

## "PART IVA

## PROTECTION AGAINST ANTI-UNION DISCRIMINATION

Application  
of Part IVA.

**21A.** (1) Notwithstanding section 4(2)(a), section 21B shall apply to every employee whether or not he is employed by way of manual labour and whether or not his wages exceed \$2,000 per month.

(2) Section 21C shall apply to every person to whom an offer of employment is made or is about to be made or who otherwise is, or is in the position of, a prospective employee, whether or not the employment is to be by way of manual labour and whether or not the wages offered or to be offered exceed \$2,000 per month.

Rights of  
employees  
in respect  
of trade  
union  
membership  
and acti-  
vities.

[*cf.* 1971 c. 72,  
s. 5(1), (2),  
(5).]  
(Cap. 332.)

**21B.** (1) Every employee shall as between himself and his employer have the following rights—

- (a) the right to be or to become a member or an officer of a trade union registered under the Trade Unions Ordinance;
- (b) where he is a member or an officer of any such trade union, the right, at any appropriate time, to take part in the activities of the trade union;
- (c) the right to associate with other persons for the purpose of forming or applying for the registration of a trade union in accordance with the provisions of the Trade Unions Ordinance.

(2) Any employer, or any person acting on behalf of an employer, who—

- (a) prevents or deters, or does any act calculated to prevent or deter, an employee from exercising any of the rights conferred on him by subsection (1); or
- (b) terminates the contract of employment of, penalizes, or otherwise discriminates against, an employee by reason of his exercising any such right,

shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

(3) In this section—

"appropriate time" means, in relation to an employee taking part in any activities of a trade union, time which either—

- (a) is outside his working hours; or
- (b) is a time within his working hours at which, in accordance with arrangements agreed with or consent given by or on behalf of his employer, it is permissible for him to take part in those activities;

"working hours" means, in relation to an employee, any time when, in accordance with his contract with his employer, he is required to be at work.

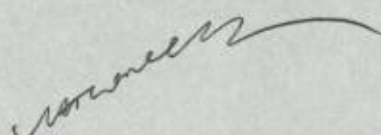
Offer of em-  
ployment  
conditional  
on offeree  
not being  
member of  
trade union.

**21C.** Any person who, acting on his own or another's behalf, in the engagement of persons for employment includes in an offer of employment to any person a condition or requirement that the person to whom the offer is made shall undertake—

- (a) if he is a member or officer of such a trade union, that he will relinquish his membership thereof or office therein;
- (b) not to become a member of, or officer in, such a trade union; or
- (c) not to associate with other persons for the purpose of forming or applying for the registration of a trade union in accordance with the provisions of the Trade Unions Ordinance,

shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000."

Passed by the Hong Kong Legislative Council this 31st day of July, 1974.

  
Clerk to the Legislative Council.

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

*W. W. W. W.*

*Clerk to the Legislative Council.*



I assent.

*Don Roberts*

*Acting Governor.*

*1st August, 1974.*

An Ordinance to amend the Buildings Ordinance.

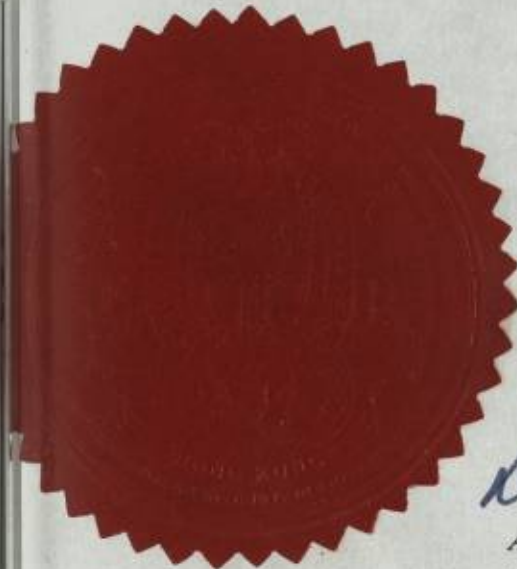
**HONG KONG**

No. 52 OF 1974

*W. M. ...*

Clerk to the Legislative Council.

I assent.



*Donp Roberts*

Acting Governor.

1st August, 1974.

An Ordinance to amend the Buildings Ordinance.

[ ]

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

1. This Ordinance may be cited as the Buildings (Amendment) Ordinance 1974 and shall come into operation on a day to be appointed by the Governor by notice published in the *Gazette*. Short title and commencement.

2. Section 2(1) of the principal Ordinance is amended— Amendment of section 2. (Cap. 123.)  
(a) by deleting the definition of “authorized architect” and substituting the following definition—

““authorized person” means a person whose name is for the time being on the authorized persons’ register kept under section 3(1)—

- (a) as an architect, in list I therein; or
- (b) as a civil, municipal or structural engineer, in list II therein; or
- (c) as a surveyor, in list III therein;

- (b) by inserting after the definition of "lift works" the following new definition—

" "list I", "list II" and "list III" mean respectively, list I, list II and list III of the authorized persons' register kept under section 3(1);"; and

- (c) by inserting after the definition of "registered lift contractor" the following new definition—

" "registered structural engineer" means a person whose name is for the time being on the structural engineers' register kept under section 3(3);".

Amendment  
of heading  
of Part I.

3. The heading of Part I of the principal Ordinance is amended by deleting "AUTHORIZED ARCHITECTS" and substituting the following—

"AUTHORIZED PERSONS, REGISTERED STRUCTURAL ENGINEERS".

Repeal and  
replacement  
of sections  
3, 4 and 5.

4. Sections 3, 4 and 5 of the principal Ordinance are repealed and replaced by the following—

"Registers  
of  
authorized  
persons and  
structural  
engineers.

3. (1) The Building Authority shall keep a register (hereinafter referred to as the "authorized persons' register") of all persons who are qualified to perform the duties and functions of an authorized person in accordance with this Ordinance.

(2) The authorized persons' register shall contain the following lists—

- (a) list I, consisting of architects;  
(b) list II, consisting of civil, municipal or structural engineers; and  
(c) list III, consisting of surveyors.

(3) The Building Authority shall keep a register (hereinafter referred to as the "structural engineers' register") of all persons who are qualified to perform the duties and functions of structural engineers (relating to more advanced structural designs of building works or street works) in accordance with this Ordinance.

(4) The Building Authority shall publish annually in the *Gazette* the names of—

- (a) the persons included in each of the lists in the authorized persons' register; and

- (b) the persons included in the structural engineers' register.

- (5) (a) The Building Authority shall appoint a Committee to be known as the Authorized Persons' and Structural Engineers' Registration Committee (in this section referred to as the Registration Committee) to assist him in considering applications for inclusion in the authorized persons' register or the structural engineers' register by—

(i) examining the qualifications of applicants;

(ii) making such inquiries as it may consider necessary to ascertain whether an applicant has the prescribed experience;

(iii) conducting professional interviews with applicants; and

(iv) advising the Building Authority as to the acceptance or rejection of applications for inclusion in such registers.

- (b) The Registration Committee shall consist of—

(i) the Principal Government Building Surveyor as chairman;

(ii) the Government Structural Engineer, Buildings Ordinance Office;

(iii) 2 architects whose names are included in list I, nominated by the Hong Kong Institute of Architects;

(iv) 2 engineers whose names are included in list II, nominated by the Engineering Society of Hong Kong;

(v) 1 chartered surveyor whose name is included in list III, nominated by the Royal Institution of Chartered Surveyors (Hong Kong Branch);

(vi) 1 registered structural engineer nominated by the Institution of Structural Engineers (Hong Kong Branch); and

(vii) the Technical Secretary, Buildings Ordinance Office, who shall be the Secretary of the Registration Committee.

- (c) The Registration Committee shall meet at such times and places as the Building Authority shall appoint:

Provided that the Building Authority shall call a meeting of the Registration Committee within 21 days of the receipt by him of a request in writing signed by 2 members of the Registration Committee.

- (d) A quorum of the Registration Committee shall be 6 members, including the persons referred to in sub-paragraphs (i), (ii) and (vii) of paragraph (b).
- (6) Every applicant for inclusion in the authorized persons' register or the structural engineers' register shall submit his application in the prescribed form to the secretary of the Registration Committee.
- (7) No person shall be included in any list in the authorized persons' register or in the structural engineers' register unless he has the prescribed qualifications for inclusion in such list or such register.
- (8) Subject to subsection (7), a person's name may be included in both the authorized persons' register and the structural engineers' register and in more than 1 list in the authorized persons' register.
- (9) In respect of every application for inclusion in any list in the authorized persons' register or in the structural engineers' register, the Building Authority shall within 3 months from the date of the meeting of the Registration Committee at which the application was considered—
- (a) on payment by the applicant of the prescribed fee, publish in the *Gazette* and enter in the appropriate list or, as the case may be, register the name of the applicant; or
  - (b) inform the applicant that his application is deferred for a period not exceeding 12 months; or
  - (c) refuse his application.
- (10) Any person whose application for inclusion in any list in the authorized persons' register or the structural engineers' register is refused may appeal to a disciplinary board appointed under section 5.

(11) The Building Authority may remove from the authorized persons' register or the structural engineers' register the name of any person who ceases for any reason to practise the profession in respect of which the name of that person was included in the register.

Appoint-  
ment and  
duties of  
authorized  
person or  
registered  
structural  
engineer.

4. (1) Every person for whom building works or street works are to be carried out shall appoint—

- (a) an authorized person as the co-ordinator of such building works or street works; and
- (b) a registered structural engineer as a consultant to the authorized person on the structural elements of such building works or street works if so required under this Ordinance.

(2) If an authorized person or a registered structural engineer so appointed becomes unwilling to act or unable, whether by reason of the termination of his appointment or for any other reason, to act, the person for whom the building works or street works are to be or are being carried out shall appoint another authorized person or registered structural engineer, as the case may be, in his stead:

Provided that, where an authorized person or a registered structural engineer, is temporarily unable to act by reason of his illness or absence from Hong Kong, he may nominate another authorized person or registered structural engineer to act in his stead for the period of such illness or absence.

(3) Any authorized person and any registered structural engineer appointed or nominated under subsection (1) or (2) shall—

- (a) supervise the carrying out of the building works or street works, as the case may be, in the prescribed manner;
- (b) notify the Building Authority of any contravention of the regulations which would result from the carrying out of any work shown in any plan approved by the Building Authority in respect of the Building works or street works; and

(c) comply generally with this Ordinance.

(4) A structural engineer may not be appointed as a consultant under subsection (1)(b) unless he is registered in the structural engineers' register.

Appoint-  
ment and  
powers of  
disciplinary  
board.

5. (1) For the purposes of section 3(10) and section 7, the Building Authority may, from time to time, appoint a disciplinary board.

(2) Every such board shall consist of—

(a) 3 persons who are members of the Authorized Persons' and Registered Structural Engineers' Disciplinary Board Panel appointed under section 5A, at least 1 of whom shall be a member of the same profession as the appellant or the person in respect of whom the inquiry is being held;

(b) the Building Authority or his representative; and

(c) a legal adviser.

(3) The chairman of a disciplinary board appointed under this section shall be the Building Authority or his representative on the board or such other member of the board as the Building Authority shall appoint.

(4) For the purposes of any inquiry under section 7, a disciplinary board appointed under this section shall have all such powers as are vested in the Supreme Court in relation to—

(a) enforcing the attendance of witnesses and examining them upon oath or otherwise;

(b) compelling the production of documents;

(c) ordering the inspection of premises; and

(d) entering upon and viewing premises.

(5) The members of any disciplinary board appointed under this section, other than persons who are in full-time employment in any office of emolument under the Crown, shall be remunerated at such rate as the Governor may determine from time to time or in any particular case.

Authorized  
Persons' and  
Registered  
Structural  
Engineers'  
Disciplinary  
Board Panel.

5A. (1) There shall be an Authorized Persons' and Registered Structural Engineers' Disciplinary Board Panel, which shall be appointed by the Governor.

(2) The Authorized Persons' and Registered Structural Engineers' Disciplinary Board Panel shall consist of not more than 20 members, of whom—

(a) 5 shall be members of the Hong Kong Institute of Architects whose names are included in list I;

(b) 5 shall be members of the Engineering Society of Hong Kong whose names are included in list II;

(c) 5 shall be members of the Institution of Structural Engineers (Hong Kong Branch) who are registered structural engineers;

(d) 5 shall be members of the Royal Institution of Chartered Surveyors (Hong Kong Branch) whose names are included in list III.

(3) No person shall be appointed to be a member of the panel unless he has been in practice in Hong Kong for a period of at least 10 years and have been recommended by the Building Authority after consultation with the appropriate Institute, Institution or Society.

(4) Members of the panel shall hold office for 3 years but shall be eligible for reappointment."

5. Section 6 of the principal Ordinance is amended in subsection (1)— Amendment  
of section 6.

(a) by deleting "subsection (6) of section 3" and substituting the following—

"section 3(10)"; and

(b) by deleting "architects' register" in paragraph (b) and substituting the following—

"authorized persons' register or structural engineers' register, as the case may be".

Repeal and replacement of section 7.

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

“Disciplinary proceedings in respect of an authorized person or registered structural engineer.

7. (1) Where it appears to the Building Authority that an authorized person or a registered structural engineer has been convicted by any court of such offence or has been guilty of such negligence or misconduct as—

- (a) renders such person unfit to be on the authorized persons’ register or on the structural engineers’ register as the case may be; or
- (b) makes the further inclusion of such person on the authorized persons’ register or on the structural engineers’ register, as the case may be, prejudicial to the due administration of this Ordinance; or

(c) renders such person deserving of censure, the Building Authority may bring the matter to the notice of a disciplinary board appointed under section 5.

(2) Where, after due inquiry, the disciplinary board is satisfied that the authorized person or the registered structural engineer has been convicted of such an offence or has been guilty of such negligence or misconduct, such board may—

- (a) order that the name of such person be removed—
  - (i) from the authorized persons’ or the structural engineers’ register, as the case may be; or
  - (ii) if his name appears in both registers, from both registers, either permanently or for such period as the board thinks fit; or
- (b) order that such person be reprimanded; and
- (c) order that its findings and order be published in the *Gazette*.

(3) On an inquiry under this section, a disciplinary board may make such order as it thinks fit with regard to the payment of the costs of the inquiry

and the costs of the Building Authority or of the authorized person or registered structural engineer in respect of whom the inquiry is held.

- (4) (a) Any authorized person or registered structural engineer aggrieved by any order made in respect of him under this section may appeal to a judge of the Supreme Court and upon any such appeal the judge may confirm, reverse or vary the order of the disciplinary board:

Provided that the judge may, notwithstanding that he is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if he considers that no substantial miscarriage of justice has actually occurred.

- (b) The practice in relation to any such appeal shall be subject to any rules of court made under the Supreme Court Ordinance.
- (c) The decision of the judge or any such appeal shall be final.”.

(Cap. 4.)

7. Section 11 of the principal Ordinance is amended by deleting subsections (1), (2), (3) and (4) and substituting the following— Amendment of section 11.

“(1) For the purposes of section 8(4) and section 13, the Building Authority may from time to time, appoint a disciplinary board.

(2) Every board appointed to hear an appeal under section 8(4)(a) or to hear and determine any proceedings under section 13 against a registered contractor shall consist of—

- (a) 2 persons who are members of the Registered Contractors’ Disciplinary Board Panel appointed under section 11A;
- (b) 3 persons who are members of the Authorized Persons’ and Registered Structural Engineers’ Disciplinary Board Panel appointed under section 5A of whom—
  - (i) 1 shall be a person referred to in section 5A(2)(a);

(ii) 1 shall be a person referred to in section 5A(2)(b); and

(iii) 1 shall be a person referred to in section 5A(2)(c);

(c) the Building Authority or his representative; and

(d) a legal adviser.

(3) Every board appointed to hear an appeal under section 8(4)(a) or to hear and determine any proceedings under section 13 against a registered lift contractor or a registered escalator contractor or a registered ventilation contractor shall consist of—

(a) 1 person whose name is included in list II and who is a member of the Authorized Persons' and Registered Structural Engineers' Disciplinary Board Panel appointed under section 5A;

(b) 3 engineers having such qualifications as the Building Authority may consider sufficient, of whom at least 1 shall be qualified as an electrical engineer and at least 1 as a mechanical engineer;

(c) the Building Authority or his representative; and

(d) a legal adviser.

(4) The chairman of a disciplinary board appointed under subsection (1) shall be the Building Authority or his representative on the board or such other member of the board as the Building Authority shall appoint."

Addition of new section. **8.** The principal Ordinance is amended by adding after section 11 the following new section—

"Contractors' Disciplinary Board Panel.

**11A.** (1) There shall be a Registered Contractors' Disciplinary Board Panel, which shall be appointed by the Governor.

(2) The Registered Contractors' Disciplinary Board Panel shall consist of not more than 16 persons who are registered contractors.

(3) The members of the Registered Contractors' Disciplinary Board Panel shall hold office for 3 years but shall be eligible for reappointment."

Amendment of section 22. **9.** Section 22 of the principal Ordinance is amended in subsection (3) by deleting "authorized architect" and substituting the following—

"authorized person".

**10.** Section 38 of the principal Ordinance is amended in subsection (1) by deleting paragraph (a) and substituting the following—

Amendment of section 38.

"(a) registration and control of—

(i) authorized persons;

(ii) registered structural engineers;

(iii) registered contractors;

(iv) registered lift contractors;

(v) registered escalator contractors;

(vi) registered ventilation contractors;"

**11.** Section 40 of the principal Ordinance is amended—

Amendment of section 40.

(a) in subsection (2A) by—

(i) deleting "architect" in the first place where it occurs and substituting the following—

"person, registered structural engineer"; and

(ii) deleting "architect" in the second place where it occurs and substituting—

"person, a registered structural engineer"; and

(b) in subsection (2B) by deleting "architect" and substituting the following—

"person, a registered structural engineer".

**12.** Section 43 of the principal Ordinance is amended in subsection (2) by deleting "architect" and substituting the following—

Amendment of section 43.

"person".

**13.** Section 49 of the principal Ordinance is amended—

Amendment of section 49.

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

"persons"; and

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

"person".

**14.** Section 54 of the principal Ordinance is amended—

Amendment of section 54.

(a) by deleting the full stop at the end thereof and substituting therefor a colon; and

(b) by inserting the following at the end thereof—

“Provided that any reference to an architect in the said sections 110 to 126 shall be taken as references to an authorized person.”.

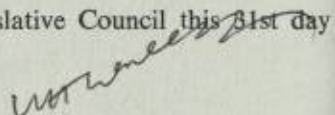
Transitional  
provision.

15. Notwithstanding anything in section 3 of the principal Ordinance as replaced by this Ordinance to the contrary—

- (a) persons whose names are included in List 1, headed “ARCHITECTS”, in Government Notice (S.) 12 of 1974 published in Special Supplement No. 4 to the *Gazette* on 28th June 1974 and added to that list by any subsequent Government Notice shall be deemed to be included in list I, II or III, as the case may be according to their qualifications, of the authorized persons’ register established by virtue of section 3 of the principal Ordinance as replaced by this Ordinance; and
- (b) persons whose names are included in List 2, headed “ENGINEERS”, in the said Government Notice (S.) 12 of 1974 and added to that list by any subsequent Government Notice shall be deemed to be included in list I or II, as the case may be according to their qualifications, of the authorized persons’ register and the structural engineers’ register established by virtue of section 3 of the principal Ordinance as replaced by this Ordinance,

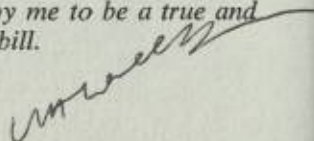
as if their names had been included in such list or register by the Building Authority on the advice of the Registration Committee established by virtue of section 3 of the principal Ordinance as replaced by this Ordinance.

Passed by the Hong Kong Legislative Council this 31st day of July, 1974.



*Clerk to the Legislative Council.*

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



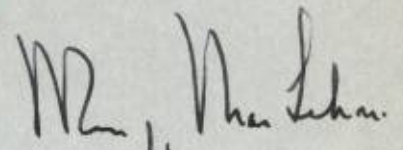
*Clerk to the Legislative Council.*

HONG KONG

No. 53 OF 1974



I assent.

  
Governor.

15th August, 1974.

An Ordinance to amend the Births and Deaths Registration Ordinance.

[1st September, 1974]

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

1. This Ordinance may be cited as the Births and Deaths Registration (Amendment) Ordinance 1974 and shall come into operation on the 1st September 1974. Short title and commencement.
2. Section 22(1) of the principal Ordinance is amended— Amendment of section 22. (Cap. 174.)
  - (a) by deleting “one dollar and fifty cents” and substituting the following—

“three dollars”; and
  - (b) by deleting “three dollars” and substituting the following—

“six dollars”.

Amendment of section 23. 3. Section 23 of the principal Ordinance is amended by deleting "fifty cents" and substituting the following—  
"one dollar".

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.

*[Signature]*  
Clerk to the Legislative Council.

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

*[Signature]*  
Clerk to the Legislative Council.

**HONG KONG**

No. 54 OF 1974

I assent.

*[Signature]*  
Governor.

15th August, 1974.

An Ordinance to amend the Bankruptcy Ordinance.

[ ]

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

1. This Ordinance may be cited as the Bankruptcy (Amendment) Ordinance 1974 and shall come into operation on the day appointed by the Governor by notice in the *Gazette* for the purposes of section 31B(1) of the Employment Ordinance.

Short title and commencement.

(Cap. 57.)

2. Section 38 of the principal Ordinance is amended—  
(a) in subsection (1) by inserting after paragraph (c) the following new paragraph—

Amendment of section 38.  
(Cap. 6.)

(Cap. 57.)

“(ca) any severance payment payable to an employee under the Employment Ordinance, not exceeding in respect of each employee six thousand dollars;”;

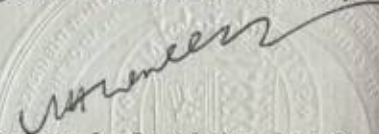
(b) in subsection (3) by deleting "and (c)" and substituting the following—

"(c) and (ca)"; and

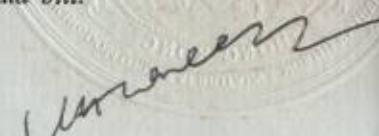
(c) in subsection (3A) by deleting "and (c)" and substituting the following—

"(c) and (ca)".

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.

  
Clerk to the Legislative Council.

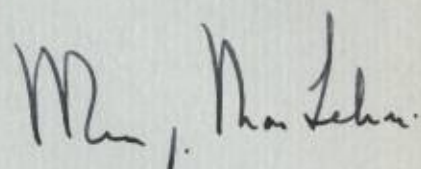
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

HONG KONG

No. 55 OF 1974

I assent.

  
Governor.

15th August, 1974.

An Ordinance to amend the Companies Ordinance.

[ ]

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

1. This Ordinance may be cited as the Companies (Amendment) Ordinance 1974 and shall come into operation on the day appointed by the Governor by notice in the *Gazette* for the purposes of section 31B(1) of the Employment Ordinance.

Short title and commencement.

(Cap. 57.)

2. Section 265 of the principal Ordinance is amended—  
(a) in subsection (1) by inserting after paragraph (c) the following new paragraph—

Amendment of section 265.  
(Cap. 32.)

"(ca) any severance payment payable to an employee under the Employment Ordinance, not exceeding in respect of each employee six thousand dollars;"

(Cap. 57.)

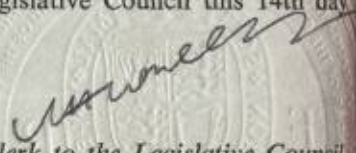
(b) in subsection (3) by deleting "and (c)" and substituting the following—

"(c) and (ca)"; and

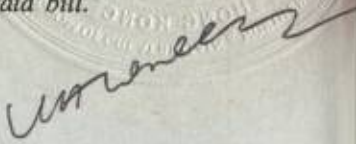
(c) in subsection (3A) by deleting "and (c)" and substituting the following—

"(c) and (ca)".

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.

  
Clerk to the Legislative Council.

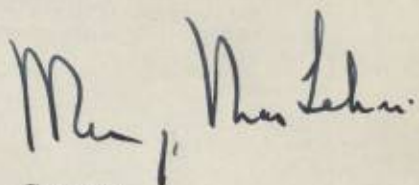
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

**HONG KONG**

No. 56 OF 1974

I assent.

  
Governor.

15th August, 1974.

An Ordinance to amend the Hong Kong Tourist Association Ordinance.

[16th August, 1974]

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

1. This Ordinance may be cited as the Hong Kong Tourist Association (Amendment) Ordinance 1974. Short title.

2. (1) Sections 1, 2, 3, 4, 5, 7 and 8 shall come into operation on the expiration of the day next preceding the day when this Ordinance is published in the *Gazette*. Commencement.

(2) Section 6 shall come into operation on the 1st January 1975.

3. Section 2 of the principal Ordinance is amended in subsection (1) in the definition of "Association" by inserting, after "Hong Kong Tourist Association", the following— Amendment of section 2. (Cap. 302.)

"(香港旅遊協會)".

Amendment of section 3. **4.** Section 3 of the principal Ordinance is amended in subsection (1) by adding, after "Association", the following—

"(香港旅遊協會)".

Amendment of section 24. **5.** Section 24 of the principal Ordinance is amended in subsection (1)(b) by adding, after "Hong Kong Tourist Association", the following—

"or the characters "香港旅遊協會"".

Addition of section 25. **6.** The principal Ordinance is amended by adding after section 24 the following new section—

"Unauthorized use of the title of the Association. **25.** (1) No person shall incorporate or form, or be a director, office bearer or organizer of any company, body corporate, firm or organization which, without the written consent of the Board—

- (a) purports or holds itself out to be—
  - (i) the Association or any branch or part thereof; or
  - (ii) connected or associated with the Association in any manner; or
- (b) uses a title in any language which so resembles the title "Hong Kong Tourist Association" or "香港旅遊協會" as to deceive or mislead any person in believing that the company, body corporate, firm or organization is—
  - (i) the Association or any branch or part thereof; or
  - (ii) connected or associated with the Association in any manner.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars."

Addition of section 26. **7.** The principal Ordinance is amended by adding after new section 25 the following new section—

"Power to amend the Schedule. **26.** The Governor may by order published in the *Gazette* amend the Schedule."

**8.** The Schedule to the principal Ordinance is amended by inserting, at the end thereof, the following new badges— Amendment of Schedule.



Passed by the Hong Kong Legislative Council this 14th day of August, 1974.

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

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

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

**HONG KONG**

No. 57 OF 1974



I assent.

*M. J. M. M.*  
Governor.

15th August, 1974.

An Ordinance to amend the Companies Ordinance.

[16th August, 1974]

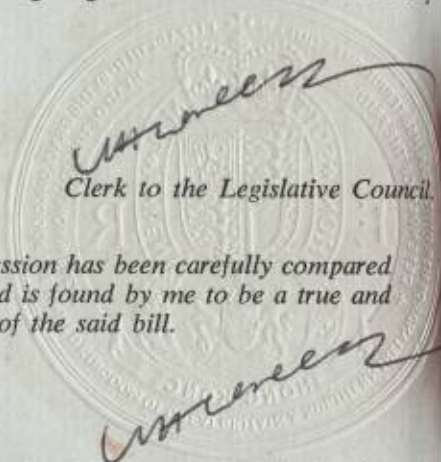
Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Companies (Amendment) (No. 2) Ordinance 1974. Short title.
2. Section 20(2) of the principal Ordinance is amended— Amendment of section 20(2). (Cap. 32.)
  - (a) by deleting the full stop at the end of paragraph (g) and substituting the following—  
“; or”; and
  - (b) by inserting after paragraph (g) the following new paragraph—  
“(h) contains the words “Tourist Association” or other words likely in the opinion of the

(Cap. 302.)

Registrar to suggest connexion with the Hong Kong Tourist Association (香港旅遊協會) incorporated under the Hong Kong Tourist Association Ordinance.”.

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.



*Clerk to the Legislative Council.*

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

*Clerk to the Legislative Council.*

**HONG KONG**

No. 58 OF 1974



I assent.

*M. J. Ma*  
Governor.

15th August, 1974.

An Ordinance to amend the Magistrates Ordinance.

[16th August, 1974]

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

1. This Ordinance may be cited as the Magistrates (Amendment) (No. 2) Ordinance 1974. Short title.

2. Section 118(1) of the principal Ordinance is amended by deleting paragraph (c) and substituting the following— Amendment of section 8. (Cap. 227.)

“(c) except in the case of caning, which shall be stayed pending the appeal, the appeal shall not operate as a stay of execution;”.

Repeal and replacement of section 122.

3. Section 122 of the principal Ordinance is repealed and replaced by the following section—

"Treatment of appellants pending appeal or re-hearing.

122. (1) A judge may, on the application of an appellant who is in custody, order the appellant to be brought up to the court in custody for the purpose of attending his appeal or any application or any proceeding therein.

(2) Without prejudice to subsection (1), a judge may, on the application of an appellant who is in custody, admit the appellant to bail pending the determination of his appeal or any proceeding therein.

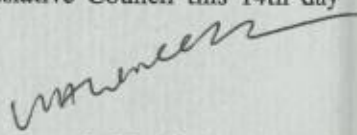
(3) The time during which an appellant is held in custody pending the determination of his appeal or any application or proceeding therein shall, subject to any direction which a judge may give to the contrary, be reckoned as part of the term of any sentence to which he is for the time being subject.

(4) Where an appellant is admitted to bail under subsection (2) or under paragraph (a) of section 119, the time during which he is at large after being so admitted shall not be reckoned as part of the term of any sentence to which he is for the time being subject.

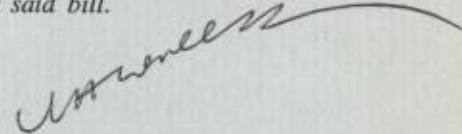
(5) The term of any sentence passed by a judge on an appeal shall, unless a judge otherwise directs, begin to run from the time when it would have begun to run if passed in the proceedings from which the appeal lies.

(6) Paragraph (a) of section 119 and subsections (1) to (5) of this section shall apply to the case of a review under the provisions of section 104, in like manner as if the convicted person were an appellant, save that references to a judge shall be construed as references to the magistrate and references to an appeal shall be construed as references to a review."

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.

  
Clerk to the Legislative Council.

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

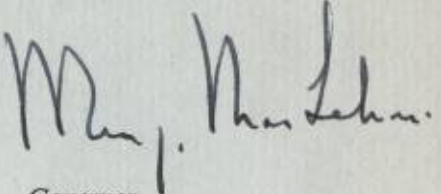
  
Clerk to the Legislative Council.

**HONG KONG**

No. 59 OF 1974



I assent.

  
Governor.

*15th August, 1974.*

An Ordinance to amend the Town Planning Ordinance and to validate certain plans prepared thereunder.

[16th August, 1974]

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

1. This Ordinance may be cited as the Town Planning Short title. (Amendment and Validation) Ordinance 1974.

2. Section 4 of the principal Ordinance is amended by deleting subsection (1) and substituting the following— Amendment of section 4. (Cap. 131.)

“(1) The Board’s draft plans for the lay out of any such area may show or make provision for—

- (a) streets, railways and other main communications;
- (b) zones or districts set apart for use for residential, commercial, industrial or other specified uses;

- (c) reserves for Government, institution or community purposes;
  - (d) parks, recreation grounds and similar open spaces;
  - (e) zones or districts set apart for undetermined uses,
- and any matter whatsoever may be shown or provided for or specified in or in respect of the plans by means of such diagrams, illustrations, notes or descriptive matter as the Board thinks appropriate; and any such diagrams, illustrations, notes and descriptive matter shall be part of the plans."

Addition of new sections 16, 17 and 18.

3. The principal Ordinance is amended by adding, after section 15, the following new sections—

"Applica-  
tions for  
permission  
in respect  
of plans.

16. (1) Where a draft plan or approved plan, whether prepared or approved before or after the commencement of the Town Planning (Amendment and Validation) Ordinance 1974, provides for the grant of permission for any purpose, an application for the grant of such permission shall be made to the Board.

(2) Any such application shall be addressed in writing to the secretary to the Board and shall be in such form and include such particulars as the Board thinks fit.

(3) The Board shall within 2 months of the receipt of the application, consider the same in the absence of the applicant and, subject to subsection (4), may grant or refuse to grant the permission applied for.

(4) The Board may grant permission under subsection (3) only to the extent shown or provided for or specified in the plan.

(5) Any permission granted under subsection (3) may be subject to such conditions as the Board thinks fit.

(6) The secretary to the Board shall notify the applicant in writing of the Board's decision on an application under this section, and where the Board refused to grant permission shall also notify the applicant of his right to a review under section 17.

(7) For the purposes of section 16(1)(d) of the Buildings Ordinance, anything permitted by the Board

(Cap. 123.)

under this section shall not be a contravention of any approved plan or draft plan prepared under this Ordinance.

Right of  
review.

17. (1) Where the Board refused to grant permission under section 16, the applicant may, within 21 days of being notified of the decision of the Board, apply in writing to the secretary to the Board for a review of the Board's decision.

(2) On receipt of an application under subsection (1), the secretary to the Board shall fix a time and place for the review, which shall be a day not more than 3 months of the receipt of the application, and shall give 14 days' notice thereof to the applicant.

(3) On a review under this section the applicant or his authorized representative may attend before the Board and shall be given an opportunity to make representations.

(4) If the applicant or an authorized representative does not attend at the time and place fixed for the review, the Board may proceed with the review or adjourn it.

(5) On a review under this section the Board shall consider any written representations submitted by the applicant.

(6) On a review under this section, the Board may, subject to section 16(4), grant or refuse to grant the permission applied for and may exercise the powers conferred by section 16(5).

(7) Any person aggrieved by the decision of the Board on a review under this section may appeal by way of petition to the Governor in Council whose decision on such appeal shall be final.

Amendment  
of diagrams,  
etc.

18. (1) Where a draft plan prepared before the commencement of the Town Planning (Amendment and Validation) Ordinance 1974, whether it has been approved under section 9 or not, contains, or is accompanied by, diagrams, illustrations, notes or descriptive matter, the Board may, for the purpose of removing any uncertainty,—

- (a) amend such diagrams, illustrations, notes or descriptive matter ; or

- (b) replace such diagrams, illustrations, notes or descriptive matter with such other diagrams, illustrations, notes or descriptive matter as it thinks fit,

and the amended or new diagrams, illustrations, notes or descriptive matter shall be, and shall be deemed always validly to have been, part of the plan.

(2) Where, pursuant to subsection (1), the Board amends or replaces any diagrams, illustrations, notes or descriptive matter contained in, or accompanying, a draft plan which has been approved under section 9, the Board shall notify the Land Officer of the amendment or replacement and the Land Officer shall make such amendment of the copy of the plan deposited with him under section 11 as may be necessary.

(3) Where the Board has amended or replaced any diagrams, illustrations, notes or descriptive matter under subsection (1), the Board shall make such amended or new diagrams, illustrations, notes or descriptive matter available for public inspection and shall publish in the *Gazette* a notice of the place and time at which the same may be inspected.

(4) Notwithstanding any provision of this Ordinance, no objection shall be allowed to any amendment or replacement made by the Board under subsection (1)."

Validation.

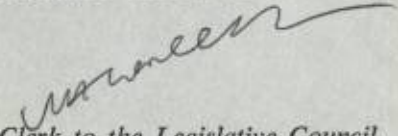
4. (1) No draft plan or approved plan purporting to have been prepared or approved under the principal Ordinance before the commencement of this Ordinance shall be or ever have been invalid by reason only that the plan contained, or was accompanied by, diagrams, illustrations, notes or descriptive matter, being diagrams, illustrations, notes or descriptive matter authorized by the Town Planning Board, or by reason only of any uncertainty in any such diagrams, illustrations, notes or descriptive matter.

(2) Where, before the commencement of this Ordinance, the Building Authority purported to refuse to give his approval of any plans of building works under section 16(1)(d) of the Buildings Ordinance on the ground that the carrying out of the building works shown on such plans would have contravened any approved plan or draft plan prepared under the principal Ordinance, such

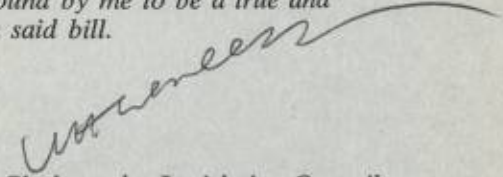
(Cap. 123.)

refusal shall not be and shall not ever have been invalid by reason only that the approved plan or draft plan would, but for this section, have been invalid.

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.

  
Clerk to the Legislative Council.

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

  
Clerk to the Legislative Council.



I assent.

*Man. John Lehman*  
Governor.

**HONG KONG**

No. 60 OF 1974



I assent.

*M. M. S. P. N. S. L. S. M.*  
Governor.

15th August, 1974.

An Ordinance to amend the Urban Council Ordinance.

[16th August, 1974]

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

1. This Ordinance may be cited as the Urban Council Short title. (Amendment) (No. 2) Ordinance 1974.

2. Section 11 of the principal Ordinance is amended—

(a) in subsection (1)—

(i) in paragraph (a), by deleting “; and” and substituting a full stop; and

(ii) by deleting paragraph (b); and

(b) by deleting subsection (2).

Amendment  
of section  
11.  
(Cap. 101.)

Amendment  
of section  
32.

3. Section 32 of the principal Ordinance is amended by deleting subsection (2) and substituting the following—

“(2) Nothing in subsection (1) shall limit the discretion of the Council or any committee to determine any matter by circulating papers, and any papers so circulated may assume the agreement of the Council or such committee to any matter unless a member notifies his disagreement within such time as may be specified in such papers.”.

Amendment  
of First  
Schedule.

4. The First Schedule to the principal Ordinance is amended in paragraph 2—

(a) by inserting in sub-paragraph (2)(o) after “radio-telegraphy” the following—

“or a maritime radiocommunication general certificate”; and

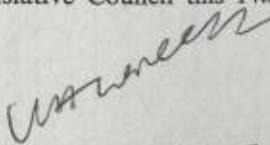
(b) by deleting sub-paragraph (4) and substituting the following—

“(4) The Governor in Council in his absolute discretion may by order—

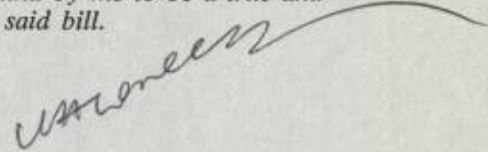
(a) add to the professional institutions and bodies specified in the Table to this Schedule the name of any professional institution or body whether British or foreign and whether similar to any of the institutions and bodies therein or not; or

(b) delete from the Table to this Schedule the name of any professional institution or body specified therein which has changed its name and substitute therefor the new name of the professional institution or body.”.

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.

  
Clerk to the Legislative Council.

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

  
Clerk to the Legislative Council.

**HONG KONG**

No. 61 OF 1974



I assent.

Governor.

15th August, 1974.

An Ordinance to amend the Public Health and Urban Services Ordinance.

[ ]

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

1. This Ordinance may be cited as the Public Health and Urban Services (Amendment) Ordinance 1974 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*, and notices under this section may appoint different dates for different provisions of this Ordinance.

Short title and commencement.

2. Section 2 of the principal Ordinance is amended—

Amendment of section 2. (Cap. 132.)

(a) by inserting, after the definition of "exhibit", the following new definitions—

“fire hazard” means—

(Cap. 123.)

- (a) any alteration to any building in contravention of the Buildings Ordinance such as might render escape in the event of fire or other calamity materially more difficult;
  - (b) the overcrowding of any place of public entertainment or public assembly such as might render escape in the event of fire or other calamity materially more difficult;
  - (c) any removal from any building of any fire service installation or equipment which was provided in such building in accordance with plans certified by the Director of Fire Services for the purposes of section 16 of the Buildings Ordinance;
  - (d) the presence in any building of any fire service installation or equipment which from lack of proper maintenance or for any other reason is not in efficient working order;
  - (e) inadequate means of egress from any premises in a building to street level outside the building;
  - (f) any other matter or circumstance which materially increases the likelihood of fire or other calamity or the danger to life or property that would result from the outbreak of fire or the occurrence of any other calamity, or which would materially hamper the Fire Services Department in the discharge of its duties in the event of fire or other calamity;
- “fire service installation or equipment” means any installation or equipment manufactured, used or designed to be used for the purposes of—
- (a) extinguishing, attacking, preventing or limiting a fire;
  - (b) giving warning of a fire;
  - (c) providing access to any premises for the purpose of extinguishing, attacking, preventing or limiting a fire;” and
- (b) by deleting the definition of “ventilating system” and substituting the following—
- ““ventilating system” means a system which is either mechanical or electrical, or both, for introducing or

exhausting air, and also means an air-conditioning plant which contains a device for reducing or increasing the temperature of the air in any building, or any part thereof, below or above the temperature of the external air;”.

3. Section 12 of the principal Ordinance is amended in subsection (1) by— Amendment of section 12.

- (a) substituting a semicolon for the full stop at the end of paragraph (f); and
- (b) inserting, after paragraph (f), the following new paragraph—

“(g) the emission of air either above or below the temperature of the external air, or the discharge of water, whether waste or otherwise, from the ventilating system in any premises in such a manner as to be a nuisance.”.

4. Section 32 of the principal Ordinance is amended in subsection (1) by deleting “thereof” in the first place where it occurs and substituting the following— Amendment of section 32.

“of the premises in question”.

5. Section 93 of the principal Ordinance is amended by inserting, after subsection (2), the following new subsections— Amendment of section 93.

“(3) Notwithstanding the provisions of any enactment under which such premises are licensed, the licensing authority may revoke the licence issued or granted by it in respect of any scheduled premises, either temporarily or permanently, in the following cases—

- (a) in the event of any failure to comply with the requirements of a notice given in respect of such premises under the provisions of subsection (1) or (2) within six months from the date thereof or within such further period as the Authority may allow;
- (b) in the event of any failure to comply with any conditions imposed under the provisions of section 101.

(4) Any licensee or owner of any scheduled premises who fails to comply with the requirements of a notice under subsection (1) or (2) within six months from the date thereof,

or within such further period as the Authority may allow, shall be guilty of an offence.

(5) For the purposes of this Part, the expression "licensing authority" means the public officer or public body by whom or which any scheduled premises are, for the time being, licensed under the provisions of any enactment."

6. Section 94 of the principal Ordinance is amended—

- (a) in subsection (1), by—
- (i) deleting "and" at the end of paragraph (e);
  - (ii) deleting the full stop at the end of paragraph (f) and substituting the following—  
"; and"; and
  - (iii) inserting, after paragraph (f), the following new paragraph—  
"(g) the type of refrigerant (if any) to be used."; and
- (b) by inserting, after subsection (3), the following new subsections—

"(3A) Any licensee of any scheduled premises who contravenes the provisions of subsection (1) shall be guilty of an offence.

(3B) Any licensee or owner of any scheduled premises who contravenes the provisions of subsection (2) shall be guilty of an offence.

(3C) For the purposes of subsection (3B), "owner" includes any person in control of the scheduled premises whether as tenant thereof or under any licence from a tenant thereof."

7. The principal Ordinance is amended by adding, after section 94, the following new section—

"Regulations relating to ventilating systems in scheduled premises.

94A. (1) The Authority may make regulations for all or any of the following matters—

- (a) the regulation and control of ventilating systems in scheduled premises;
- (b) imposing requirements as to the design, construction, operation, maintenance and inspection of ventilating systems provided in scheduled premises.

Amendment of section 94.

Addition of new section 94A.

(2) Notwithstanding the provisions of any enactment under which such premises are licensed, regulations made under this section may make provision for the revocation of any licence, issued or granted by a licensing authority in respect of scheduled premises, in the event of—

- (a) a contravention of any such regulation or of any condition imposed thereunder;
- (b) a failure to maintain any standard of safety or efficiency imposed or required thereunder."

8. Sections 95, 96, 97, 98 and 99 of the principal Ordinance are repealed.

Repeal of sections 95, 96, 97, 98 and 99.

9. Section 101 of the principal Ordinance is amended—

Amendment of section 101.

- (a) in subsection (1)(c), by inserting, after "or", the following—  
"the Director of Fire Services considers it to be";
- (b) in subsections (1) and (2), by deleting "sections 93 and 95" and substituting the following—  
"section 93 and any regulations made under section 94A"; and
- (c) by inserting, after subsection (2), the following new subsection—  
"(3) Any licensee or owner of any scheduled premises who fails to comply with any condition specified under subsection (2) shall be guilty of an offence."

10. Section 124E(1) of the principal Ordinance is amended by deleting paragraph (e) and substituting the following—

Amendment of section 124E.

- "(e) the fees and charges to be taken and made—
- (i) for the cremation of human remains in any crematorium;
  - (ii) for the disposal or interment of the ashes resulting from any such cremation;
  - (iii) for the placing in any crematorium or garden of remembrance of any monument, tablet, inscription, receptacle for flowers or other ornament;

(iv) for the planting in any crematorium or garden of remembrance of any tree, shrub or plant of any kind;”.

Amendment  
of section  
128.

**11.** Section 128 of the principal Ordinance is amended—

(a) in the proviso to subsection (1), by inserting, after “where”, the following—

“, at the date of the issue of a summons in respect of an application under this subsection;” and

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

“(1A) For the purposes of subsection (1), human habitation of premises or a vessel does not include habitation by a servant, watchman or caretaker employed by the person having the management or control of such premises or vessel.”.

Amendment  
of Second  
Schedule.

**12.** The Second Schedule to the principal Ordinance is amended by inserting, after “Cinema 450”, the following—

“Funeral parlours 600”.

Amendment  
of Third  
Schedule.

**13.** The Third Schedule to the principal Ordinance is amended—

(a) in the first column, by deleting “93(1) and (2)” and substituting the following—

“93(1), (2), (3) and (4)”;

(b) in the first, second and third columns, by inserting, after the item relating to section 94(1) and (2), the following—

“94A Urban Governor  
Council in Council”; and

(c) in the first, second and third columns, by deleting the items relating to section 95(2), section 98(1)(a) and (f) and section 99(1)(a).

Amendment  
of Sixth  
Schedule.

**14.** The Sixth Schedule to the principal Ordinance is amended in the first, second and third columns—

(a) by inserting, after the item relating to section 92C, the following—

“93(4) Urban Director of  
Council Urban Services”;

(b) by inserting, after the item relating to section 94(3), the following—

“94(3A) Urban Director of  
or Council Urban Services”;  
(3B) and

(c) by deleting the items relating to section 99(1)(a), (b), (c), (d) or (e) and section 99(2) and substituting the following—

“101(3) Urban Director of  
Council Urban Services”.

**15.** The Ninth Schedule to the principal Ordinance is amended in the first, second and third columns—

(a) by inserting, after the item relating to section 92C, the following—

“93(4) \$2,000 fine \$100 fine”;  
and 3 months  
imprisonment

(b) by inserting, after the item relating to section 94(3), the following—

“94(3A) \$2,000 fine ———”;  
or (3B) and 3 months  
imprisonment

(c) by deleting the items relating to section 99(1)(a) and section 99(1)(b), (c), (d), or (e) or (2) and substituting the following—

“101(3) \$2,000 fine ———”; and  
and 3 months  
imprisonment

(d) by deleting the item relating to section 128(3) and substituting the following—

“128(3) \$5,000 fine \$100 fine”.  
and 3 months  
imprisonment

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.

*Chambers*  
Clerk to the Legislative Council.

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

*Witness*

*Clerk to the Legislative Council.*



I assent.

*M. J. M. L.*  
Governor.

*15th August, 1974.*

An Ordinance to establish a Lands Tribunal and to provide for  
matters connected therewith.

**HONG KONG**

No. 62 OF 1974

*Approved*  
Clerk to the Legislative Council.

I assent.

*M. M. Leung*  
Governor.

15th August, 1974.

An Ordinance to establish a Lands Tribunal and to provide for matters connected therewith.

[ ]

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

1. This Ordinance may be cited as the Lands Tribunal Ordinance 1974, and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*. Short title and commencement.

2. In this Ordinance, unless the context otherwise requires— Interpretation.  
“President” means the president of the Lands Tribunal appointed under section 4;

“qualified in law” means qualified for appointment as a District Judge under section 5 of the District Court Ordinance; and (Cap. 336.)  
“Tribunal” means the Lands Tribunal established under section 3.

3. There shall be a tribunal to be known as the Lands Tribunal. Establishment of Lands Tribunal.

President and members of the Tribunal.

4. (1) The Tribunal shall consist of a president and such number of other members as the Governor may appoint.

(2) The President shall be a person who is qualified in law.

(3) The other members of the Tribunal shall be persons who are qualified in law or persons who, in the opinion of the Governor, are sufficiently experienced in the practice of land valuation in order to qualify them to sit as members of the Tribunal.

Appointment of deputy of the President.

5. (1) If the President is temporarily unable to exercise his functions as the president of the Tribunal, the Chief Justice may appoint any other member of the Tribunal to act as the deputy of the President for such period as the Chief Justice may specify.

(2) A member of the Tribunal appointed under subsection (1) to act as the deputy of the President may exercise the powers and perform the duties of the President during the period of his appointment.

Acting appointments of President and members.

6. (1) If the President is precluded by illness, absence from Hong Kong or any other cause from exercising his functions as the president of the Tribunal, the Governor may appoint any other person holding the qualifications referred to in section 4(2) to act as the president of the Tribunal for such period as the Governor may specify.

(2) If a member of the Tribunal other than the President is precluded by illness, absence from Hong Kong or any other cause from exercising his functions as a member of the Tribunal, the Governor may appoint any other person holding the qualifications referred to in section 4(3) to act as a member of the Tribunal for such period as the Governor may specify.

Panel of persons appointed to sit on Tribunal.

7. The Governor may appoint a panel of persons other than public officers whom he considers to be suitable to be additional members of the Tribunal in the exercise of its jurisdiction under this Ordinance and shall cause the name of each person so appointed to be published in the *Gazette*.

Jurisdiction of the Tribunal.

8. (1) The Tribunal shall have jurisdiction to determine the amount of compensation (if any) payable by the Government in respect of any claim submitted to it under any Ordinance specified in the First Schedule.

First Schedule.

(2) The Tribunal shall have jurisdiction to determine the amount of compensation (if any) payable by the Government in respect of any claim submitted to it under an Ordinance other than an Ordinance specified in the First Schedule if—

(a) the claim arises from any action taken by or on behalf of the Government in connexion with—

(i) the compulsory acquisition of land or any interest therein;

(ii) the extinguishment or variation of any rights pertaining to land;

(iii) the creation of any easements in, over or under any land; or

(iv) the authorization of any undertaking affecting any land or any interest therein; and

(b) the claim is submitted to the Tribunal for determination by agreement by or on behalf of both the Government and the claimant.

(3) Subsection (2) shall apply notwithstanding any other provision made in any such Ordinance for the determination of any such claim.

(4) The Tribunal shall have jurisdiction to determine any appeal submitted to it for determination under any Ordinance specified in the First Schedule.

First Schedule.

(5) The Tribunal shall have such other jurisdiction as may be vested in it under any Ordinance.

9. (1) Subject to the provisions of this section, the jurisdiction of the Tribunal shall be exercised by one or more of its members selected by the President and in respect of any proceedings before the Tribunal in which the President selects more than one member he shall designate which member shall preside at the hearing.

Exercise of the Tribunal's jurisdiction.

(2) The President may select another member of the Tribunal in substitution for a member previously selected to hear any proceedings before the Tribunal, including any proceedings which have been part heard.

(3) The President may select from the panel of persons appointed under section 7 any person to be an additional member of the Tribunal in the hearing of any proceedings before the Tribunal.

(4) The President may appoint any person who has specialized knowledge or experience of a specified subject to sit as an assessor in any proceedings before the Tribunal.

(5) Subject to subsection (6), any difference between the members exercising the jurisdiction of the Tribunal shall be

decided by the majority of votes, and in the event of an equality of votes the member presiding at the hearing shall be entitled to a second or casting vote.

- (6) If, during any proceedings before the Tribunal—
- (a) a point of law arises which is disputed by any party to the proceedings; and
  - (b) the proceedings are being heard by a member or members not qualified in law,

the point of law shall be determined by the President, who may for such purpose take part in such proceedings in such manner as he thinks fit.

(7) The President shall determine the form of documents to be made or issued by the Tribunal.

(8) It shall be sufficient if any document made or issued by the Tribunal is signed by the presiding member.

- (9) The Tribunal may—
- (a) receive evidence on oath; and
  - (b) admit and take into account any statement, document, information or matter whether or not it would be admissible as evidence in a court of law.

Practice and  
procedure of  
Tribunal.

10. (1) The Tribunal shall have the powers which are vested in the Supreme Court in the exercise of its civil jurisdiction in respect of the following matters—

- (a) the attendance, examination and payment of witnesses;
- (b) the hearing of any matter with the assistance of an assessor or assessors;
- (c) the consolidation or hearing of any matters;
- (d) the punishment of persons guilty of contempt;
- (e) the ordering of inspection of any premises or place;
- (f) the entering and viewing of any premises or place,

and, so far as circumstances permit, shall follow the practice and procedure of the Supreme Court in the exercise of its civil jurisdiction.

(2) Without prejudice to the generality of the powers vested in it under subsection (1), the Tribunal may—

- (a) on the application of any party to any proceedings before it, or of its own motion, order any party to the proceedings to disclose to the Tribunal the existence of any document which is in the power of such party to produce

and which the Tribunal considers is or may be material to the determination of the matter being heard by the Tribunal;

- (b) order any party to any proceedings before it—
  - (i) to produce to the Tribunal any document which it may require and which is in the power of such party to produce; and
  - (ii) to afford to any other party to the proceedings an opportunity to examine any such document or copy thereof and to take copies thereof; and
- (c) together with the parties to any proceedings before it and any expert witness of any such party, enter on and inspect any land, premises or place which relates to the proceedings before the Tribunal or any land, premises or place contiguous or adjacent thereto.
- (3) The Chief Justice may make rules prescribing—
  - (a) the form of any document to be made or issued by any party or intending party for the purpose of any proceedings before the Tribunal;
  - (b) the fees payable in respect of any proceedings before the Tribunal; and
  - (c) the practice and procedure to be followed in any proceedings before the Tribunal or in any appeal from a decision of the Tribunal in so far as no provision is made therefor in this Ordinance.

(4) The President may, after consultation with the other members of the Tribunal, determine any form or matter of practice in so far as no provision is made therefor in this Ordinance or in rules made under subsection (3).

11. (1) Subject to subsections (2) and (3), the decision of the Tribunal in determining—

- (a) the amount of compensation payable by the Government in the case of any claim submitted to it under subsection (1) or (2) of section 8; or
- (b) any appeal submitted to it under section 8(4),

shall be the final determination thereof.

(2) Any person who alleges that the Tribunal, in arriving at its decision under subsection (1), erred in any point of law in

Decisions of  
Tribunal  
final.

arriving at that decision, may apply, within fourteen days after the decision has been given, in writing to the clerk to the Tribunal requesting the President, or the member of the Tribunal presiding over the proceedings in question—

- (a) to state in writing the decision of the Tribunal and the reasons therefor; and
  - (b) to submit these documents to the Full Court for its decision on the alleged error of law.
- (3) On an appeal submitted to it under subsection (2), the Full Court may thereupon—
- (a) affirm, reverse or vary the decision of the Tribunal; or
  - (b) remit the matter to the Tribunal for its determination on fact in the light of the decision of the Full Court given on a point of law.
- (4) Without prejudice to subsection (2), the President may, of his own motion, refer a matter to the Full Court by way of case stated.

Award of costs by the Tribunal.

12. The President or member presiding over any proceedings before the Tribunal may, at his discretion, award costs to any party to any proceedings before the Tribunal under such circumstances, and subject to such conditions, as he thinks fit.

Compensation, etc. determined by Tribunal payable out of general revenue.

13. Subject to the provisions of any other Ordinance—
- (a) any sum of money determined by the Tribunal as compensation payable by the Government in any case submitted to the Tribunal under section 8 and any interest payable thereon;
  - (b) any sum of money determined by the President as remuneration to, or emoluments or expenses of, any person selected by the President to assist the Tribunal in the hearing of any proceedings before the Tribunal;
  - (c) any sum of money determined by the President as remuneration to, or emoluments or expenses of, any assessor hearing any proceedings before the Tribunal; and
  - (d) any costs awarded by the Tribunal against the Government in any proceedings before the Tribunal,

shall be paid out of the general revenue of the Government.

14. (1) In exercising its jurisdiction under section 8, the Tribunal shall make its determination in accordance with the provisions of the Ordinance under which the matter is submitted to it for determination and in accordance with the provisions of any subsidiary legislation made thereunder. Saving in respect of other Ordinance.

(2) Nothing in this Ordinance shall affect the operation of any Ordinance under which a matter is submitted under section 8 of this Ordinance to the Tribunal for determination except so far as relates to the determination of—

- (a) the amount of compensation (if any) payable by the Government in respect of any claim submitted to it under subsection (1) or (2) of section 8; or
- (b) any appeal submitted to it under section 8(4).

15. The Governor may, by order published in the *Gazette*, amend the First Schedule. Governor's power to amend First Schedule.

16. The Ordinances specified in the Second Schedule are amended in the manner specified therein. Consequential amendments of other Ordinances. Second Schedule.

#### FIRST SCHEDULE [s. 8(1) & 15.]

##### ORDINANCE UNDER WHICH MATTERS MAY BE SUBMITTED TO THE TRIBUNAL FOR DETERMINATION

Chapter Number	Short title
113.	Public Reclamations and Works Ordinance.
116.	Rating Ordinance.
124.	Crown Lands Resumption Ordinance.
127.	Foreshores and Sea Bed Ordinance.
130.	Streets (Alteration) Ordinance.
301.	Hong Kong Airport (Control of Obstructions) Ordinance.
337.	Demolished Buildings (Re-development of Sites) Ordinance.

## SECOND SCHEDULE

[s. 16]

## CONSEQUENTIAL AMENDMENTS OF OTHER ORDINANCES

Chapter	Ordinance	Amendments
1.	Interpretation and General Clauses Ordinance.	Section 3 is amended by inserting after the definition of "Kowloon" the following— " "Lands Tribunal" means the Lands Tribunal established under section 3 of the Lands Tribunal Ordinance 1974;".
113.	Public Reclamations and Works Ordinance.	1. Section 3(2) is amended in paragraph (d) by deleting "determined by a tribunal in accordance with section 7 and refer the claim to the tribunal for the purpose" and substituting the following— "determined by the Lands Tribunal and refer the claim to the Lands Tribunal for the purpose". 2. Section 6(2) is amended by deleting "a tribunal by the Governor, who shall so refer it" and substituting the following— "the Lands Tribunal for determination". 3. Sections 7 and 7A are repealed and replaced by the following section— "7. Any compensation determined by the Lands Tribunal in respect of any claim referred to it under section 3(2) shall be paid out of the general revenue of the Government if the proposed undertaking is authorized by the Governor or the Governor in Council under this Ordinance." 4. The Public Reclamations and Works Compensation Tribunal Rules are revoked.
116.	Rating Ordinance.	1. Section 2 is amended by deleting the definition of "court". 2. Section 42(1) is amended by deleting "court" and substituting the following— "Lands Tribunal". 3. Section 43 is amended— (a) in subsection (1), by deleting "Registrar of the court" and substituting the following— "registrar or clerk of the Lands Tribunal"; and

## Chapter Ordinance

## Amendments

		(b) in subsection (2), by deleting "Registrar" and substituting the following— "said registrar or clerk".
		4. Section 44 is amended— (a) in subsection (1), by deleting "court" and substituting the following— "Lands Tribunal"; (b) in subsection (2)— (i) by deleting "court" where it twice occurs and substituting the following— "Lands Tribunal"; and (ii) by deleting "Supreme" and substituting the following— "Full"; and (c) in subsection (3), by deleting "court" and substituting the following— "Lands Tribunal".
		5. Section 52 is amended by deleting "or magistrate" and substituting the following— "magistrate or member of the Lands Tribunal".
127.	Foreshores and Sea Bed Ordinance.	1. Section 5(3) is amended in paragraph (b) by deleting "by a judge in accordance with that section and refer the claim to a judge for the purpose of such determination" and substituting the following— "by the Lands Tribunal in accordance with that section and refer the claim to such Tribunal for the purpose of such determination". 2. Section 7 is amended— (a) in subsection (2)— (i) by deleting "a judge" and substituting the following— "the Lands Tribunal"; and (ii) by deleting "to such one of the judges as the Chief Justice shall in each case nominate for the

## Amendments

purpose" and substituting the following—

"accordingly";

- (b) by deleting subsections (3), (4), (5) and (6) and substituting the following—

"(3) The Lands Tribunal shall—

- (a) hear any evidence which either the Director of Public Works or the claimant may wish to tender and, if so desired, hear counsel or a solicitor on behalf of the Crown and the claimant; and
- (b) determine the amount of compensation (if any) payable by the Government to the claimant for any such injurious affection as is described in subsection (1)."

3. Section 8 is repealed and replaced by the following section—

"Compensation payable out of general revenue of Government. 8. Any compensation determined by the Lands Tribunal in respect of any claim submitted to it under section 7(1) shall be paid out of the general revenue of the Government if the Crown lease in question is granted by the Governor or the Governor in Council under this Ordinance."

130. Streets (Alteration) Ordinance.

1. Section 4(6) is amended by deleting "a tribunal" and substituting the following—

"the Lands Tribunal".

2. Section 6(1) is amended in paragraph (d) by deleting "a tribunal in accordance with section 7, and refer the claim to the tribunal" and substituting the following—

"the Lands Tribunal in accordance with section 7, and refer the claim to the Lands Tribunal".

## Amendments

3. Section 7 is repealed and replaced by the following new section—

"Lands Tribunal to determine claims for compensation. 7. The Lands Tribunal shall hear and determine any claim for compensation—

- (a) in relation to an undertaking authorized under subsection (1) of section 6, as so authorized; or
- (b) referred to it by the Governor in Council under paragraph (d) of subsection (1) of section 6."

4. Section 8 is repealed and replaced by the following section—

"Compensation payable out of general revenue. 8. Any compensation determined by the Lands Tribunal in respect of any claim submitted to it under section 4(2) and approved by the Governor or the Governor in Council shall be paid out of the general revenue of the Government."

5. Section 10 is amended by deleting "tribunal" and substituting the following—

"Lands Tribunal".

301. Hong Kong Airport (Control of Obstructions) Ordinance.

1. Section 24 is amended—

- (a) by deleting "tribunal referred to in section 25," and substituting the following—

"Lands Tribunal";

- (b) by deleting "tribunal" where it appears in paragraphs (a) and (f) and substituting the following—

"Lands Tribunal".

2. Section 25 is amended—

- (a) in subsection (1), by deleting "tribunal established under subsection (3)" and substituting the following—

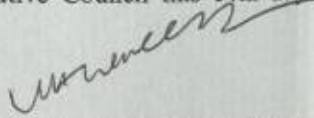
"Lands Tribunal";

## Amendments

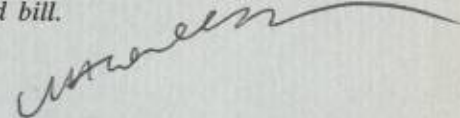
337. Demolished  
Buildings  
(Re-development  
of Sites) Ordinance.

- (b) in subsection (2), by deleting "tribunal" wherever it occurs and substituting the following—  
"Lands Tribunal"; and
- (c) by deleting subsections (3), (4), (5) and (6).
3. Section 26 is repealed.
4. The Airport Obstructions Compensation Tribunal Rules are revoked.
1. Section 2(1) is amended by deleting the definition of "Tribunal".
2. Section 4(1) is amended by deleting "Tribunal" wherever it occurs and substituting the following—  
"Lands Tribunal".
3. Section 6(3) is amended by deleting "Tribunal" and substituting the following—  
"Lands Tribunal".
4. Section 14 is repealed and replaced by the following new section—
- "Determination of appeals under sections 4 and 6. 14. (1) In determining an appeal under section 4 or section 6 the Lands Tribunal may confirm or set aside the re-development order or the incremental value and may substitute therefor any other re-development order or incremental value which it thinks proper and which could have been made by the Director.
- (2) The decision of the Lands Tribunal shall set out the matters for which allowance is made in making its determination and such decision shall be final."

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.

  
Clerk to the Legislative Council.

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

  
Clerk to the Legislative Council.



I assent.

*Wm. W. Lehman*

Governor.

1874



(b) in relation to land to which Part II of the New Territories Ordinance applies, the Secretary for the New Territories;

“former owner” means, in relation to land resumed by the Crown, the person who was the owner of the land immediately before the land reverted to the Crown under section 5;”.

Amendment of section 3. **3.** Section 3 of the principal Ordinance is amended by deleting “may arrange for the purchase thereof by negotiation with the owner or”.

Amendment of section 4. **4.** Section 4 of the principal Ordinance is amended in subsection (1) by deleting the following—  
“and calling on the owner to nominate a member to serve on a Board to determine the amount of compensation to be paid”.

Addition of new section 4A. **5.** The principal Ordinance is amended by adding after section 4 the following new section—

“Purchase by agreement.  
**4A.** Where an order has been made for the resumption of any land under section 3, the Authority may, before the land reverts to the Crown under section 5, agree with the owner and any person having an estate or an interest in such land under an instrument registered in the Land Office on the purchase of the land and of any such estate or interest therein.”.

Amendment of section 5. **6.** Section 5 of the principal Ordinance is amended by deleting “the longer period as aforesaid, the land” and substituting the following—

“any longer period authorized under section 4(3), the land, other than any land purchased by agreement under section 4A.”.

Repeal and replacement of section 6. **7.** Section 6 of the principal Ordinance is repealed and replaced by the following new section—

“Compensation.  
**6.** (1) Within a period of 28 days from the date on which land reverts to the Crown under section 5, the Authority shall—

(a) write to the former owner and to any person having an estate or interest in the land immediately before reversion under an instru-

ment registered in the Land Office, making an offer of compensation in respect of the land resumed; or

(b) serve on any of the persons referred to in paragraph (a) a notice in such form as the Authority may specify, requiring him to submit his claim for compensation within the time stipulated in such notice.

(2) Where a notice is served on a person under subsection (1)(b) he shall submit his claim in a form specified by the Authority and shall furnish to the Authority such accounts, documents and particulars as the Authority may reasonably require in support of such claim.

(3) If—

(a) a person to whom an offer has been made under subsection (1)(a) does not accept the offer within 28 days from the date thereof; or

(b) a person on whom a notice has been served under subsection (1)(b)—

(i) does not submit his claim within the time stipulated therein; or

(ii) submits his claim but he and the Authority do not agree as to the amount of compensation,

such person or the Authority may then refer the matter to the Lands Tribunal for determination of the amount of compensation to be paid in respect of the land resumed.”.

**8.** Section 7 of the principal Ordinance is amended—

(a) by renumbering it as subsection (1);

(b) by substituting a full stop for the semi-colon after “works”;

(c) by deleting “the compensation for any damage thereby occasioned to the owner or occupier thereof shall be decided by the Board.”; and

(d) by inserting the following new subsections—

“(2) If any damage is caused by reason of the entry into and upon the land or of any works per-

Amendment of section 7.

formed under subsection (1) either the owner or occupier may submit to the Authority a claim for compensation in respect of such damage.

(3) The Authority may compromise or settle any claim submitted under subsection (2), or failing agreement, either party may refer the matter to the Lands Tribunal for determination of the amount of compensation to be paid.”.

Repeal and replacement of section 8.

9. Section 8 of the principal Ordinance is repealed and replaced by the following new section—

“Claims for compensation.

8. (1) Any person claiming compensation by reason of the resumption of any land under this Ordinance, and being a person who has not been offered in writing compensation under section 6(1)(a), or has not been served with a notice under section 6(1)(b), may submit a claim in writing to the Authority stating the nature of his estate or interest in the land and the amount which he seeks to recover.

(2) If any such person and the Authority do not agree as to the amount of compensation (if any) to be paid either party may submit the claim to the Lands Tribunal for determination of the amount of compensation (if any) to be paid.

(3) A person claiming compensation under subsection (2) shall submit his claim to the Authority within a period of one year from the date on which the land reverted to the Crown under section 5 or within such further period as the Governor may allow in any case.”.

Repeal and replacement of sections 9 and 10.

10. Sections 9 and 10 of the principal Ordinance are repealed and replaced by the following sections—

“Barring of actions against the Crown.

9. Subject to the provisions of this Ordinance, no action or suit shall lie against the Crown or against any other person for any loss or damage suffered by any person as the result of the resumption of any land under this Ordinance.

Determination by Tribunal of compensation payable by Crown.

10. (1) The Tribunal shall determine the amount of compensation (if any) payable in respect of a claim submitted to it under section 6(3) or 8(2) on the basis of the loss or damage suffered by the claimant due to the resumption of the land specified in the claim.

(2) The Tribunal shall determine the compensation (if any) payable under subsection (1) on the basis of—

- (a) the value of the land resumed and any buildings erected thereon at the date of resumption;
- (b) the value of any easement or other right in the land resumed, owned, held or enjoyed by a claimant at the date of resumption;
- (c) the amount of loss or damage suffered by any claimant due to the severance of the land resumed or any building erected thereon from any other land of the claimant, or building erected thereon, contiguous or adjacent thereto;
- (d) the amount of loss or damage to a business conducted by a claimant at the date of resumption on the land resumed or in any building erected thereon, due to the removal of the business from that land or building as a result of the resumption.”.

11. Section 11 of the principal Ordinance is amended—

Amendment of section 11.

- (a) in subsection (1), by deleting “a Board” and substituting the following—  
“the Lands Tribunal”;
- (b) in subsection (2), by deleting “A Board” and substituting the following—  
“The Lands Tribunal”; and
- (c) in subsection (3), by deleting “Board” and substituting the following—  
“Lands Tribunal”.

12. Sections 13, 14 and 15 of the principal Ordinance are repealed.

Repeal of sections 13, 14 and 15.

13. Section 17 of the principal Ordinance is amended—

Amendment of section 17.

- (a) in subsection (1), by deleting “awarded as” and substituting the following—  
“agreed or determined as”;

- (b) by deleting subsections (2) and (3) and substituting the following—

“(2) At any time after agreement or determination by the Lands Tribunal of the amount of compensation to be paid under this Ordinance, the Authority may by notice published in the *Gazette* require the person entitled to such compensation to collect the same within the time and at the place specified in the notice.

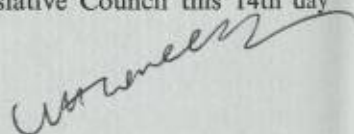
(3) Any sum of money determined as compensation by the Lands Tribunal shall bear interest from the date of resumption of the land until the expiration of the time specified in the notice referred to in subsection (2). No interest shall be payable on any costs or remuneration.

(4) The rate of interest for the purposes of subsection (3) shall be that paid from time to time by members of the Exchange Banks Association on deposits at 7 days' call or such other rate as may be determined by resolution of the Legislative Council.”.

Repeal of  
section 21.

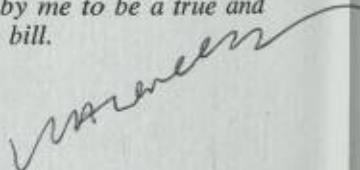
14. Section 21 of the principal Ordinance is repealed.

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.



*Clerk to the Legislative Council.*

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



*Clerk to the Legislative Council.*



I assent.

*Wm. W. Lehn*

*Governor.*

*21st August, 1974.*

An Ordinance to provide for a fixed penalty to be payable for

**HONG KONG**

No. 64 OF 1974



I assent.

*Ma, Man Lehn*

*Governor.*

*21st August, 1974.*

An Ordinance to provide for a fixed penalty to be payable for various offences, and for purposes connected therewith.

[ ]

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

**PART I**

**PRELIMINARY**

1. This Ordinance may be cited as the Fixed Penalty (Criminal Proceedings) Ordinance 1974 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

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

Interpretation.

“Commissioner” means the Commissioner for Transport;

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

"fixed penalty" means, in relation to a scheduled offence, the fixed penalty set out opposite thereto in the fourth column of the

Schedule.

"motor vehicle" means any mechanically propelled vehicle intended or adapted for use on roads, but does not include any conveyance for use solely on railways or tramways;

"police officer" includes a member of the Royal Hong Kong Auxiliary Police Force;

"proceedings" means criminal proceedings in any court in respect of a scheduled offence;

"registered address" means—

(a) in relation to a registered owner, the address that appears, in respect of any motor vehicle registered in his name, in the register of motor vehicles kept by the Commissioner in accordance with regulations made under the Road Traffic Ordinance; and

(Cap. 220.)

(b) in relation to a driver of a motor vehicle, the address that appears in respect of the driver in the record of driving licences kept by the Commissioner in accordance with regulations made under the Road Traffic Ordinance;

"registered owner" means—

(a) the person in whose name a motor vehicle is registered under regulations made under the Road Traffic Ordinance; and

(Cap. 220.)

(b) in relation to a motor vehicle to which a trade plate or permit issued under regulations made under the Road Traffic Ordinance is affixed, the person to whom the relevant trade licence or permit is issued under those regulations;

"scheduled offence" means an offence the general nature of which is described in the second and third columns of the Schedule.

Schedule.

(2) The short descriptions in the third column of the Schedule indicate for convenience of reference only the general nature of the offences under the provisions specified in the second column of the Schedule.

## PART II

### FIXED PENALTY

Fixed  
Penalty.

3. (1) If a police officer has reason to believe that a person is committing or has committed a scheduled offence, he may give that person a notice in the prescribed form offering that person

an opportunity to discharge any liability to conviction for that offence by payment of the fixed penalty therefor at any place specified in the notice.

(2) A notice under subsection (1) shall be given by the police officer to the person concerned—

(a) by delivering it personally to that person; or

(b) by fixing it to the vehicle used or involved in the commission of the offence.

(3) Subject to subsection (4), where the Commissioner of Police is of the opinion that a person alleged to be guilty of a scheduled offence ought to be proceeded against under this Part in respect thereof, he shall, as soon as practicable after the commission of the offence and whether or not a notice has been given under subsection (1), serve on that person a notice demanding payment of the fixed penalty.

(4) A notice under subsection (3) shall be served within 1 month of the commission of the offence:

Provided that where the identity or address of the person to be served is not ascertained within 7 days after the commission of the offence, the notice may be served not more than 6 months after the commission of the offence.

(5) A notice under subsection (3) shall be served by sending it by post to the registered address of the person to be served.

(6) A notice under subsection (3) shall be in the prescribed form and shall require payment of the fixed penalty within twenty-one days after the date of the notice.

(7) Where a notice under subsection (3) is served on any person, no proceedings shall be taken against that person in respect of the offence specified in the notice until the expiry of twenty-one days after the date of the notice.

(8) Subject to section 4, where a person has received a notice under subsection (1) or subsection (3) and has paid the full amount of the fixed penalty shown in the notice, he shall not be liable to be prosecuted or convicted for the scheduled offence specified in the notice.

4. (1) Where a notice under section 3(1) or (3) has been served on any person, the Commissioner of Police may, at any time before the commencement of proceedings against that person in respect of the scheduled offence specified in the notice, withdraw that notice, and may serve on that person a notice in writing informing him that the notice has been withdrawn.

Withdrawal  
of fixed  
penalty  
notices.

(2) Where a notice under section 3(1) or (3) has been withdrawn under this section and any sum of money has been paid pursuant to that notice, the Accountant General shall, on demand by the person on whom the notice was served, repay to that person the sum so paid.

(3) The withdrawal of a notice under section 3(1) or (3) shall not be a bar to any proceedings in respect of the scheduled offence specified in the notice.

Service of  
summons.

5. (1) Where—

- (a) a person fails to pay the fixed penalty in accordance with a notice served on him under section 3(3); and
- (b) proceedings are taken against him in respect of the scheduled offence specified in the notice,

(Cap. 227.)

then, notwithstanding section 8 of the Magistrates Ordinance, a summons issued in those proceedings may be served on the person named therein by sending it by post to the registered address of that person.

(2) Upon the production by the prosecution of—

(Cap. 8.)

- (a) a certificate of posting of that summons under section 29 of the Evidence Ordinance; and
- (b) a certificate under section 8,

it shall, subject to section 6(2), be conclusively presumed that the summons under subsection (1) to which the certificates relate was duly served.

Proceedings  
in absence  
of defend-  
ant.

6. (1) If a person served with a summons under section 5 does not appear before the court at the time and place required by the summons and service is proved under section 5(2), the court may hear and determine the case in the absence of the defendant.

(2) For the purposes of subsection (1), a summons shall be deemed not to have been served unless service was effected at a reasonable time before the time appointed in the summons for the appearance of the defendant before the court.

Proof of  
offence in  
absence of  
defendant.  
(Cap. 227.)

7. Notwithstanding anything in the Magistrates Ordinance, in any proceedings heard under section 6 in the absence of the defendant, the substance of the offence may be proved by the production by the prosecution of—

(Cap. 8.)

- (a) a copy of the notice served under section 3(3) and a certificate of posting of that notice under section 29 of the Evidence Ordinance; and
- (b) a certificate under section 8.

8. A certificate in the prescribed form stating—

Evidence by  
certificate.

- (a) that the person specified in it was at the time so specified either the registered owner of the vehicle, or the holder of the driving licence, so specified;
- (b) that the address specified in it was at the time so specified the registered address of such person; and
- (c) that payment of the fixed penalty in respect of the scheduled offence was not made before the date specified in the certificate,

and purporting to be signed by or on behalf of the Commissioner of Police shall be admitted in any proceedings on its production without further proof and—

- (i) until the contrary is proved, the court shall presume that the certificate was so signed; and
- (ii) the certificate shall be *prima facie* evidence of the facts stated therein.

9. (1) Notwithstanding that proceedings have been instituted against a person who has failed to pay the fixed penalty in accordance with a notice served on him under section 3(3), the defendant may pay the fixed penalty in accordance with subsection (2) and, if at the same time the defendant also pays to the court the sum of twenty-five dollars by way of costs, the proceedings shall thereupon terminate.

Payment of  
fixed  
penalty  
after issue  
of summons.

(2) Payment under subsection (1) shall be made to the court before which the defendant is required to appear not less than seventy-two hours before the time specified in the summons for his appearance; and the summons shall be produced at the time of payment.

10. (1) Where proceedings are taken against a person who failed to pay the fixed penalty in accordance with a notice served on him under section 3(3) and that person—

Effect of  
non-  
payment  
of fines.

- (a) is convicted of the offence specified in such notice; and
- (b) fails to pay the fine imposed, and any costs ordered to be paid under the Magistrates Ordinance, within twenty-four hours,

(Cap. 227.)

the Commissioner shall, notwithstanding anything in the Road Traffic Ordinance, where practicable—

(Cap. 220.)

- (i) refuse to issue a driving licence to that person or refuse to renew his driving licence;

- (ii) refuse to license or to renew the licence of any motor vehicle of which that person is the registered owner; and
- (iii) take no action in respect of any transfer of ownership of any motor vehicle of which that person is the registered owner.

(2) Subsection (1) shall cease to have effect if—

- (a) such person produces to the Commissioner a receipt or other evidence to prove that the fine and costs have been paid;
- (b) such person serves any sentence of imprisonment imposed on him by the court in default of payment of the fine and costs; or
- (c) such person's conviction is quashed on appeal.

(3) Subsection (1)(ii) and (iii) shall cease to have effect in respect of a motor vehicle which has been sold or otherwise disposed of by such person if the purchaser of the motor vehicle is, at the time of delivery to the Commissioner of notice of transfer of ownership in accordance with regulations made under the Road Traffic Ordinance, in possession of a certificate in the prescribed form issued by the Commissioner to the effect that no such fine or costs are unpaid by such person.

(4) A certificate issued under subsection (3) shall be valid for not more than seventy-two hours from the time of issue.

### PART III

#### GENERAL

Power to  
make  
regulations.

**11.** The Governor in Council may make regulations—

- (a) prescribing anything which under this Ordinance is to be or may be prescribed;
- (b) specifying the persons to whom and the places at which a fixed penalty may be paid;
- (c) specifying the manner of payment of a fixed penalty and the receipt therefor;
- (d) specifying the duties of a person to whom a fixed penalty is payable and the information to be supplied to him; and
- (e) generally for the better carrying out of the provisions of this Ordinance.

**12.** The Legislative Council may, by resolution, amend the Schedule. Amendment  
of Schedule.

#### SCHEDULE

[ss. 2 & 12.]

Offence			
Item	Section or Regulation	Description	Fixed Penalty
<i>Road Traffic Ordinance</i>			(Cap. 220.)
1.	Section 15(1)(a)	Speeding exceeding speed limit by 10 m.p.h. or less	\$ 50
2.	Section 15(1)(a)	Speeding exceeding speed limit by more than 10 m.p.h.	\$100
3.	Section 29(1)	Not giving correct name/ address	\$100
4.	Section 29(1)	Not identifying driver	\$200
5.	Section 31(3)	Failing to produce licence	\$ 50
<i>Road Traffic (Construction and Use) Regulations</i>			(Cap. 220, sub. leg.)
6.	Regulation 96(2)	Excess passengers—goods vehicle	\$100
7.	Regulation 98(2)	Excess passengers—private car	\$ 50
8.	Regulation 100(1)	Insecure load	\$100
9.	Regulation 101	Defective indicator	\$ 50
10.	Regulation 101	Defective wiper	\$ 50
11.	Regulation 102	Defective silencer	\$ 50
12.	Regulation 106	Excess smoke	\$ 50
13.	Regulation 107	Excessive noise	\$ 50
14.	Regulation 109	Sounding horn unnecessarily	\$ 50
15.	Regulation 112	Not giving way to emergency vehicle	\$ 50
16.	Regulation 119(3)	Towing vehicle without "on tow" notice	\$ 50
17.	Regulation 125(1)	Excess passengers—motor cycle	\$100
18.	Regulation 125(2)	Motor cycle passenger not sitting astride and on proper seat	\$ 50
19.	Regulation 125(3)	Motor cycle passenger under 8 years	\$ 50
20.	Regulation 137(2)	Excess passengers—light bus	\$100
21.	Regulation 137(2)	Excess passengers—public car	\$100
22.	Regulation 137(2)	Excess passenger—taxi	\$100

Offence			
Item	Section or Regulation	Description	Fixed Penalty
	Regulation 146	Driving without all necessary lights	\$ 50
	Regulation 148	Front lamps incorrectly positioned	\$ 50
	Regulation 149	Defective or inadequate "dipping" mechanism	\$ 50
	Regulation 150	Rear lamps incorrectly positioned	\$ 50
	Regulation 151	Inadequate lighting on over-hanging load	\$ 50
	Regulation 156(2)	Light other than permitted lights showing to rear	\$ 50
(Cap. 220, sub. leg.)	<i>Road Traffic (Driving Licences) Regulations</i>		
	Regulation 6(5)	Driver not reporting change of address	\$100
	Regulation 10(4)	Contravening condition of provisional driving licence	\$100
(Cap. 220, sub. leg.)	<i>Road Traffic (Parking and Waiting) Regulations</i>		
	Regulation 3(2)	Parking/waiting within 50 feet of a bus stop	\$ 50
(Cap. 220, sub. leg.)	<i>Road Traffic (Public Omnibus, Public Light Bus and Public Car) Regulations</i>		
	Regulation 12(1)(a)	Not stopping public omnibus close to near side of road when passengers boarding/alighting	\$ 50
	Regulation 12(1)(a)	Not stopping public light bus close to near side of road when passengers boarding/alighting	\$ 50
	Regulation 12(1)(a)	Not stopping public car close to near side of road when passengers boarding/alighting	\$ 50
	Regulation 12(2)	Stopping public light bus longer than necessary when picking up/setting down passengers	\$ 50

Offence			
Item	Section or Regulation	Description	Fixed Penalty
	<i>Road Traffic (Registration and Licensing of Vehicles) Regulations</i>		(Cap. 220, sub. leg.)
	Regulation 10(6)	Number plate not displayed/lit	\$ 50
	Regulation 19(1)	Driving unlicensed vehicle	\$100
	Regulation 24	Not displaying valid legible vehicle licence	\$ 50
	Regulation 29(3)	Soliciting passengers for hire	\$100
	Regulation 29(5)	Carrying goods for hire	\$ 50
	Regulation 29(6)	Overloading—private/public car	\$ 50
	Regulation 29(6B)	Contravening condition of vehicle licence	\$100
	Regulation 32(2)	Alteration of trade plate	\$100
	Regulation 32(2)	Unauthorized retention of trade plate	\$100
	Regulation 34	Trade plate used other than by licensee/employee	\$100
	Regulation 35(1)	Trade plate used other than for licensee's business	\$100
	Regulation 35(3)	Using vehicle with trade plate for unauthorized purpose	\$100
	Regulation 35(4)	Excess passengers—vehicle with trade plate	\$ 50
	Regulation 35(6)	Using trade plate without licensee's written authority	\$100
	<i>Road Traffic (Road Crossing) Regulations</i>		(Cap. 220, sub. leg.)
	Regulation 4	Not stopping for pedestrians on zebra crossing	\$100
	Regulation 10(2)	Not stopping for school crossing patrol	\$100
	<i>Road Traffic (Roads and Signs) Regulations</i>		(Cap. 220, sub. leg.)
	Regulation 7A	Unlawfully entering box junction	\$ 50
	Regulation 8	Disobeying traffic signs	\$100
	Regulation 8	Disobeying traffic lights	\$100
	Regulation 14	"U" turn causing obstruction	\$ 50
	Regulation 17	Driving on closed road without permit	\$ 50
	Regulation 18B(1)	Driving in prohibited zone	\$100

		Offence	
Item	Section or Regulation	Description	Fixed Penalty
	Regulation 18B(2)	Picking up/setting down passengers in restricted zone	\$100
	Regulation 18B(3)	Unlawfully loading/unloading goods in restricted zone	\$100
	<i>Road Traffic (Taxis, Public Omnibuses, Public Light Buses and Public Cars) Regulations</i>		
	Regulation 22(2)	Not setting taxi meter	\$ 50
	Regulation 26(2)	Not moving up in taxi stand	\$ 50
	Regulation 26(3)	Taxi at stand accepting fare out of turn	\$ 50
	Regulation 27(a)	Not driving to place required by hirer	\$100
	Regulation 27(b)	Refusing passengers	\$100
	Regulation 32(c)	Not drawing up in turn at place of public entertainment	\$ 50
	Regulation 39B(1)(a)	Driver of first or second public light bus at public light bus stand leaving vehicle	\$ 50
	Regulation 39B(1)(b)	Driver of first or second public light bus not ready to drive from public light bus stand	\$ 50
	Regulation 39B(2)(a)	Public light bus driver not moving forward at public light bus stand	\$ 50
	Regulation 39B(2)(b)	Public light bus obstructing other public light bus at public light bus stand	\$ 50
	Regulation 39B(2)(c)	Public light bus driver at stand not obeying directions of police officer	\$ 50
	Regulation 39B(3)	Public light bus driver stopping at public light bus stand other than for picking up/setting down passengers	\$ 50
	Regulation 39B(4)	Vehicle other than public light bus stopped or parked at public light bus stand	\$ 50
	<i>Road Traffic (Protective Equipment) Regulations 1973</i>		
	Regulation 3(1)	Riding motor cycle without protective helmet	\$ 50

(Cap. 220, sub. leg.)

(Cap. 220, sub. leg.)

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.

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

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

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



I assent.

*Mary M. McAuliffe*

Governor.

21st August, 1974.

**HONG KONG**

No. 65 OF 1974



I assent.

*Murray, MacLehose*  
Governor.

21st August, 1974.

An Ordinance to amend the Road Traffic Ordinance.

[23rd August, 1974]

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

1. (1) This Ordinance may be cited as the Road Traffic (Amendment) (No. 3) Ordinance 1974.

Short title  
and com-  
mencement.

(2) Sections 2, 3(b) and 4 shall come into operation on the day appointed for the commencement of the Fixed Penalty (Criminal Proceedings) Ordinance 1974.

(64 of 1974.)

(3) Section 3(a) shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

2. Section 4 of the principal Ordinance is amended by inserting, after subsection (4), the following new subsection—

Amendment  
of section 4.  
(Cap. 220.)

“(5) In any proceedings under any Ordinance, a certificate purporting to be signed by or on behalf of the Commissioner

or the Commissioner of Police and stating any particulars in the register of motor vehicles maintained by the Commissioner in accordance with regulations made under this Ordinance shall be admitted in evidence on its production without further proof and—

- (a) until the contrary is proved, it shall be presumed that the certificate is so signed; and
- (b) the certificate shall be *prima facie* evidence of the facts stated therein.”

Amendment  
of section 5.

3. Section 5 of the principal Ordinance is amended—

- (a) by inserting, after subsection (4), the following new subsections—

“(4A) Except as otherwise provided by this Ordinance or by regulations made thereunder, no person shall drive a vehicle on a road unless he has his driving licence with him at the time he is driving.

(4B) Any person who without lawful authority or reasonable excuse contravenes subsection (4A) shall be guilty of an offence and shall be liable on summary conviction, in the case of a first conviction to a fine of \$1,000 and to imprisonment for 3 months, and in the case of a second or subsequent conviction to a fine of \$2,000 and to imprisonment for 6 months.”; and

- (b) by inserting, after subsection (6), the following new subsection—

“(7) In any proceedings under any Ordinance, a certificate purporting to be signed by or on behalf of the Commissioner or the Commissioner of Police and stating any particulars in the record of driving licences kept by the Commissioner in accordance with regulations made under this Ordinance shall be admitted in evidence on its production without further proof and—

- (a) until the contrary is proved, it shall be presumed that the certificate is so signed; and
- (b) the certificate shall be *prima facie* evidence of the facts stated therein.”

4. Section 22(1) of the principal Ordinance is amended— Amendment  
of section 22.

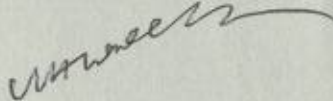
- (a) by deleting the full stop at the end of paragraph (c) and substituting the following—

“; or”; and

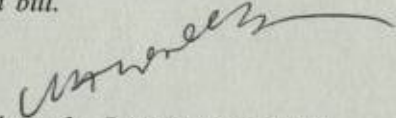
- (b) by inserting after paragraph (c) the following—

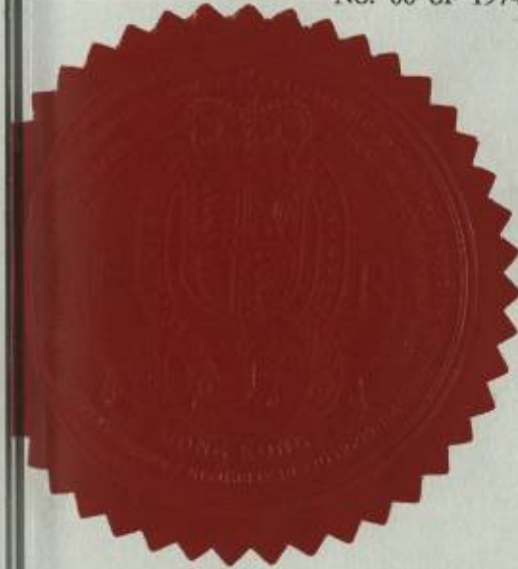
“(d) in the case of an offence under section 15, he was served with a notice under section 3(3) of the Fixed Penalty (Criminal Proceedings) Ordinance 1974 and has failed to comply therewith.”

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.

  
Clerk to the Legislative Council.

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

  
Clerk to the Legislative Council.



I assent.

*Munir Khan Khan*

Governor.

21st August, 1974.

An Ordinance to provide for the resumption of land, creation of  
cessments and the exercise of other powers by the Crown in

**HONG KONG**

No. 66 OF 1974



I assent.

*Man Leung*

*Governor.*

*21st August, 1974.*

An Ordinance to provide for the resumption of land, creation of easements and the exercise of other powers by the Crown in aid of the construction and operation of a Mass Transit Railway and to make provisions as to compensation for losses caused by the exercise of such powers.

[23rd August, 1974]

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

**PART I**

**PRELIMINARY**

1. This Ordinance may be cited as the Mass Transit Short title. Railway (Land Resumption and Related Provisions) Ordinance 1974.

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

“application” means an application to the Lands Tribunal under section 8(2), 19(2) or 33;

"authorized officer" means a public officer authorized by the Director of Public Works under section 29;

(Cap. 123.)

"Building Authority" and "building works" have the same meanings as in the Buildings Ordinance;

"claim" means a claim for compensation under section 18;

"claimant" means a person who has made a claim for compensation;

"Director" means the Director of Public Works and any authorized officer but "Director of Public Works" does not include an authorized officer;

"land" includes and may, where the context so requires, have any one or more of the following meanings separately—

- (a) land lying wholly beneath the surface;
- (b) the whole or part of any building or other erection or fixture on land;
- (c) where an undivided share of a leasehold interest in land has appurtenant to it rights to the exclusive use and occupation of a building or part thereof on such land, such share in the land and all rights appurtenant thereto;
- (d) any other estate, right, share or interest in land;

"mortgage" means a mortgage or charge registered in the Land Office;

"railway" means the railway known as the Mass Transit Railway intended to be constructed in pursuance of the transport policy of the Government;

"railway area" means the land delineated as such in plans and maps prepared pursuant to section 3(1) or 3(3);

"stages 1 to 4 of the railway" means that part of the railway between Tung Loi Lane in the Western District of the Island of Hong Kong and Lai Chi Kok Bay or the junction of King Yip Street and Kwun Tong Road;

"street" includes any public bridge and every highway, street, road, lane, footway, square, court, alley, passage or tunnel, whether a thoroughfare or not, which is over on or under unleased Crown land;

"The Colonial Treasurer Incorporated" means the corporation sole created by the Colonial Treasurer Incorporation Ordinance.

(Cap. 1015.)

## PART II

## RESUMPTION OF LAND AND CREATION OF EASEMENTS

3. (1) The Director of Public Works shall cause plans and maps to be prepared in such detail and with such markings and endorsements thereon as are sufficient to delineate the railway area, being that area within which land may be resumed or easements in, under or over land may be created pursuant to this Ordinance for the purposes of and incidental to the railway.

Preparation and promulgation of plans and maps.

(2) A copy of every plan and map prepared for the purposes of subsection (1) and signed by the Director of Public Works shall be deposited in the Land Office and shall be available for inspection by the public free of charge at such offices of the Government, during the hours when those offices are normally open to the public, as the Director of Public Works thinks fit.

(3) Any plan or map prepared for the purposes of subsection (1) and any marking or endorsement on any such plan or map may be amended and any plan or map may be replaced by a substitute plan or map but the Director of Public Works shall as soon as possible cause to be likewise amended, or replaced with the substitute, every copy referred to in subsection (2) and certify the amendment or substitution in such manner as he thinks sufficient.

(4) The Director of Public Works shall within 21 days of the deposit of a copy of a plan or map in the Land Office or of any amendment to such copy or the deposit of a substitute plan or map cause a notice of such deposit or amendment to be published in the *Gazette* in Chinese and English containing—

- (a) a general description of the plan or map or of the nature and extent of the amendment or substitution; and
- (b) particulars of the places and times at which a copy of the plan or map, or details of the amendment or a copy of the substitute plan or map may be inspected by the public in conformity with subsection (2).

(5) No person shall have a right of objection to the delineation of land in any plan or map prepared for the purposes of subsection (1) or to any amendment thereto or substitute plan or map prepared under subsection (3) and the fact that land is therein delineated as being within the railway area shall for all purposes be conclusive evidence that it may be required to be

resumed or that easements in, under or over it may need to be created for the purposes of and incidental to the railway.

Governor  
may order  
resumption  
of land.

4. (1) The Governor may by order direct that any land within the railway area shall be resumed for the purposes of and incidental to the railway.

(2) An order made under subsection (1) shall specify the period of notice to be given under section 5(2) which period shall—

- (a) run from the day on which notice of resumption is affixed to the land under that section and in no case expire earlier than one month from that day; and
- (b) prevail over any other period of notice of resumption (whether shorter or longer) provided for by the Crown lease under which the land is held.

(3) Upon the expiration of the period of notice specified in the order the land described therein shall—

- (a) where it is an undivided share in land, vest in The Colonial Treasurer Incorporated together with such rights to the use and occupation of any building or part thereof as may be appurtenant to the ownership of that share; and
- (b) in all other cases, revert to the Crown,

but in either case the land shall vest or revert without any conveyance and free of all mortgages, charges, claims, estates, rights or interests of any kind.

(4) The ownership of any apparatus belonging to an owner or supplier of gas, electricity, water or telecommunication services and situated in, under or over any land shall not be altered by reason only of the vesting or reversion of that land under subsection (3).

(5) The Land Officer shall, as soon as practicable after land has vested in The Colonial Treasurer Incorporated or reverted to the Crown under subsection (3), cause such vesting or reversion to be noted in the register of the land kept in the Land Office.

(6) Upon the vesting under subsection (3)(a) of an undivided share in land in The Colonial Treasurer Incorporated such share, together with any part of a building the exclusive use and occupation of which is appurtenant to ownership of such share, shall be deemed to be unleased land for the purposes of section 6 of the Crown Land Ordinance.

5. (1) Notice of resumption by order made under section 4(1) shall be given in accordance with this section to every person having any estate, right, share or interest in the land affected by the order. Notices of resumption of land.

(2) Every person referred to in subsection (1) shall be deemed to receive notice of an order under section 4(1) if the Director—

- (a) causes a notice of resumption conforming to subsection (3) and in both Chinese and English to be—
  - (i) affixed to some conspicuous part of the land or, in a case where only land lying wholly beneath the surface is to be resumed by the order, the surface thereof or any building thereon; and
  - (ii) published once in the *Gazette*; and

(b) makes a copy of the order and, where appropriate a plan of the land available for inspection by the public free of charge at such offices of the Government, during the hours when those offices are normally open to the public, as the Director thinks fit.

(3) A notice of resumption shall—

- (a) describe the land to be resumed and state that an order has been made under section 4(1) in respect thereof;
- (b) state where and at what times a copy of the order and, where appropriate, a plan of the land may be inspected in pursuance of subsection (2)(b);
- (c) state the day on which the notice was affixed to the land;
- (d) state the period of notice specified by the Governor under section 4(2);
- (e) declare that upon the expiry of that period the land described in the notice shall by virtue of section 4(3) revert to the Crown or vest in The Colonial Treasurer Incorporated, as the case may require, for the purposes of the railway; and
- (f) state that any person entitled to compensation under this Ordinance may serve a written claim upon the Director.

6. (1) The Governor may by order direct that easements in, under or over land in the railway area shall be created in favour of the Crown for the purposes of and incidental to the railway. Governor may order creation of easements.

(2) An order under subsection (1) shall specify the period of notice to be given under section 7(2) which period shall run from the day on which notice of creation of an easement is affixed to the land under that subsection and shall in no case expire earlier than one month from that day.

(3) An order made under subsection (1) may contain such consequential and incidental provisions as appear to the Governor to be necessary or expedient for the purposes of the order including in particular provisions for authorizing persons to enter upon land or buildings in accordance with subsection (5) for the purpose of carrying out, installing, maintaining or removing any works, structures or apparatus.

(4) Upon the expiry of the period specified pursuant to subsection (2) the easement shall be created in favour of the Crown and the benefits and obligations thereof and of all consequential and incidental provisions made under subsection (3) shall be of full force and effect against all persons having any estate, right, share or interest in the land without any consent, grant or conveyance.

(5) No person shall, in the exercise of any power of entry referred to in subsection (3), enter upon any land which is occupied without giving to the occupier at least 14 days' notice of his intention so to do unless—

- (a) the Director is of the opinion that an emergency exists which necessitates immediate entry; or
- (b) the entry is required for the purpose of inspecting any works, structure or apparatus or carrying out any routine maintenance thereon.

(6) Notice under subsection (5) may be given to and shall be deemed to have been received by an occupier if a written notice is affixed to a conspicuous part of the land to be entered.

(7) The ownership of any thing shall not be altered by reason only that it is placed in or under or affixed to any land in exercise of the rights and powers arising from or incidental to an easement created under this section.

(8) The Land Officer shall as soon as practicable after an easement has been created in favour of the Crown under subsection (4) cause the creation of such easement to be noted in the register of the land affected thereby kept in the Land Office.

7. (1) Notice of creation of an easement by order made under section 6(1) shall be given in accordance with this section to every person having any estate, right, share or interest in the land affected by the order.

Notices of  
creation of  
easements.

(2) Every person referred to in subsection (1) shall be deemed to receive notice of an order under section 6(1) if the Director—

- (a) causes a notice of creation of an easement conforming to subsection (3) and in both Chinese and English to be—

(i) affixed to some conspicuous part of the land in, under or over which the easement is to be created or, in a case where only land lying wholly beneath the surface is affected by the order, the surface thereof or any building thereon; and

(ii) published once in the *Gazette*; and

- (b) makes a copy of the order and, where appropriate, a plan of the easement available for inspection by the public free of charge at such offices of the Government, during the hours when those offices are normally open to the public as the Director thinks fit.

(3) A notice of creation of an easement shall—

- (a) describe the land and the easement and state that an order creating the easement has been made under section 6(1);
- (b) state where and at what times a copy of the order and a plan of the easement may be inspected in pursuance of subsection (2)(b);
- (c) state the day on which the notice was affixed to the land;
- (d) state the period of notice specified by the Governor under section 6(2);
- (e) declare that upon the expiry of that period the easement described in the notice shall by virtue of section 6(4) be created in favour of the Crown for the purposes of the railway; and
- (f) state that any person entitled to compensation under this Ordinance may serve a written claim upon the Director.

Resumption  
of part of  
land.

8. (1) If it is established to the satisfaction of the Governor that any land is, on the day on which it is resumed under section 4(3), reasonably necessary to the use and enjoyment of contiguous or adjacent land so that such contiguous or adjacent land cannot by itself be put to any profitable use, the Governor may make an order under section 4(1) in respect of the contiguous or adjacent land whether or not it is within the railway area.

(2) Any person aggrieved by a decision of the Governor under subsection (1) that at the date of resumption any land is not reasonably necessary to the use and enjoyment of contiguous or adjacent land may apply to the Lands Tribunal to review such decision.

(3) Upon an application under subsection (2) the Lands Tribunal may direct that an order be made under section 4(1) by the Governor in respect of the contiguous or adjacent land whether or not it is within the railway area.

Power of  
entry.

9. Where in respect of any land notice has been published in the *Gazette* in accordance with section 5(2)(a)(ii) or 7(2)(a)(ii) but the land has not yet reverted to the Crown or vested in The Colonial Treasurer Incorporated by virtue of section 4(3) or the easement has not yet been created by virtue of section 6(4), the Director, or any person acting under his authority, may without giving notice to the owner or occupier enter upon that land and any adjoining land within the railway area at all reasonable times for the purpose of—

- (a) surveying and taking levels of such first-mentioned land;
- (b) setting out the line of any works; or
- (c) inspecting any apparatus referred to in section 13.

### PART III

#### FURTHER POWERS OF CROWN FOR PURPOSES OF THE RAILWAY

Closure or  
substantial  
alteration of  
streets and  
other public  
works.

10. (1) The Governor may, for the purposes of the construction, operation, maintenance or improvement of the railway, by order—

- (a) authorize the closure or substantial alteration of a street or part thereof either permanently or for an indefinite period;

- (b) authorize the temporary closure or temporary substantial alteration of any street or part thereof;
- (c) authorize the reclamation of, or other works of a public nature over and upon, Crown foreshore or seabed;
- (d) declare that, or the extent to which, and the time at, or duration for which, any public or private right in, upon, under or over any street, Crown foreshore or seabed shall be extinguished, modified or restricted.

(2) For the purposes of subsections (1)(a) and (1)(b) the decision of the Director of Public Works whether or not an alteration of a street is substantial or the closure or alteration of a street is temporary, permanent or indefinite shall be final.

(3) Where an order is made under subsection (1) every public and private right in, upon, under or over the street, Crown foreshore or seabed affected by the order shall be extinguished, modified or restricted according to the provisions in that behalf made in the order.

11. (1) Notice of an order made under section 10(1)(a) or 10(1)(c) in respect of any street, foreshore or seabed shall be given in accordance with subsection (2) to every person having any estate, right, share or interest in the land affected by the order.

Notices of  
orders made  
under section  
10.

(2) Every person referred to in subsection (1) shall be deemed to receive notice of an order under section 10(1)(a) or 10(1)(c) if the Director not later than one month before any thing is done under the authority of the order—

- (a) causes a notice conforming to subsection (3) and in both Chinese and English to be—
  - (i) posted in a conspicuous position in or near the street, the foreshore or foreshore adjoining the seabed; and
  - (ii) published once in the *Gazette*;

(b) makes a copy of the order and a plan of the affected area of street, foreshore or seabed available for inspection by the public free of charge at such offices of the Government, during the hours when those offices are normally open to the public, as the Director thinks fit.

(3) The notice referred to in subsection (1) shall—

- (a) state that an order has been made under section 10(1)(a) or 10(1)(c) and describe the area of street, foreshore or

seabed affected thereby and the manner in which it will be affected;

- (b) describe briefly any works to be carried out;
- (c) state where and at what times a copy of the order and a plan of the affected area of street, foreshore or seabed may be inspected pursuant to subsection (2)(b); and
- (d) state that any person entitled to compensation under this Ordinance may serve a written claim upon the Director.

Preventive and remedial works on land and buildings.

12. (1) The Director, or any person acting under his authority, may for the purposes of the railway enter and carry out all reasonably necessary work of a preventive or remedial nature on any land or building situate wholly or partly within the railway area or wholly or partly within 30 metres thereof and may also enter any such land or building in order to carry out any inspection or survey which is reasonably necessary for the purposes of this subsection.

(2) No person shall, for the purposes of subsection (1), enter any land or building which is occupied without giving to the owner and the occupier at least 14 days' notice of his intention so to do unless—

- (a) the Director is of the opinion that an emergency exists which necessitates immediate entry; or
- (b) the entry is required only for the purpose of an inspection or survey.
- (3) A notice of entry referred to in subsection (2)—
  - (a) shall describe the purpose of the entry and the nature of any work to be carried out; and
  - (b) shall be deemed to be given to and received by an owner or occupier if a written notice is affixed to a conspicuous part of the land or building to be entered.

(4) In subsection (1) "work of a preventive or remedial nature" means the underpinning or strengthening of any land or building and other work thereon intended to render it reasonably safe or to repair damage caused in the course of the construction or operation of the railway.

(5) The decision of the Director that any work is of a preventive or remedial nature or that such work or any inspection or survey is reasonably necessary shall be final.

(6) The Director, or any person acting under his authority, may as occasion may require enter and resurvey any land or building in respect of which any of the powers contained in subsection (1) have been exercised and may in relation to that land or building exercise such powers as often as occasion may require.

13. (1) The Director may serve notice on the owner or supplier of any gas, electricity, water or telecommunication services to alter the course or position of any wire, line, cable, pipe, tube, casing, duct, post or other apparatus which belongs to or is maintained by that owner or supplier and to repair any street surface thereby disturbed if in the opinion of the Director such alteration is required for the purposes of the construction, operation, maintenance or improvement of the railway.

Utility services.

(2) A notice under subsection (1) shall—

- (a) specify the apparatus to which the notice applies and set out the Director's requirements as to the alteration of its course or position and the repair of any street surface;
- (b) stipulated the period within which such work shall be carried out; and
- (c) be served upon the owner or supplier not later than one month before the commencement of that period.

14. (1) The Director may give notice to the owner of any building in the railway area requiring him to remove any object or structure described in the notice which is attached to or projects from the building if in the opinion of the Director the removal of the object or structure is required for the purposes of the construction of the railway.

Removal of projections or obstructions.

(2) A notice under subsection (1) may be given to the owner of a building and shall be deemed to have been received by him if it is affixed to some conspicuous part of the building to or from which the object or structure is attached or projects.

(3) A notice under subsection (1) shall—

- (a) describe the object or structure to be removed;
- (b) stipulate the period within which the work of removal shall be carried out;
- (c) be given to the owner of the building not later than 14 days before the commencement of that period; and

(d) state that any person entitled to compensation under this Ordinance may serve a written claim upon the Director.

(4) If the owner of the building does not comply with a notice given to him under subsection (1) any public officer authorized in that behalf by the Director may enter the building and the land surrounding it, together with such other persons as he thinks necessary, and remove the object or structure described in the notice or cause it to be removed by those other persons.

(5) An object or structure removed under subsection (4) shall, whether or not it was erected or maintained in contravention of any Ordinance, be forfeited to the Crown free from the rights of any person and may be disposed of as the Director thinks fit.

(6) In this section "owner" means the person holding the land direct from the Crown under a Crown lease.

15. (1) Notwithstanding the Buildings Ordinance, in any case where he is of the opinion that any building works or the commencement of any building works would be incompatible with any works or proposed or likely works for the construction, maintenance or improvement of the railway or with the operation thereof, the Building Authority may to such extent as is necessary to avoid such incompatibility—

- (a) refuse to give his approval to any plan or to consent to the commencement of the building works;
- (b) withdraw any approval which he has or is deemed to have given to any plan or any consent to the commencement of the building works;
- (c) in the case of piling works, excavation works or foundation works—
  - (i) require the amendment of any plan showing such works; or
  - (ii) impose conditions on the giving of approval of plans showing such works or consent to commence such works.

(2) The carrying out of any building works—

- (a) contrary to any refusal, or following a withdrawal, of approval or consent under subsection (1)(a) or (1)(b); or
- (b) otherwise than in accordance with any plan amended under subsection (1)(c)(i) or condition imposed under subsection (1)(c)(ii),

Control of building plans and commencement of work.  
(Cap. 123.)

shall, for the purposes of section 23 of the Buildings Ordinance, (Cap. 123.) be deemed to constitute a contravention of that Ordinance.

(3) Where the Building Authority refuses under subsection (1)(a) to give his approval to any plan because he is of the opinion that the building works shown thereon would be incompatible with works or proposed or likely works for the construction of stages 1 to 4 of the railway, the owner of the land on which such building works were to be carried out may, by notice in writing to the Director, require that the land be resumed under this Ordinance.

(4) Where notice is given under subsection (3) the Governor shall, unless the notice is withdrawn, make an order under section 4(1) in respect of the land not more than 1 month after receipt of the notice by the Director, and the period of notice specified in the order shall be 1 month.

(5) In subsection (3) "owner" means the person holding the land direct from the Crown under a Crown lease.

16. Any person who wilfully obstructs any person lawfully exercising or performing any power duty or function arising under section 5(2)(a)(i), 7(2)(a)(i), 9, 11(2)(a)(i), 12(1), 12(6), 14(2) or 14(4) or lawfully exercising any power consequential or incidental to an easement created pursuant to section 6 shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and to imprisonment for one year. Obstruction.

## PART IV

### RIGHTS TO COMPENSATION AND CLAIMS PROCEDURE

17. No action, claim or proceedings shall lie or be brought against the Crown or any other person—

- (a) to restrain the doing of anything which is authorized by or under this Ordinance or to compel the doing of anything which may be omitted to be done thereunder; or
- (b) to recover damages, compensation or costs for—
  - (i) damage or disturbance to or loss of or in the value of any land, chattel, trade or business;
  - (ii) personal disturbance or inconvenience;
  - (iii) extinguishment, modification or restriction of rights;

No remedy except under this Ordinance.

(iv) the costs of effecting or complying with any requirement or condition imposed by the Director, which is authorized by or under this Ordinance or arises from any act or omission so authorized, except in pursuance of one of the rights to compensation provided for in section 18.

Compensation.  
First Schedule.

**18.** (1) The rights to compensation referred to in section 17 are the rights to claim from the Crown for the items of loss damage or cost set out in the first column of Part I of the First Schedule a sum assessed on the basis specified opposite thereto in the second column thereof and with regard to the provisions of Part II of the First Schedule, subject to—

- (a) the claim being served on the Director within the appropriate period specified in the fourth column of Part I of the First Schedule; and
- (b) the other provisions of this Ordinance.

(2) Every person who is described in the third column of Part I of the First Schedule shall have the right to claim compensation for the item of loss damage or cost set out opposite thereto in the first column to the extent of the loss damage or cost suffered or incurred by him as assessed pursuant to this Ordinance.

Claims out of time.

First Schedule.

**19.** (1) Subject to this section, if a claim for an item of loss damage or cost is not served on the Director before the expiration of the period specified in the fourth column of Part I of the First Schedule in respect of that item, the right to claim compensation therefor shall be barred.

(2) The period referred to in subsection (1) may, upon application made to the Lands Tribunal either before or after the expiry of that period, be extended in accordance with this section.

(3) Notice of an application under subsection (2) shall be given to the Director by the applicant.

(4) The Lands Tribunal may extend the period within which a claim must be served upon the Director if it considers that the delay in serving the claim was occasioned by mistake of fact or mistake of any matter of law (other than the relevant provision in the fourth column of Part I of the First Schedule) or by any other reasonable cause or that the Crown is not materially prejudiced in the conduct of its case or otherwise by the delay.

(5) An extension may be granted by the Lands Tribunal under subsection (4), with or without conditions for such period as it thinks fit but not in any case exceeding 6 years from the time when the right to compensation first arose.

**20.** (1) Where it appears to the Governor that compensation for any loss or damage under item 6 of Part I of the First Schedule is or may be disproportionate to the value of the building to which the compensation relates, he may make an order under section 4(1) in respect of that land or part thereof notwithstanding that it is not in the railway area.

Compensation disproportionate to the value of land.  
First Schedule.

(2) Upon the vesting in The Colonial Treasurer Incorporated or the reversion to the Crown of land or part thereof pursuant to an order authorized by subsection (1), compensation shall be assessed under item 1 of Part I of the First Schedule, and under item 3 if applicable, and any other right to compensation under this Ordinance shall lapse.

(3) Where a right to claim compensation under this Ordinance has lapsed by operation of subsection (2), the person to whom that right belonged pursuant to section 18(2), shall be entitled to include in his claim for compensation under item 1 of Part I of the First Schedule, and to receive from the Crown, an amount to cover such costs and expenses as he has reasonably incurred in connection with a claim to enforce the right which has lapsed.

**21.** (1) Any person who claims to be entitled to compensation under this Ordinance shall serve upon the Director a written claim setting out such of the following particulars as are applicable to his claim—

Claims procedure.

- (a) the name of the claimant, and his address for service of notices;
- (b) a full description of the land to which the claim relates including any covenants easements or restrictions affecting the same;
- (c) the nature of the claimant's interest in the land including in the case of a sub-lessee or sub-tenant his landlord's name and address and details of the sub-lease or tenancy;
- (d) details of any mortgage, including the principal still owing and the name and address of the mortgagee;

- (e) if the claimant has sublet the land or any part thereof, the name and address of each tenant and details of his lease or tenancy;
- (f) particulars of the claim showing—
  - (i) under which item the claim is made; and
  - (ii) how the amount claimed under any item is calculated.

(2) The Director shall in writing acknowledge receipt and the date of receipt of every claim served on him under subsection (1).

(3) If a claimant amends his claim before proceedings are commenced with the Lands Tribunal and the Director considers the amendment to be substantial, the Director may, within 14 days of the receipt of the amended claim, notify the claimant that he elects to treat the claim, for the purposes of this section, as if it were a new claim served under subsection (1) on the date on which the amendment was received by the Director, and this section shall apply accordingly.

(4) The Director may by notice in writing to the claimant request him to furnish further particulars of and in support of his claim or any item thereof and if any such particulars are not furnished to the Director within a period of 28 days from the date of the notice, or within such further period as the Director may in writing allow, the claim or the item thereof concerning which the particulars are requested shall be deemed to be rejected and subsection (5) shall not apply thereto.

(5) The Director shall within 3 months of the service of a claim on him or, if he has requested further particulars under subsection (4) within three months of the day on which they are furnished in accordance with that subsection, notify the claimant in writing that he—

- (a) admits the entire claim; or
- (b) rejects the entire claim; or
- (c) admits a specified part or parts and rejects the remainder,

and in every case shall briefly state his reasons for rejection so that the claimant is adequately informed of those reasons.

(6) Where the Director has rejected a claim or any part thereof under subsection (5) or where a claim or any part thereof

is deemed to have been rejected under subsection (4) the Director may—

- (a) by notice in writing offer to the claimant such sum including costs as the Crown is willing to pay in full and final settlement of the claim or any part thereof as the case may be;
- (b) commence proceedings with the Lands Tribunal, to have the claim or any part thereof heard and determined by it in accordance with this Ordinance;
- (c) commence such proceedings with the Lands Tribunal where any offer under paragraph (a) is refused by the claimant.

(7) If at the expiration of 4 months from the receipt of a claim by the Director it has not been settled by agreement, either the claimant or the Director may commence proceedings with the Lands Tribunal to have the claim, or so much thereof as is still then in dispute, heard and determined by it in accordance with this Ordinance.

(8) In any case where the claimant has failed to supply further particulars required by the Director in accordance with subsection (4) the Lands Tribunal may on the hearing of the claim consider the merits of the Director's request for further particulars, and the claimant's failure to supply them and may, if it thinks fit—

- (a) order the claimant to furnish some or all of such particulars; and
- (b) adjourn the hearing until the order is complied with and the particulars are considered by the Director; and
- (c) make such further order as it thinks fit as to the costs of either party occasioned by the Director's request for and the claimant's failure to supply the further particulars.

22. A claim may be brought on behalf of a minor by his guardian or guardians, or any of them, and on behalf of a mentally defective person by the person empowered by law to administer his assets. Claims by minors etc.

23. (1) At any time after proceedings have been commenced with the Lands Tribunal but before compensation is finally assessed the Director may make an offer in writing of the kind described in section 21(6)(a) or the claimant may by notice to Settlement after reference to Lands Tribunal.