c) of the definition "clinic", of the word "any" where it appears before the word "language" and the substitution in each case of the following—
"the English". Amendment of section 2. (27 of 1963).
3. Section 6 of the principal Ordinance is amended by the deletion, in paragraph (a) of subsection (1), of "December" and the substitution of the following—
"November". Amendment of section 6.

Amendment
of section 7.

4. Section 7 of the principal Ordinance is amended by the deletion of "in a supervisory capacity".

Repeal and
replacement
of section 8.

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

"Exemption
from
section 7.

8. (1) Subject to the provisions of subsection (2), the Registrar may, in his absolute discretion, exempt from the provisions of section 7 any clinic in existence on the 5th day of September, 1963.

(2) After the 31st day of December, 1967, the Registrar shall not grant an exemption under subsection (1) in respect of a clinic carried on in a vehicle, whether mobile or not, or in premises which were at any time a vehicle.

(3) Subject to the provisions of this Ordinance—

(a) any exemption granted under subsection (1) prior to the commencement of the Medical Clinics (Amendment) (No. 2) Ordinance 1966 and in force at the commencement of that Ordinance shall continue in force until the 1st day of January, 1968 and shall then cease to be valid; and

(b) any such exemption granted after the commencement of the Medical Clinics (Amendment) (No. 2) Ordinance 1966 shall be valid until the end of the year in which it is granted.

(4) (a) If the person registered in respect of a clinic that has been exempted under subsection (1) from the provisions of section 7 desires that the exemption shall be renewed, he shall make application for its renewal during the first week of the month of November, or, for good reason shown to the satisfaction of the Registrar, at such later date as the Registrar may allow.

(b) The Registrar may, in his absolute discretion, upon application in accordance with paragraph (a) renew any such exemption for a period of one year at a time, save that, after the 31st day of December, 1967, the Registrar shall not renew any such exemption in respect of a clinic carried on in a vehicle, whether mobile or not, or in premises which were at any time a vehicle.

(c) Without prejudice to the discretion conferred upon the Registrar by paragraph (b) as to the renewal of any such exemption, the Registrar may refuse to renew any such exemption if he is satisfied that,

within the preceding twelve months, any person practising medicine in the clinic has contravened the Code of Practice published under subsection (7).

(5) On the grant of any exemption under subsection (1) and on the renewal of any such exemption, the Registrar shall impose conditions relating to the remuneration to be paid to any persons practising medicine in the clinic other than registered medical practitioners and may impose such other conditions as he thinks fit.

(6) The Registrar may, in his absolute discretion and without assigning any reason therefor, cancel any exemption granted under subsection (1).

(7) The Registrar may publish a Code of Practice for the purposes of this section prescribing standards of conduct for persons, other than registered medical practitioners, practising medicine in clinics and regulating the functions of such persons, and any such Code of Practice may prohibit the discharge by such persons of specified functions.

(8) Notwithstanding the provisions of section 27 of the (25 of 1957). Medical Registration Ordinance 1957, persons practising medicine in a clinic and in receipt of remuneration from the clinic in accordance with the conditions imposed on the grant or renewal of an exemption under subsection (1) shall not by reason solely of such practice be guilty of an offence under that section.

(9) The powers conferred on the Registrar by subsection (1) and paragraph (b) of subsection (4) shall cease to be exercisable on the expiration of six years from the commencement of this Ordinance.

Exemptions
from section
6 to cease
to be valid.

8A. (1) Every exemption granted under subsection (1) of section 8 prior to the commencement of the Medical Clinics (Amendment) (No. 2) Ordinance 1966 exempting a clinic from the provisions of section 6 shall continue in force until the 1st day of January, 1968 and shall then cease to be valid, and, unless the person registered in respect of a clinic so exempted from the provisions of section 6 is re-registered in respect thereof in accordance with the provisions of this Ordinance, he shall thereupon cease to be so registered.

(2) If the person registered in respect of any such clinic desires to continue to be so registered after the 31st

day of December, 1967, he shall make application for re-registration in accordance with paragraph (a) of subsection (1) of section 6."

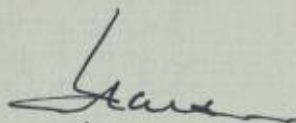
Amendment
of section 11.

6. Section 11 of the principal Ordinance is amended by the insertion in subsection (1), after the word "grant", of the following—
"or renew".

Amendment
of section 13.

7. Section 13 of the principal Ordinance is amended—
- (a) in paragraph (a), by the deletion of "neither registered nor exempted" and the substitution of the following—
"not registered";
- (b) in paragraph (b), by the deletion of "has no registered medical practitioner in a supervisory capacity as required under section 7" and the substitution of the following—
"is not exempted from the provisions of section 7 unless a registered medical practitioner is appointed and maintained in respect of the clinic in accordance with the said section 7"; and
- (c) in paragraph (c), by the deletion of "or exempted".

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 7th day of December, 1966, and is found by me to be a true and correctly printed copy of the said Bill.



Deputy Clerk of Councils.

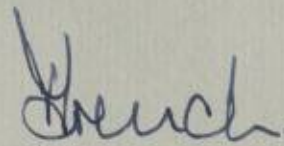
(Secretariat CR3862/57III)

HONG KONG

No. 38 OF 1966.



I assent.



Governor.

22nd December, 1966.

An Ordinance to provide for the establishment of the Hong Kong Export Credit Insurance Corporation, and to define its powers and functions.

[23rd December, 1966.]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

PART I.

PRELIMINARY.

1. This Ordinance may be cited as the Hong Kong Export Credit Insurance Corporation Ordinance 1966. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpreta-
tion.
"Advisory Board" means the Advisory Board established by section 10;
"auditors" means the auditors appointed under section 25;

"Commissioner" means the Commissioner of the Hong Kong Export Credit Insurance Corporation appointed under section 6;

"Corporation" means the Hong Kong Export Credit Insurance Corporation established by section 3;

"financial year" means the period commencing on the 1st day of April in any year and ending on the 31st day of March in the year following, except that the period from the commencement of this Ordinance to the 31st day of March 1967 shall be deemed to be a financial year;

"trade with countries outside Hong Kong" includes any transaction (including a transaction for the rendering of a service) involving a consideration in money or money's worth accruing from a person in the course of carrying on business or other activities outside Hong Kong to a person carrying on business in Hong Kong or to a company carrying on business or other activities outside Hong Kong which is directly or indirectly controlled by a company carrying on business or other activities in Hong Kong.

PART II.

ESTABLISHMENT, CONSTITUTION, INCORPORATION AND BUSINESS OF THE CORPORATION.

Establishment of Corporation.

3. (1) There is hereby established a corporation to be called the Hong Kong Export Credit Insurance Corporation which shall, in that name, be a body corporate with perpetual succession and shall be capable of suing and being sued, and subject to this Ordinance of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.

(2) The powers, functions and duties of the Corporation under this Ordinance may be exercised or performed in its name and on its behalf by the person for the time being performing the duties of the office of Commissioner.

Official seal and authentication thereof, and instruments executed thereunder.

4. (1) The Corporation shall have and may use a common seal, the affixing of which shall be authenticated by the signature of the Commissioner.

(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.

5. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into, signed or executed on behalf of the Corporation by any person generally or specially authorized for that purpose by the Corporation.

Certain contracts and instruments not required to be under seal.

6. (1) The Governor may appoint a Commissioner of the Hong Kong Export Credit Insurance Corporation, who may be a public officer seconded for the purpose, on such terms and conditions as he may think fit.

Appointment of Commissioner.

(2) The appointment of any person to be the Commissioner, and the termination of his appointment, shall be notified in the *Gazette*.

7. The Corporation may delegate any officer of the Corporation, or the person for the time being holding any office of the Corporation designated by it, to exercise such of its powers, except this power of delegation, or perform such of its functions and duties on its behalf as it may consider necessary.

Delegation of powers by the Corporation.

8. (1) If the office of Commissioner is vacant at any time or in the event of the absence from duty of the Commissioner, the Governor may appoint a person, who may be a public officer seconded for the purpose, to act as Commissioner on such terms and conditions as he may think fit.

Acting Commissioner.

(2) A person appointed to act as Commissioner by reason of a vacancy in the office of Commissioner shall hold office during the pleasure of the Governor, but shall not in any event continue in office for more than one year from the date of his appointment.

(3) A person appointed to act as Commissioner in the event of the absence from duty of the Commissioner shall hold office during that absence, but his appointment may at any time be terminated by the Governor.

9. (1) The Corporation may, subject to the provisions of this Ordinance, carry on the business of insurance, being insurance under the contracts of insurance specified in subsection (2).

Business of the Corporation.

(2) The contracts of insurance which the Corporation may enter into under this section are contracts of insurance with, or for the benefit of, persons carrying on business in Hong Kong, being contracts of insurance against risk of monetary loss or other monetary detriment attributable to circumstances outside the control of the person suffering the loss or detriment and resulting from failure to receive payment in connexion with, or otherwise arising out of, acts or transactions in the course of, or for the purpose of, trade with countries outside Hong Kong.

(3) The Corporation shall not enter into contracts of insurance against risks that are normally insured with commercial insurers.

(4) The Corporation shall pursue a policy directed towards securing revenue sufficient to meet all its expenditure properly chargeable to revenue account.

PART III.

ADVISORY BOARD.

Advisory
Board estab-
lishment.

10. (1) There is hereby established an Advisory Board to advise the Corporation in the conduct of its business under this Ordinance.

(2) The Advisory Board shall consist of—

- (a) the Director of Commerce and Industry or his representative;
- (b) the Executive Director, Hong Kong Trade Development Council, or his representative; and
- (c) not more than ten other members.

(3) The members of the Advisory Board, other than the Director of Commerce and Industry and the Executive Director, Hong Kong Trade Development Council—

- (a) shall be appointed by the Governor for a term not exceeding three years at a time; and
- (b) shall upon appointment take an oath before a justice of the peace in the form prescribed in the First Schedule.

First
Schedule.

(4) If a member of the Advisory Board has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the Board at which the contract or other matter is the subject of consideration, he shall, as soon as practicable after the commencement of the meeting of the Board, disclose to the Board the fact and the nature of his interest.

(5) The Corporation shall not be bound by the advice of the Advisory Board.

PART IV.

POLICY OF CORPORATION.

Policy.

11. The Corporation shall keep the Financial Secretary informed of the decisions of the Corporation insofar as they relate to matters of policy in relation to the conduct of its business.

12. (1) The policy pursued by the Corporation with respect to any of the following matters, namely—

Approval of
policy in
respect of
certain
matters.

- (a) the classes of contracts of insurance into which the Corporation will enter;
- (b) the nature and extent of the risks that may be covered under contracts of insurance entered into by the Corporation;
- (c) the undertaking of liabilities in relation to trade with particular countries;
- (d) the organization of the finances of the Corporation and the determination of the use to which any surpluses acquired by the Corporation are to be put; and
- (e) the determination of the total amount of the capital and reserves required by the Corporation taking into account the sums at risk under contracts of insurance entered into by the Corporation.

shall be subject to the approval of the Financial Secretary:

Provided that nothing in this subsection shall prevent the Corporation, when it considers an immediate decision is required, from pursuing a policy which has not been approved by the Financial Secretary if it seeks his approval of such policy at the first available opportunity.

(2) Nothing in subsection (1) shall be construed as requiring the approval of the Financial Secretary to the entering by the Corporation into a particular contract of insurance or as empowering the Financial Secretary to determine that the Corporation shall or shall not enter into a particular contract of insurance, but the Corporation shall not enter into a particular contract of insurance unless the contract is in accordance with policy approved by the Financial Secretary.

(3) In this section—

“surplus” means those balances which the Corporation has in hand at the end of any financial year and which are not required to meet—

- (a) payments at that time due to be made as a result of claims under examination in respect of contracts of insurance entered into by the Corporation;
- (b) payments due to be made in respect of the operating expenses of the Corporation;
- (c) provision for expenditure on capital items, on replacements of fixed assets and on amortization payments incurred by the Corporation;
- (d) such sums as in the opinion of the Corporation may be required to cover the unexpired risks on contracts of insurance entered into by the Corporation; and
- (e) any other liabilities.

Extent of indemnity.

13. (1) A contract of insurance entered into by the Corporation shall specify a percentage as the percentage of the amount of the loss, as defined in the contract, to which the indemnity under the contract extends.

(2) The maximum percentage so specified in any contract of insurance shall not exceed eighty-five per cent or such other maximum percentage as may be prescribed by the Legislative Council by resolution.

PART V.

POWERS OF THE CORPORATION.

Powers of the Corporation.

14. The Corporation may do, within the Colony or elsewhere, all things necessary or convenient to be done for and in connexion with, or incidental to, the carrying on of its business and, in particular, may—

- (a) acquire, hold and dispose of immovable or movable property;
- (b) enter into any contract; and
- (c) pay to the Government out of surpluses held by the Corporation such sums as may be determined pursuant to the policy approved in this respect by the Financial Secretary under subsection (1) of section 12.

Provident fund scheme.

15. The Corporation may, with the approval of the Governor, establish, manage and control, or enter into an arrangement with an insurance company or association for the establishment, management and control by such company or association, either alone or jointly with the Corporation, of a provident fund scheme for the benefit of the Commissioner and any of the officers of the Corporation, or of any specified class of officer of the Corporation, and if so required by rules governing such scheme may make contributions thereto in accordance with such rules.

PART VI.

STAFF.

Appointment of officers.

16. Subject to the provisions of section 17, the Corporation may appoint such officers as it thinks necessary.

Terms and conditions of employment.

17. (1) The terms and conditions of employment of officers appointed by the Corporation shall be such as are determined by the Corporation with the approval of the Financial Secretary.

(2) The appointment by the Corporation of an officer whose salary exceeds fifty thousand dollars per year shall be subject to the approval of the Governor.

PART VII.

FINANCE.

18. The Government shall guarantee the payment of all moneys due by the Corporation, but nothing in this section shall authorize a creditor or other person claiming against the Corporation to sue the Government in respect of his claim. Corporation indemnified.

19. The Financial Secretary may pay to the Corporation from the general revenue of the Colony or the Development Loan Fund, in such amounts and at such times as he determines, sums of money not exceeding in the aggregate ten million dollars, and the capital of the Corporation shall consist of the amounts so paid to the Corporation. Capital.

20. (1) The Financial Secretary may, out of moneys appropriated by the Legislative Council for the purposes of this Ordinance, make advances to the Corporation of such amounts, and upon such terms and conditions with respect to repayment, payment of interest and otherwise, as the Financial Secretary may determine. Loans.

(2) The Corporation may borrow or otherwise raise money on such security as may be necessary, and, for that purpose, charge all or any part of the property of the Corporation, but without the prior approval of the Financial Secretary no sum shall be borrowed or otherwise raised under this subsection which itself or together with all other sums previously borrowed or otherwise raised under this subsection and still outstanding exceeds or in the aggregate exceed five per cent of the capital and reserves of the Corporation.

21. (1) The Corporation shall open and maintain an account with such bank as the Financial Secretary may approve. Bank account.

(2) The Corporation shall pay all moneys received by it into such an account as is referred to in subsection (1).

22. (1) Save as otherwise provided by this Ordinance, the moneys of the Corporation shall be applied only— Application of moneys.

- (a) in payment or discharge of the expenses, charges and liabilities incurred or undertaken by the Corporation in the exercise of its powers or the performance of its functions and duties under this Ordinance; and
- (b) in payment of the remuneration and allowances of the Commissioner.

(2) Moneys of the Corporation not immediately required for the purposes of the Corporation may be invested on deposit with any bank or in such other manner as the Financial Secretary may direct.

Maximum liability.

23. The contingent liability of the Corporation under contracts of insurance shall not at any time exceed the sum of three hundred million dollars or such other sum as may be determined by the Legislative Council by resolution.

Accounts.

24. (1) The Corporation shall keep proper accounts of all income and expenditure and shall maintain proper and adequate records thereof.

(2) As soon as may be convenient after the end of each financial year, the Corporation shall cause to be drawn up, in such form as the Financial Secretary may approve, a statement of its income and expenditure during such financial year and a statement of the assets and liabilities of the Corporation on the last day thereof.

Auditors.

25. (1) The Corporation shall with the approval of the Financial Secretary appoint auditors, who shall be entitled at any time to have access to all accounts, records and documents of the Corporation and to require such information and explanation thereon as they may think fit.

(2) The auditors shall audit the statements drawn up under subsection (2) of section 24 as soon as possible and shall make a report thereon to the Corporation.

Access by the Director of Audit.

26. The Director of Audit and any public officer authorized by him shall be entitled at all reasonable times to full and free access to all accounts, records and documents of the Corporation relating directly or indirectly to the receipt or payment of moneys by the Corporation or to the acquisition custody or disposal of assets of the Corporation.

Exemption from taxation, stamp duties.

27. (1) The profits of the Corporation shall not be subject to taxation.

(2) Notwithstanding the provisions of the Stamp Ordinance, the Corporation shall not be liable to pay stamp duty in excess of five dollars in respect of any instrument or document executed by or on behalf of the Corporation.

Annual report.

28. (1) The Corporation shall, within a period of six months, or within such longer period as the Governor may determine, after the end of each financial year, furnish to the Governor a report of its operations during that financial year, copies of the financial statements in respect of that year drawn up under subsection (2) of section 24 and a copy of the auditors' report on those statements.

(2) The Governor shall cause to be laid on the table of the Legislative Council the reports and financial statements furnished to him pursuant to subsection (1).

PART VIII. MISCELLANEOUS.

29. (1) The Governor may give to the Financial Secretary and the Corporation such directions as he thinks fit with respect to the exercise or performance of their respective powers, functions and duties under this Ordinance, either generally or in any particular case.

Power of Governor to give directions to the Financial Secretary and the Corporation.

(2) The Financial Secretary and the Corporation shall, in the exercise or performance of their respective powers, functions and duties under this Ordinance, comply with any directions given by the Governor under subsection (1).

30. Without prejudice to the duty of the Corporation to comply with the provisions of this Ordinance, a contract of insurance entered into by the Corporation shall not be invalidated by reason of a contravention by the Corporation of any provision of this Ordinance.

Validity of insurance contracts.

31. (1) The Commissioner and such other officers of the Corporation as the Corporation may require shall, before entering on the performance of their duties, take an oath before a justice of the peace in the form prescribed in the Second Schedule.

Secrecy.

Second Schedule.

(2) Any person who in the performance of his functions or duty, or in the course of his employment, under or in connexion with the provisions of this Ordinance has acquired, or has access to, information relating to the affairs of any person shall not, except in performance of his functions or duty, or in the course of his employment, under or in connexion with the provisions of this Ordinance, communicate or make available that information to any other person.

(3) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand dollars and to imprisonment for two years.

32. Any person who wilfully makes a statement which is false or misleading in a material particular in or in connexion with an application or proposal for insurance, or for the purposes of a claim under a contract of insurance, under this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand dollars and to imprisonment for two years.

False statements.

FIRST SCHEDULE.

[s. 10.]

Oath or Affirmation of Secrecy.

Advisory Board.

I, do swear by Almighty God (or do solemnly and sincerely affirm and declare) that I will not, except in the performance of my functions as a member of the

Advisory Board established by the Hong Kong Export Credit Insurance Corporation Ordinance 1966, communicate or make available to another person any information relating to the affairs of a person coming to my knowledge, or to which I have access, as a member of the Advisory Board.

(Signed)

In Hong Kong this day of

Before me,

Justice of the Peace.

SECOND SCHEDULE.

[s. 31.]

Oath or Affirmation of Secrecy.

I,
do swear by Almighty God (or do solemnly and sincerely affirm and declare) that I will not, except in the performance of my functions or duty or in the course of my employment under or in connexion with the Hong Kong Export Credit Insurance Corporation Ordinance 1966, communicate or make available to another person any information relating to the affairs of a person coming to my knowledge, or to which I have access, in the performance of my functions or duty or in the course of my employment under or in connexion with the said Ordinance.

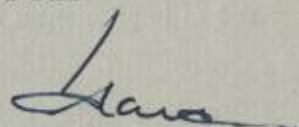
(Signed)

In Hong Kong this day of

Before me,

Justice of the Peace.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 21st day of December, 1966, and is found by me to be a true and correctly printed copy of the said Bill.



Deputy Clerk of Councils.

PUBLIC RECORDS OFFICE
OF HONG KONG

H.K.R.S. No. **30**

28.29