



Retrospective effect of section 2 of this Ordinance.

3. Regulations made under the powers conferred by section 2 of this Ordinance may be applied to registration marks assigned or allocated at any time whether before or after the commencement of this Ordinance.

Passed by the Hong Kong Legislative Council this 3rd day of January, 1973.


Clerk to the Legislative Council.


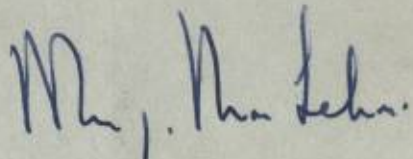
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.


Clerk to the Legislative Council.

HONG KONG

No. 2 OF 1973

I assent.



Governor.

18th January, 1973.

An Ordinance to amend the Urban Council Ordinance.

[19th January, 1973]

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

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|--|-------------------------------------|
| 1. This Ordinance may be cited as the Urban Council (Amendment) Ordinance 1973. | Short title. |
| 2. Section 3 of the principal Ordinance is amended by deleting paragraph (b) and substituting the following—
“(b) ordinary members—
(i) twelve elected members;
(ii) not more than twelve appointed members.”. | Amendment of section 3. (Cap. 101.) |
| 3. Section 4 of the principal Ordinance is amended by inserting, after subsection (2), the following new subsection—
“(3) (a) The ordinary election to be held in March 1973 shall be for the election of seven members of whom six | Amendment of section 4. |

shall hold office as provided in paragraph (a) of subsection (1) and the remaining one, notwithstanding that paragraph, shall hold office until the 31st day of March 1975.

- (b) The member who shall hold office until the 31st day of March 1975 shall be ascertained as follows—

(i) where a contested election has been held for the election of the seven members (whether such election is the ordinary election referred to in paragraph (a) or, in the event of the countermanding of that election, any extraordinary election held in substitution therefor), then, except where sub-paragraph (iii) is applicable in the event of the election being declared void so far as it relates to two or more candidates, the person elected by the smallest number of votes shall be deemed to be elected to hold office until the 31st day of March 1975, but in the case of an equality of votes between the persons who are elected by the smallest number of votes, then, as between such persons, the person who shall hold office until the 31st day of March 1975 shall be determined by the returning officer by lot;

(ii) if the number of persons standing nominated for election at the ordinary election or, in the event of the countermanding of that election, at any extraordinary election held in substitution therefor is seven and accordingly, such persons are, pursuant to sub-paragraph (e) of paragraph (2) of regulation 11 of the Urban Council Elections (Procedure) Regulations, declared duly elected, the member who shall hold office until the 31st day of March 1975 shall be determined by the returning officer by lot;

(iii) if the number of persons standing nominated for election at the ordinary election or, in the event of the countermanding of that election, at any extraordinary election held in substitution therefor is less than seven and, accordingly, such persons are, pursuant as aforesaid, declared duly elected, or if, at such election (being a contested election), the returning officer, pursuant to regulation 54 of the Urban Council Elections (Procedure) Regulations, declares the election void so far as it relates to two or more candidates, the person who shall hold office until the 31st day of March 1975 shall be the person elected, or, if more than one person is elected, then the person elected by the smallest number of votes, at the extraordinary election held to fill the vacancy or

(Cap. 101,
sub. leg.)

vacancies remaining unfilled or, if there is more than one extraordinary election held to fill a vacancy or vacancies owing to an insufficiency of candidates standing nominated for election at the previous extraordinary election or owing to such previous election being declared void under the aforesaid regulation 54 so far as it relates to two or more candidates, at the last such extraordinary election to be held; but if there is more than one vacancy to be filled and the extraordinary election held to fill the vacancies is not contested or, if contested, there is an equality of votes between the persons elected by the smallest number of votes thereat, then as between all persons elected thereat, if the election was not contested, or as between those persons elected by the smallest number of votes as aforesaid, the member who shall hold office until the 31st day of March 1975, shall be determined by the returning officer by lot.

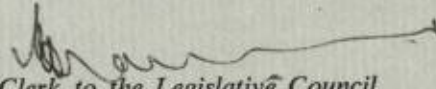
- (c) In ascertaining the member who shall hold office until the 31st day of March 1975, tendered ballot papers (within the meaning of regulation 38 of the Urban Council Elections (Procedure) Regulations) shall not be counted except in the case of an equality of votes between persons who are elected by the smallest number of votes.”

4. Section 5 of the principal Ordinance is amended in subsection (2) by deleting “shall hold office for four years” and substituting the following—


Amendment of
section 5.

“shall be appointed for such term, not exceeding four years, as the Governor may determine and shall hold office”.

Passed by the Hong Kong Legislative Council this 17th day of January, 1973.


Clerk to the Legislative Council.

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

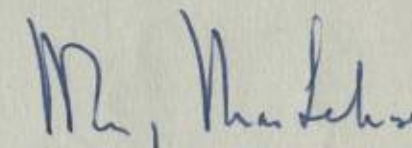

Clerk to the Legislative Council.

HONG KONG

No. 3 of 1973



I assent.


Governor.

18th January, 1973.

An Ordinance to amend the Import and Export Ordinance.

[19th January, 1973]

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

1. This Ordinance may be cited as the Import and Export (Amendment) Ordinance 1973. Short title.

2. Section 20 of the principal Ordinance is amended in subsection (1)— Amendment of section 20. (Cap. 60.)

(a) in paragraph (a), by deleting "and" in the second place where it occurs and substituting the following—

"or";

(b) by deleting paragraphs (c) and (d) and substituting the following—

"(c) require the production of—

(i) any licence;

(ii) any document which relates to the origin or nature of any article or which he suspects to be relevant to an offence under this Ordinance; or

(iii) any record or other document required to be kept by this Ordinance;

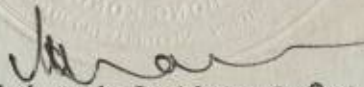
(d) examine and take copies of any licence or of any record or document referred to in paragraph (c);”.

Amendment of section 31.

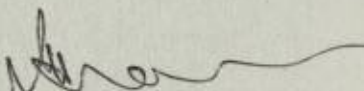
3. Section 31 of the principal Ordinance is amended in subsection (1) by inserting, after paragraph (z), the following—

“(za) requiring any person to whom a licence has been issued to keep such records or documents as may be prescribed or as the Director may determine;”.

Passed by the Hong Kong Legislative Council this 17th day of January, 1973.

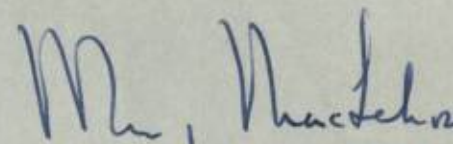

Clerk to the Legislative Council.

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Clerk to the Legislative Council.



I assent.


Governor.

HONG KONG

No. 4 OF 1973

(iii) any record or other document required to be kept by this Ordinance;

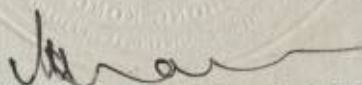
(d) examine and take copies of any licence or of any record or document referred to in paragraph (c);”.

Amendment of section 31.

3. Section 31 of the principal Ordinance is amended in subsection (1) by inserting, after paragraph (z), the following—

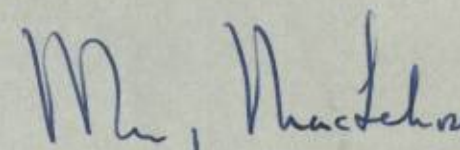
“(za) requiring any person to whom a licence has been issued to keep such records or documents as may be prescribed or as the Director may determine;”.

Passed by the Hong Kong Legislative Council this 17th day of January, 1973.


Clerk to the Legislative Council.



I assent.


Governor.

18th January, 1973.

An Ordinance to amend the Workmen's Compensation Ordinance.

[19th January, 1973]

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

1. This Ordinance may be cited as the Workmen's Compensation (Amendment) Ordinance 1973. Short title.

2. Section 9 of the principal Ordinance is amended in subsection (1)— Amendment of section 9. (Cap. 282.)

- (a) by deleting “and” at the end of paragraph (a); and
- (b) by inserting after paragraph (a) the following new paragraph—

“(aa) in the case of a combination of injuries specified in the First Schedule, the aggregate of the compensation which would have been payable in respect of the injuries; and”.

Amendment of
the First
Schedule.

3. The First Schedule to the principal Ordinance is amended—

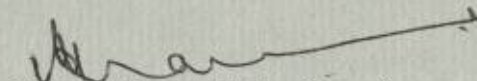
(a) by deleting items 15 to 26 inclusive and substituting the following—

15.	Loss of thumb—	
	both phalanges	30
	one phalanx	10
16.	Loss of index finger—	
	three phalanges	14
	two phalanges	10
	one phalanx	5
17.	Loss of middle finger—	
	three phalanges	11
	two phalanges	8
	one phalanx	4
18.	Loss of ring finger—	
	three phalanges	8
	two phalanges	6
	one phalanx	3
19.	Loss of little finger—	
	three phalanges	7
	two phalanges	5
	one phalanx	3
20.	Loss of metacarpals—	
	first or second (additional)	3
	third, fourth or fifth (additional) ...	2
21.	Loss of leg—	
	at or above knee	70
	below knee	40
22.	Loss of foot	40
23.	Loss of toes—	
	all of one foot	15
	great, both phalanges	5
	great, one phalanx	2
	other than great, if more than one toe lost, each	2
24.	Loss of sight of one eye	30
25.	Loss of hearing, one ear	20
26.	Total loss of hearing	70"; and

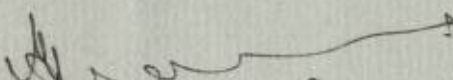
(b) by inserting after note (3) the following new note—

"(4) Where there is loss of a thumb and one or more fingers of the same hand, the aggregate percentage shall not be more than that in respect of the loss of four fingers and the thumb of the same hand."

Passed by the Hong Kong Legislative Council this 17th day
of January, 1973.

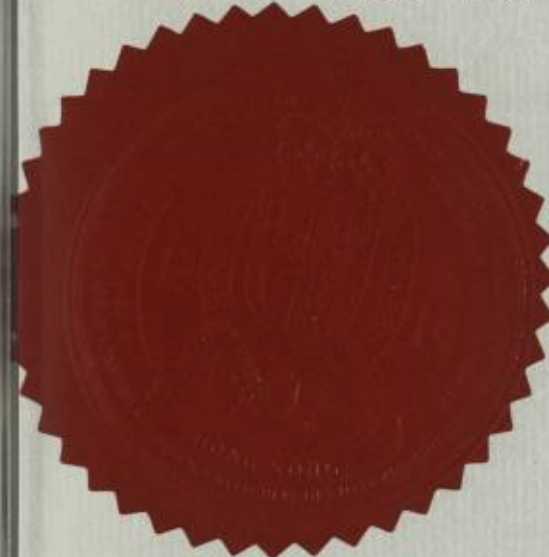

Clerk to the Legislative Council.

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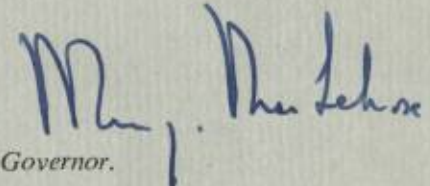

Clerk to the Legislative Council.

HONG KONG

No. 5 OF 1973



I assent.


Governor.

1st February, 1973.

An Ordinance to modify the Copyright Act 1956 as amended by the Design Copyright Act 1968, in its application to Hong Kong and to make further provision with respect to copyright law in Hong Kong.

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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 Copyright Ordinance 1973, 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.

“Act” means the Copyright Act 1956 as amended by the Design Copyright Act 1968; (1956 c. 74.)
(1968 c. 68.)

“authorized officer” means any public officer authorized in writing by the Director to exercise any of the powers and perform any of the duties conferred or imposed on an authorized officer under this Ordinance;

“Director” means the Director of Commerce and Industry, the Deputy Director and any Assistant Director of Commerce and Industry;

"plate" has the meaning assigned by the Act and also includes any machine, device or equipment.

(2) Subject to the provisions of this Ordinance, any word or expression used herein to which a meaning is assigned by the Act shall have in or for the purpose of this Ordinance the meaning that it has in or for the purposes of the Act.

3. The Act as extended to Hong Kong shall apply in Hong Kong to every television broadcast and every sound broadcast made by any organization specified in the Schedule from a place in Hong Kong as it applies to every television broadcast and every sound broadcast made by the British Broadcasting Corporation or the Independent Television Authority from a place in the United Kingdom.

4. (1) Where a television broadcast or sound broadcast is made by any organization specified in the Schedule from a place in Hong Kong, and the broadcast is an authorized broadcast within the meaning of section 40 of the Act, any person who, by the reception of the broadcast, causes a programme to be transmitted to subscribers to a diffusion service, being a programme comprising a literary, dramatic or musical work, or an adaptation of such a work, or an artistic work, or a cinematograph film, shall be in the like position, in any proceedings for infringement of the copyright (if any) in the work or film, as if he had been the holder of a licence granted by the owner of that copyright to include the work, adaptation or film in any programme caused to be transmitted by him to subscribers to that service by the reception of the broadcast.

(2) For the purposes of this section, a broadcast shall be taken, in relation to a work or cinematograph film, to be an authorized broadcast if, but only if, it is made by, or with the licence of, the owner of the copyright in the work or film.

5. (1) Without prejudice to section 21 of the Act, any person who, at a time when copyright subsists in a work or other subject matter under the Act or this Ordinance, has in his possession for the purposes of trade or business—

- (a) any article that is an infringing copy of such a work or other subject matter; or
- (b) any plate used or intended to be used for making infringing copies of such a work or other subject matter,

shall, unless he proves to the satisfaction of the court that he did not know and that he had no reason to believe that the article was an infringing copy of such a work or other subject matter or

Acts restricted by copyright in television and sound broadcasts by Hong Kong organizations. Schedule.

Transmission of authorized broadcasts by a diffusion service. Schedule. [cf. 1956 c. 74, s. 40(3).]

Offences of possession of infringing copy of a protected work.

that the plate was used or intended to be used for making an infringing copy of such a work or other subject matter, be guilty of an offence and shall be liable on conviction—

- (i) if it is his first conviction of an offence under this section, to a fine not exceeding five hundred dollars for each article to which the offence relates; and
- (ii) on any second or subsequent conviction of an offence under this section, to such a fine and to imprisonment for twelve months;

Provided that a fine imposed by virtue of this subsection shall not exceed fifty thousand dollars.

(2) The court before which a person is charged with an offence under this section may, whether he is convicted of the offence or not, order that any article in his possession which appears to the court to be an infringing copy of a work or other subject matter in which copyright subsists under the Act or this Ordinance or a plate used or intended to be used for making infringing copies of such a work or other subject matter shall be destroyed or delivered up to the owner of the copyright in question or otherwise dealt with as the court may think fit.

(3) Where an article is seized by a police officer or an authorized officer in connexion with a suspected offence under the Act or this Ordinance a court, on the application of the Attorney General or the Director, may, if it is satisfied that the article is—

- (a) an infringing copy of a work or other subject matter in which copyright subsists under the Act or this Ordinance; or
- (b) a plate used or intended to be used for making infringing copies of any such work or other subject matter,

order that the article be destroyed or delivered up to the owner of the copyright in question or otherwise dealt with as the court may think fit, notwithstanding that no person has been charged with the suspected offence.

6. (1) Any police officer not below the rank of Inspector or any authorized officer may—

- (a) (i) subject to section 7, enter and search any premises or place;
- (ii) stop, board and search any vessel (other than a ship of war) or any aircraft (other than a military aircraft); or
- (iii) stop and search any vehicle,

Powers of investigating officers.

in which he reasonably suspects that there is an infringing copy of a work or other subject matter in which copyright subsists under the Act or this Ordinance or a plate used or intended to be used for making infringing copies of any such work or other subject matter; and

(b) seize, remove or detain—

(i) any article which appears to him to be an infringing copy of a work or other subject matter in which copyright subsists under the Act or this Ordinance or any plate which appears to him to be intended for use for making infringing copies of any such work or other subject matter; and

(ii) anything which appears to him to be or to contain, or to be likely to be or to contain, evidence of an offence under the Act or this Ordinance.

(2) Any police officer not below the rank of Inspector or any authorized officer may—

- (a) break open any outer or inner door of any place which he is empowered or authorized by this Ordinance to enter and search;
- (b) forcibly board any vessel, aircraft or vehicle which he is empowered by this Ordinance to stop, board and search;
- (c) remove by force any person or thing obstructing him in the exercise of any power conferred on him by this Ordinance;
- (d) detain any person found in any place which he is empowered or authorized by this Ordinance to search until such place has been searched;
- (e) detain any vessel or aircraft which he is empowered by this Ordinance to stop, board and search, and prevent any person from approaching or boarding such vessel or aircraft until it has been searched;
- (f) detain any vehicle which he is empowered by this Ordinance to stop and search until it has been searched.

7. (1) No domestic premises shall be entered and searched by a police officer or an authorized officer unless—

- (a) a magistrate has issued a warrant under subsection (2); or
- (b) the Director has given an authorization under subsection (3).

(2) A magistrate may, if he is satisfied by information on oath that there is reasonable ground for suspecting that there is in any domestic premises any article which may be seized, removed

Restrictions on the entry and search of domestic premises.

or detained under section 6(1)(b), issue a warrant authorizing a police officer not below the rank of Inspector or an authorized officer to enter and search the premises.

(3) The Director may, if he is satisfied that there is reasonable ground for suspecting—

- (a) that there is in any domestic premises any article which may be seized, removed or detained under section 6(1)(b); and
- (b) that unless the premises are entered and searched immediately such thing is likely to be removed from the premises,

authorize in writing a police officer not below the rank of Inspector or an authorized officer to enter and search the premises.

(4) A police officer not below the rank of Inspector or an authorized officer authorized under subsection (2) or (3) to enter and search any domestic premises may call upon any police officer or any authorized officer to assist him in entering and searching the premises.

8. (1) Without prejudice to any other Ordinance, any person who—

- (a) wilfully obstructs a police officer or an authorized officer in the exercise of his powers or the performance of his duties under the Act or this Ordinance;
- (b) wilfully fails to comply with any requirement properly made to him by any such police officer or authorized officer; or
- (c) without reasonable excuse, fails to give such police officer or authorized officer any other assistance which he may reasonably require to be given for the purpose of exercising his powers or performing his duties under the Act or this Ordinance,

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

(2) Any person who, when required to give information to a police officer or to an authorized officer in the exercise of his powers or the performance of his duties under the Act or this Ordinance, knowingly gives false or misleading information to any such police officer or authorized officer shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for three months.

Obstruction of investigating officers.

(3) Nothing in this section shall be construed as requiring any person to give any information which may incriminate him.

Affidavit
evidence.

9. (1) An affidavit which—

(a) purports to have been made by or on behalf of the owner of a work or other subject matter in which copyright subsists under the Act; and

(b) states that—

(i) at a time specified therein copyright subsisted in the work or other subject matter;

(ii) the person named therein is the owner of the copyright in the work or other subject matter; and

(iii) a copy of the work or other subject matter exhibited to the affidavit is a true copy of the work or other subject matter,

shall, if it complies with subsection (3), be admitted without further proof in any proceedings under the Act or this Ordinance.

(2) The court before whom an affidavit is produced under subsection (1) shall presume, until the contrary is proved—

(a) that the statements made therein are true; and

(b) that it was made and authenticated in accordance with subsection (3).

(3) An affidavit for the purposes of this section shall be—

(a) made on oath—

(i) before a magistrate or a notary public if it is made at any place within the Commonwealth; or

(ii) before a consular officer of Her Majesty's Government in the United Kingdom or a notary public if it is made at any place outside the Commonwealth; and

(b) authenticated, so far as relates to the making thereof, by the signature of the magistrate, notary public or consular officer before whom it is made.

Time limit for
prosecutions.

10. No prosecution for an offence under the Act or this Ordinance shall be commenced after the expiration of three years after the commission of the offence or one year after the discovery thereof, whichever date last occurs.

Governor's
power to
amend the
Schedule.

11. The Governor may, by notice in the *Gazette*, amend the Schedule.

12. The Copyright Ordinance and the Fine Arts Copyright Ordinance are repealed.

Repeal.
(Caps. 39 and 40.)

(2) The Copyright (Application of the Copyright Act) Regulations are revoked.

(Cap. 39, sub. leg.)

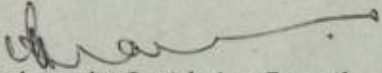
SCHEDULE

[s. 3.]

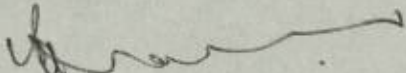
BROADCASTING ORGANIZATIONS

1. Radio Hong Kong.
2. Hong Kong Commercial Broadcasting Company Limited.
3. Television Broadcasts Limited.

Passed by the Hong Kong Legislative Council this 31st day of January, 1973.

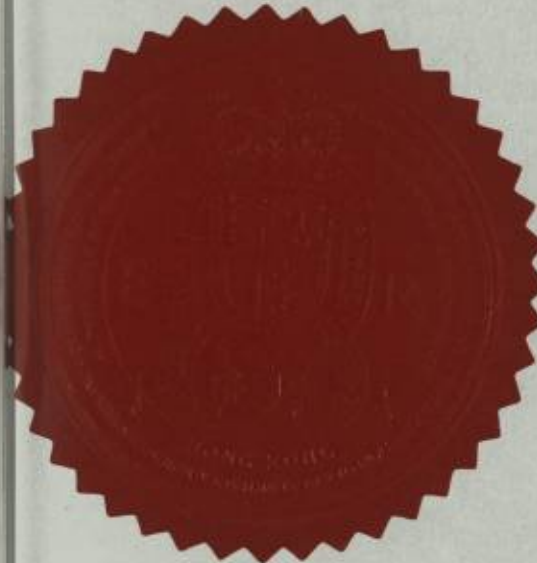

Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

HONG KONG

No. 6 OF 1973



I assent.

M. J. Ma Lehon
Governor.

1st February, 1973.

An Ordinance to amend the Evidence Ordinance.

[2nd February, 1973]

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

1. This Ordinance may be cited as the Evidence (Amendment) Ordinance 1973. Short title.

2. The principal Ordinance is amended by adding after section 32 the following new sections— Addition of sections 33, 34 and 34A. (Cap. 8.)

"Prints of films of public documents.

33. (1) A print, whether enlarged or not, purporting to be made from a film of a public document and purporting to be certified to be a print made from a film of a public document by the public officer or person who has custody of the film shall be admitted in evidence in any criminal or civil proceedings before any court on its production without further proof.

(2) On the production of a print under subsection (1) the court before which it is produced shall, until the contrary is proved, presume—

- (a) that a certificate purporting to be signed by the public officer or person having custody of the film has been signed by him; and
- (b) that the print to which the certificate refers has been made from a film of the public document.

Prints from films of Government documents, etc.

34. (1) A print, whether enlarged or not, purporting to be made from a film of a document in the possession of the Government or an authorized person shall be admitted in evidence in any criminal or civil proceedings before any court on its production, upon proof that—

- (a) while the document was in the custody or control of the Government or authorized person the film was taken in order to keep a permanent record thereof; and
- (b) the document photographed—
 - (i) was subsequently destroyed, whether deliberately or otherwise;
 - (ii) was so damaged as to be wholly or partly indecipherable;
 - (iii) was lost; or
 - (iv) had passed out of the custody or control of the Government or authorized person.

(2) Proof—

- (a) that a print is made from a film of a document in the possession of the Government or an authorized person; and
- (b) of compliance with the conditions in subsection (1),

may be given in respect of any document or groups of documents by a public officer, by an employee of an authorized person or by an authorized person, orally or by a certificate purporting to be signed by such public officer, employee or person.

(3) A certificate under subsection (2) shall be admitted in evidence in any criminal or civil proceedings before any court on its production without further proof.

(4) On the production of a certificate under subsection (3) the court before which it is produced shall, until the contrary is proved, presume—

- (a) that the facts stated in the certificate relating to the print and the compliance with the conditions in subsection (1) are true; and
- (b) that the certificate purporting to be signed by a public officer, an employee of an authorized person or an authorized person has been signed by him.

(5) The Governor may, by order published in the *Gazette*, declare any person or class of persons to be authorized persons for the purposes of this section.

Interpretation.

34A. In sections 33 and 34, unless the context otherwise requires—

“authorized person” means—

- (a) a bank;
- (b) a company authorized by any Ordinance to administer the estates of deceased persons or trust estates; and
- (c) any person declared by the Governor to be an authorized person under section 34(5);

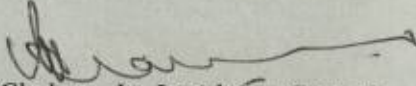
“film” includes a photographic plate, microfilm and machine-copy;

“machine-copy” means a copy made of a document by any machine whereby an image of the contents of the document is reproduced from surface contact with the document or by the use of photo-sensitive material other than transparent photographic film;


“photograph” and “photographic copy” include a machine-copy;

“public document” means any document to which the public have a right of access.”.

Passed by the Hong Kong Legislative Council this 31st day
of January, 1973.

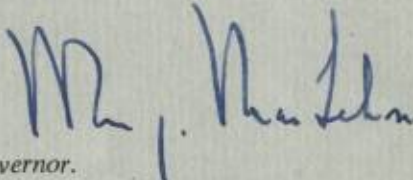

Clerk to the Legislative Council.

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correctly printed copy of the said bill.*


Clerk to the Legislative Council.

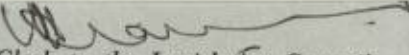


I assent.

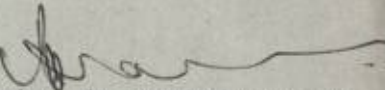


Governor.

1st February, 1973.

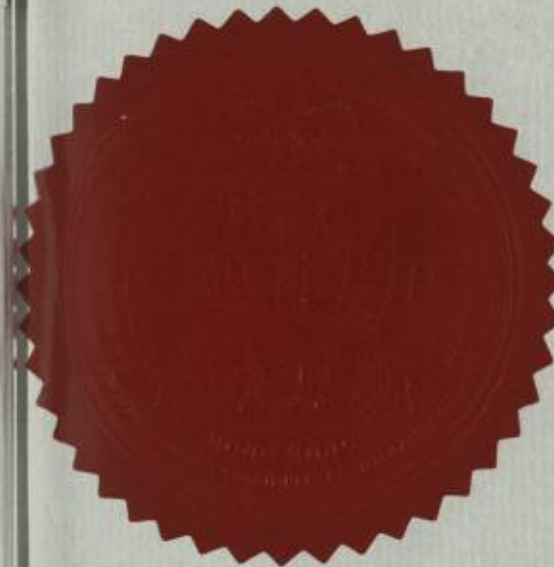

Clerk to the Legislative Council.

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

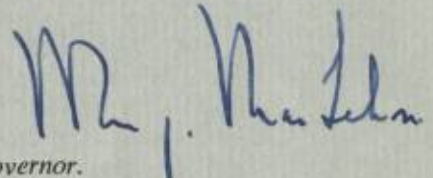

Clerk to the Legislative Council.

HONG KONG

No. 7 OF 1973



I assent.


Governor.

1st February, 1973.

An Ordinance to amend the Television Ordinance.

[2nd February, 1973]

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

1. This Ordinance may be cited as the Television (Amendment) Ordinance 1973. Short title.
2. Section 2 of the principal Ordinance is amended— Amendment of section 2. (Cap. 52.)
 - (a) by inserting the following after the definition of "Code of Practice"—

“disqualified person” means—

 - (a) an advertising agent;
 - (b) a company which supplies material for broadcasting by a licensee;
 - (c) a company—
 - (i) which is a licensee; or
 - (ii) which transmits sound or television material, whether within or without Hong Kong; or

(d) a person who exercises control of a company specified in paragraph (b) or (c);

“exercise control of a company” means—

(a) to hold office in that company; or

(b) to be the beneficial owner of more than 15 per cent of the voting shares of that company;

Provided that a person shall not be a disqualified person in relation to a company which is a licensee by reason only that he holds office in, or more than 15 per cent of the voting shares in, that company;” and

(b) by inserting the following after the definition of “material”—

“ordinarily resident in Hong Kong” includes—

(a) in the case of a person—

(i) residence in Hong Kong for not less than 180 days in any calendar year; or

(ii) residence in Hong Kong for not less than 300 days in any 2 consecutive calendar years; and

(b) in the case of a company, a company—

(i) which is formed and registered in Hong Kong under the Companies Ordinance;

(ii) of which the majority of the directors participating actively in the direction of the company are British subjects ordinarily resident in Hong Kong as defined in paragraph (a); and

(iii) the control and management of which is *bona fide* exercised in Hong Kong;”.

(Cap. 32.)

Amendment of section 5.

3. Section 5 of the principal Ordinance is amended—

(a) in subsection (1)(c), by deleting “two” and substituting the following—

“three”; and

(b) in subsection (7), by deleting “three” and substituting the following—

“four”.

4. Section 6 of the principal Ordinance is amended by deleting paragraph (d) and substituting the following—

Amendment of section 6.

“(d) to submit to the Governor at least once during each period of 18 months a report on the progress of television broadcasting in Hong Kong, which report shall be tabled before the Legislative Council.”.

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

Repeal and replacement of section 7.

“Application for licence.

7. (1) Any company complying with section 10 may apply in writing in a form determined by the Television Authority for a licence to broadcast.

(2) An application under subsection (1) shall be submitted to the Government at such place and within such time as may be determined by the Television Authority in any particular case.”.

6. Section 8 of the principal Ordinance is amended—

Amendment of section 8.

(a) in subsection (2)—

(i) by deleting “section 11” and substituting the following—

“this Ordinance”; and

(ii) by deleting “prescribed application form as completed and submitted by the licensee under section 7” and substituting the following—

“application form submitted by the licensee under section 7”;

(b) in subsection (3), by inserting the following after “that Ordinance”—

“for the purposes of establishing and operating a television broadcasting service and such associated telecommunication services ancillary thereto as may be authorized by the Telecommunications Authority”; and

(c) by inserting the following after subsection (3)—

“(3A) Save in so far as a licensee shall not be required to obtain a licence under the Telecommunication Ordinance to establish and operate any associated telecommunication service ancillary to the operation of a television broadcasting service he shall comply at all times with the provisions of that Ordinance which relate to the establishment and operation of a television broadcasting service and any associated telecommunication service ancillary thereto.”.

(Cap. 106.)

Repeal and replacement of sections 9, 10 and 11.

7. Sections 9, 10 and 11 of the principal Ordinance are repealed and replaced by the following—

"Period of validity of licence.

9. (1) A licence shall be—
- (a) valid for such period as the Governor in Council may determine by order, this period being not less than 15 years from the date on which it is granted; and
 - (b) subject to renewal within that period of validity on such dates as may be specified in the licence or determined by the Governor in Council by order.

(2) An order made by the Governor in Council under paragraph (a) or (b) of subsection (1) shall be published in the *Gazette*.

Competence of applicants for licences, (Cap. 32.)

10. A licence may be granted only to a company formed and registered under the Companies Ordinance which complies with the following conditions—

- (a) the only business carried on by the company shall be—
 - (i) to establish and operate a television broadcasting service;
 - (ii) to establish and operate such associated telecommunication services ancillary to the operation of a television broadcasting service as may be authorized by the Telecommunications Authority; and
 - (iii) to carry on such forms of business as may be directly connected or associated with the foregoing;
- (b) the majority of the directors of the company shall be British subjects ordinarily resident in Hong Kong;
- (c) the majority of the directors required under paragraph (b) shall participate actively in the direction of the company;
- (d) a quorum of any meeting of the directors of the company shall have a majority of directors who are British subjects ordinarily resident in Hong Kong;
- (e) the principal officers of the company, including the officer responsible for the selection of programmes, shall be British subjects ordinarily resident in Hong Kong;

- (f) no disqualified person other than a person whose disqualification was disclosed in the application for the licence shall exercise control of the company;
- (g) the company shall be prohibited under its articles of association from registering the transfer of any of its voting shares to the nominee of any person or company;
- (h) the articles of association of the company shall provide that the company shall, before registering the transfer of any of its voting shares, require to be furnished to it a statutory declaration signed by or on behalf of the transferee stating—
 - (i) whether or not the transferee is ordinarily resident in Hong Kong; and
 - (ii) whether or not the transferee is the nominee of any person or company;
- (i) the company shall be empowered under its memorandum of association to comply fully with the provisions of this Ordinance and the conditions of its licence;
- (j) not less than 25 *per cent* of the voting shares of the company shall, at the date of issue of the licence, be beneficially owned by persons or companies ordinarily resident in Hong Kong.

Special conditions of licence.

11. (1) Subject to section 11A, a licensee—
- (a) shall comply at all times with paragraphs (a) to (i) of section 10;
 - (b) shall ensure that, on or before the expiration of 4 years after the date of issue of its licence and at all times thereafter—
 - (i) not less than 51 *per cent* of the voting shares of the company are beneficially owned at all times by persons or companies ordinarily resident in Hong Kong; and
 - (ii) the voting shares of the company are officially listed on at least one recognized stock exchange, as defined by the Companies Ordinance, and that not less than 25 *per cent* thereof are, or have been, made available to the public;

(Cap. 32.)

- (c) shall refuse to register the transfer of any of the voting shares of the company if to register the transfer will result, or will be likely to result, in the contravention of paragraph (b)(i); and
 - (d) shall not acquire a controlling interest in, or own more than 49 *per cent* of the voting shares of, any company, corporation or firm which carries on or controls any form of business not directly connected or associated with the establishment and operation of a television broadcasting service or such associated ancillary telecommunication services as may be authorized by the Telecommunications Authority.
- (2) Subject to section 11A, no disqualified person who exercises control of a licensee company shall increase such control—
- (a) by augmenting the percentage of voting shares of the company which he holds as the beneficial owner thereof; or
 - (b) as the result of the change of office held by him in the company.
- (3) Subject to section 11A, a licensee shall not assign its licence to any person or company.

Exceptions
to special
conditions
of licence.

11A. (1) On the application of a licensee the Governor in Council may, if he is satisfied that the public interest so requires, approve—

- (a) an increase in the control exercised by a disqualified person in the company;
 - (b) the introduction of a disqualified person to exercise control of the company; or
 - (c) the postponement of the obligation of the company to comply with section 11(1)(b)(ii) or subsection (4)(a)(ii) of this section until such date as he may specify.
- (2) Without prejudice to any action which may be taken against a licensee under section 14 or 37, if a licensee, by registering the transfer of any of the voting shares of the company, contravenes paragraph (b)(i) of section 11(1) the company shall—
- (a) notify forthwith the Television Authority and also the secretary of any recognized

- stock exchange in the Colony with which its voting shares are listed; and
 - (b) refuse to register the transfer of any other of its voting shares to any person or company not ordinarily resident in Hong Kong until such time as the Television Authority is satisfied that not less than 51 *per cent* of the voting shares of the company are beneficially owned by persons or companies ordinarily resident in Hong Kong.
- (3) On the application of a licensee the Governor in Council may approve the assignment of its licence to any other company competent to apply for a licence subject to such conditions as may be specified by the Governor in Council.
- (4) In the case of a licence granted before the date of commencement of the Television (Amendment) Ordinance 1973—

- (a) the licensee shall, on or before the expiration of 4 years after the date of first renewal of its licence and at all times thereafter, ensure that—

- (i) not less than 51 *per cent* of the voting shares of the company are beneficially owned at all times by persons or companies ordinarily resident in Hong Kong; and

- (ii) the voting shares of the company are officially listed on at least one recognized stock exchange, as defined by the Companies Ordinance, and that not less than 25 *per cent* thereof are, or have been, made available to the public;

- (b) the licensee shall, on or before the expiration of 4 years after the date of first renewal of its licence—

- (i) divest itself of any controlling interest which, on the date of first renewal of its licence, it may hold in any company, corporation or firm carrying on or controlling any form of business not directly connected or associated with the establishment and operation of a television broadcasting service or such associated ancillary telecommunica-

tion services as may be authorized by the Telecommunications Authority; and

(ii) sell or otherwise dispose of all of the voting shares of any such company, corporation or firm which, on the date of first renewal of its licence, it may own in excess of 49 *per cent* of the voting shares of such company, corporation or firm; and

(c) the licensee shall, except as otherwise provided by this section or so far as may be specified by the Governor in Council on the first renewal of its licence, comply at all times with section 11.

11B. A licensee shall ensure that a clear statement of the effect of sections 10, 11 and 11A is made in any prospectus within the meaning of the Companies Ordinance which may be issued at any time in respect of the company.”

Statement of effect of sections 10, 11 and 11A to be made in prospectus.
(Cap. 32.)

8. Section 13 of the principal Ordinance is repealed and replaced by the following—

“Renewal of licence.

13. (1) Not less than 12 months before the date of renewal of a licence the Board shall submit recommendations to the Governor in Council concerning the renewal of the licence and the terms and conditions subject to which it may be renewed.

(2) Having considered the recommendations submitted under subsection (1), the Governor in Council may—

(a) renew a licence subject to such terms and conditions as he may specify; or

(b) renew a licence by means of granting a new licence in substitution therefor, and in doing so, may—

(i) impose such terms and conditions as he may specify; and

(ii) direct that the period of validity of the new licence shall date from the date on which the existing licence was granted.”

Repeal and replacement of section 13.

9. Section 14 of the principal Ordinance is amended in subsection (3) by inserting the following after paragraph (b)—

Amendment of section 14.

“(bb) if the licensee—

(i) goes into compulsory liquidation or into voluntary liquidation other than for the purpose of amalgamation or reconstruction; or

(ii) makes any assignment to, or composition with, its creditors; or”.

10. Sections 18 and 19 of the principal Ordinance are repealed and replaced by the following—

Repeal and replacement of sections 18 and 19.

“Transmission requirements.

18. (1) A licensee shall, within such time as may be specified in its licence, broadcast in such a manner as to enable its transmissions to be received to the satisfaction of the Television Authority in all parts of Hong Kong.

(2) Notwithstanding subsection (1), the Television Authority, on the advice of the Board may, on the application of a licensee, exempt the licensee from complying with subsection (1) in respect of broadcasts to any specified area of Hong Kong during any period specified by the Television Authority.

(3) A licensee shall publish, in such manner as the Television Authority may direct, notification of the commencement dates for broadcasting its programmes and the areas of Hong Kong within which its transmissions may be received satisfactorily.

(4) A licensee shall transmit its programmes on such frequencies as may be allocated to it in writing by the Telecommunications Authority, such frequencies being within Band IV, comprising 470 to 582 megahertz per second, and Band V, comprising 606 to 782 megahertz per second.

Directions in respect of transmission requirements.

19. (1) Without prejudice to section 18, the Television Authority may direct any licensee to submit to him in writing within such time as he may specify its proposals to enable its broadcasts to be received satisfactorily in any area of Hong Kong specified by the Television Authority.

(2) After consideration of any proposals submitted to him under subsection (1), the Television Authority may direct any licensee to ensure that its broadcasts are capable of being received to his satis-

faction within such area and within such time as he may specify.”.

Amendment of section 20.

11. Section 20 of the principal Ordinance is amended by deleting subsections (2) and (3) and substituting the following—

“(2) The Television Authority may, on the advice of the Telecommunications Authority, issue from time to time Codes of Practice relating to the technical standards of broadcasts required to be maintained by licensees.”.

Addition of section 20A.

12. The principal Ordinance is amended by adding the following after section 20—

“Transmission facilities.

20A. (1) The Television Authority may, on the advice of the Board, direct any licensee—

- (a) to provide such broadcast transmission equipment, buildings and other facilities as he may specify at each transmitted or translator site from which the licensee is transmitting, or intends to transmit, its broadcasts;
- (b) to co-ordinate and co-operate, in such manner as the Television Authority may specify, with any other licensee or any other person specified by the Television Authority in the use of any broadcast transmission equipment, buildings or other facilities provided at any transmitter or translator site, regardless of whether the broadcast transmission equipment, buildings or other facilities have been provided, or are intended to be provided, by the licensee or any other licensee or any other person specified by the Television Authority.

(2) A licensee may be required—

- (a) by a direction given by the Television Authority under subsection (1); or
- (b) by a term or condition inserted in its licence for that purpose,

to contribute to the expenses incurred by any other licensee in connexion with the development, installation and maintenance of any shared transmission facility.”.

13. Sections 21 and 22 of the principal Ordinance are repealed and replaced by the following—

“Inspection and testing of technical equipment.

21. (1) The Telecommunications Authority or any person authorized by him in this behalf may, at any reasonable time, inspect and test any equipment used, or intended to be used, by a licensee for the production or transmission of any television programme for the purpose of ascertaining whether or not the licensee is complying at all times with the technical requirements of this Ordinance, any regulations made thereunder, any Code of Practice and the conditions of its licence in respect of the production and transmission of television programmes.

(2) The directors, employees and servants of a licensee shall, for the purpose of any inspection or test under subsection (1)—

- (a) make available on request to the Telecommunications Authority or any person authorized by him for the purpose of the inspection or test and permit to be inspected and tested any part of its equipment used, or intended to be used, for the production or transmission of any television programme; and
- (b) assist the Telecommunications Authority or such authorized person in carrying out the inspection or test in any manner specified by him; and
- (c) answer directly and truthfully any questions put to them by the Telecommunications Authority or such authorized person.

(3) The decision of the Telecommunications Authority that a licensee is failing, or has failed at any time, to comply with any technical requirement of this Ordinance, any regulation made thereunder, any Code of Practice or any condition of his licence in respect of the production or transmission of television programmes shall be final.

(4) Nothing in subsection (2) shall oblige any person to answer any question put to him under that subsection which might incriminate him or which he is unable to answer from his own knowledge or from information reasonably available to him.

Repeal and replacement of sections 21 and 22.

Broadcast services.

22. (1) A licensee shall broadcast programme services in such language or languages as may be specified in its licence.

(2) Each programme service shall be broadcast for not less than 5 hours during each day."

Amendment of section 23.

14. Section 23 of the principal Ordinance is amended—

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

"ten";

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

"ten"; and

(c) in subsection (5), by inserting the following after "Ordinance"—

"and any other Ordinance controlling or regulating advertising".

Repeal and replacement of sections 24 and 25.

15. Sections 24 and 25 of the principal Ordinance are repealed and replaced by the following—

"Pro-grammes for schools.

24. The programmes broadcast by licensees under section 22 shall include such programmes for schools, supplied by the Government, as may be required by the Television Authority.

Government programmes other than programmes for schools.

25. (1) In addition to programmes for schools broadcast under section 24, the programmes broadcast by licensees under section 22 shall include, in each programme service—

(a) such news programmes and announcements of public interest, supplied by the Government, as may be required by the Television Authority; and

(b) such other material, supplied by the Government, as may be required by the Television Authority.

(2) The material required to be broadcast by licensees under subsection (1)(b) shall not exceed 1½ hours in any one period of 24 hours commencing at 6 o'clock in the morning and shall not exceed 7 hours in any one week.

General requirements in respect of Government programmes.

25A. (1) Any material required under section 24 or 25 to be broadcast by licensees shall be broadcast without charge to the Government at such time as may be specified by the Television Authority.

(2) A licensee shall, on the request of the Television Authority and on receipt of reasonable notice, make available to the Government without charge any part of its equipment specified by the Television Authority for the purpose of broadcasting any Government material required to be broadcast under section 24 or 25.

(3) The Television Authority shall, when exercising the powers conferred by sections 24 and 25 and this section, so far as reasonably practicable, ensure that the obligations imposed on licensees by these sections are apportioned equitably between them.

(4) Nothing shall prevent a licensee, when broadcasting any material which it is required under section 24 or 25 to broadcast, from broadcasting advertising material in accordance with section 23."

16. Section 30 of the principal Ordinance is amended in paragraph (c) by deleting "the maximum value of any prize awarded in such contests" and substituting the following—

"limitations on types of prizes which may be awarded in such contests and the maximum values of such prizes".

Amendment of section 30.

17. Section 33 of the principal Ordinance is amended—

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

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

"(2) The Television Authority may, if he is of the opinion that any programme intended to be broadcast by a licensee may affect the peace and good order of Hong Kong, require the licensee to pre-record the programme and submit it to him for approval before it is broadcast."

Amendment of section 33.

18. Section 37 of the principal Ordinance is amended in subsection (2)—

(a) in paragraph (b), by inserting the following after "with"—

"any provision of this Ordinance or";

Amendment of section 37.

- (b) by inserting the following after the semicolon at the end of paragraph (c)—
“or”;
- (c) in paragraph (d), by deleting “section 34, 35 or 36;” and substituting the following—
“this Ordinance.”; and
- (d) by deleting paragraphs (e) and (f).
- 19.** Section 40 of the principal Ordinance is amended—
- (a) in subsection (1)—
- (i) paragraph (a), by inserting the following after “names”—
“and places of residence”; and
- (ii) in paragraph (b), by inserting the following after “names”—
“and places of residence”; and
- (b) in subsection (2), by deleting the following—
“The term “disqualified person” has the meaning attributed to it in subsection (3) of section 11.”.

Amendment of section 40.

Repeal and replacement of section 41.

20. Section 41 of the principal Ordinance is repealed and replaced by the following—

41. (1) A licensee shall pay to the Government a royalty of 25 *per cent* of the net profit of the licensee for each accounting year of the licensee, ascertained in accordance with Part IV of the Inland Revenue Ordinance:

Provided that—

- (a) in making the deductions set out in section 16 of that Ordinance due regard shall be had to the current level of prices and costs, so that any such deduction shall be limited to such sum as the Financial Secretary may decide is reasonable and so that allowance of any sum by way of depreciation of a capital asset shall be limited to an amount which represents the allowance approved under Part VI of that Ordinance on what the Financial Secretary may decide is a reasonable price for such asset at the time of acquisition; and

“Calcula-
tion of
royalty
payable by
licensees.
(Cap. 112.)

- (b) in ascertaining the net profit as aforesaid—

(i) there shall be excluded from the taxable profits of the licensee any bank interest, interest and dividends on investments, profits and losses on sale of investments and on redemption of investments and profits and losses on sales of capital assets of the licensee’s television broadcasting undertaking but not any balancing charge or balancing allowance which may be allowed under Part VI of that Ordinance in respect of any such capital assets; and

(ii) no deduction shall be made in respect of any sum which may be payable as royalty by the licensee to the Government or in respect of any interest on money borrowed by the licensee except such part of any such interest as, in any year, is in excess of the total dividends and interest received by the licensee from any investments of the licensee.

(2) The Financial Secretary and any person authorized by him in writing shall, for the purpose of ascertaining the net profit of a licensee, be an authorized representative of the licensee for the purposes of section 4 of the Inland Revenue Ordinance to the intent that the Commissioner of Inland Revenue and any assessor and any person appointed to carry out duties under that Ordinance shall, on demand of the Financial Secretary or such authorized person, disclose all such matters relating to the affairs of the licensee as the Financial Secretary or such authorized person may require and such disclosure shall not be deemed to be a breach of the duties imposed upon the person making it by the said section.

(Cap. 112.)

(3) If a licensee disputes any determination of the Financial Secretary under subsection (1) the matter shall be determined under the Arbitration Ordinance.

(Cap. 341.)

Quarterly
payments
of royalty.

41A. (1) A licensee shall make quarterly payments to the Accountant General on account of the royalty payable by the licensee under section 41 and accruing during each accounting year of the licensee.

(2) The amount of each payment referred to in subsection (1) shall be a sum equal to one quarter of 25 *per cent* of the estimated net profit of the

licensee calculated in accordance with section 41 or such sum as the Financial Secretary may determine.

(3) As soon as the net profit of a licensee for its current accounting year has been ascertained under section 41 a final adjustment shall be made and the Government shall refund to the licensee any sum paid on account in excess of the royalty due for that year, or if the amounts paid on account by the licensee are less than the royalty due, the licensee shall pay to the Accountant General the balance thereof."

Amendment of section 45.

21. Section 45 of the principal Ordinance is amended in subsection (1)—

(a) by deleting paragraphs (a) and (b) and substituting the following—

"it is necessary for the proper exercise of his functions under this Ordinance"; and

(b) by renumbering sub-paragraphs (i), (ii), (iii) and (iv) as paragraphs (a), (b), (c) and (d), respectively.

Addition of section 46.

22. The principal Ordinance is amended by adding the following after section 45—

"Confidential material to be safeguarded.

46. (1) Subject to subsection (2)—

(a) any information which is furnished by a licensee to, and any document which is produced by a licensee to, the Board, the Television Authority, the Telecommunications Authority or any person authorized thereby, under this Ordinance shall be treated as confidential; and

(b) no such information or document or any copy thereof shall be divulged or shown to any person other than in confidence to members of the Board or to a public officer acting in the performance of his duties under or for the purposes of this Ordinance.

(2) A licensee may permit, subject to such conditions as it may specify, the Board, the Television Authority, the Telecommunications Authority or any person authorized thereby—

(a) to divulge specified information which it has furnished thereto; or

(b) to show any specified document or any copy thereof which it has produced thereto,

to any person or to any specified person."

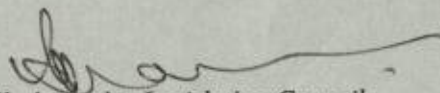
23. (1) The licence granted before the date of commencement of this Ordinance shall continue in force until it is renewed in accordance with section 13 of the principal Ordinance, as repealed and replaced by this Ordinance, as if this Ordinance had not been enacted.

Transitional provisions affecting existing licensee.


(2) On the renewal of the licence referred to in subsection (1), such licence shall remain subject to the provisions of the principal Ordinance as if this Ordinance had not been enacted until the date of commencement of the first licence granted after the date of commencement of this Ordinance, and, after the date of commencement of that licence, shall be subject to the provisions of the principal Ordinance as amended by this Ordinance:

Provided that section 11 of the principal Ordinance, as repealed and replaced by this Ordinance, shall apply in respect of the existing licensee from the date of its first renewal.

Passed by the Hong Kong Legislative Council this 31st day of January, 1973.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

HONG KONG

No. 8 OF 1973



I assent.

M. M. S. Leung
Governor.

1st February, 1973.

An Ordinance to amend the Inland Revenue Ordinance.

[1st April, 1973]

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

1. This Ordinance may be cited as the Inland Revenue (Amendment) Ordinance 1973 and shall come into operation on the 1st day of April 1973.

Short title and commencement.

2. Section 2 of the principal Ordinance is amended—

Amendment of section 2. (Cap. 112.)

(a) by inserting, after the definition of "approved retirement scheme", the following—

"“assessable income” means income as ascertained under sections 11, 11A, 11B, 11C and 11D of a person chargeable to salaries tax;”;

(b) in the definition of "tax", by inserting, after "Ordinance" the following—

"(including provisional salaries tax charged under Part XA)".

Amendment of section 7.

3. Section 7 of the principal Ordinance is amended by deleting "shall be reduced proportionately" and substituting the following—

"shall, in respect of each entire month during which the land or buildings or land and buildings were unoccupied, be reduced by one twenty-fourth of the total tax which would have been payable in respect thereof if the same had been occupied for the whole of that year of assessment".

Amendment of section 11.

4. Section 11 is amended by deleting subsections (7), (8) and (9) and substituting the following—

"(7) This section shall apply to the years of assessment up to and including the year commencing on the 1st April 1972."

Addition of new sections 11A, 11B, 11C and 11D.

5. The principal Ordinance is amended by adding, after section 11, the following new sections—

"Assessable income for 1972/73.

11A. (1) Notwithstanding section 11(2), where, in the case of a person whose assessable income from a source has been ascertained under section 11(2) for the year of assessment commencing on the 1st April 1972, the amount of income accruing to him from that source in that year of assessment exceeds his assessable income from that source for that year, as ascertained in accordance with section 11(2), by more than fifteen *per cent*, the excess over fifteen *per cent* shall be deemed to be assessable income for the year of assessment commencing on the 1st April 1972.

(2) The assessable income of a person to whom subsection (1) applies for the year of assessment commencing on the 1st April 1972 shall be—

- (a) the assessable income of that person as ascertained in accordance with section 11(2); and
- (b) the assessable income as ascertained under subsection (1).

Ascertainment of assessable income for years of assessment after 1st April 1973.

11B. The assessable income of a person chargeable to salaries tax for the year of assessment commencing on the 1st April 1973 and to succeeding years of assessment shall be the aggregate amount of income accruing to him from all sources in that year of assessment.

Office or employment of profit.

11C. (1) For the purposes of sections 11 and 11B, a person shall be deemed to commence or cease, as the case may be, to derive income from a source whenever and as often as he commences or ceases—

(a) to hold any office or employment of profit; or

(b) to become entitled to a pension.

(2) Notwithstanding subsection (1), where, during the period commencing on the 1st April 1971 and ending on the 31st March 1973, a person holding an office or employment of profit was, for any period of more than sixty consecutive days, on leave of absence and was not deriving any income from that office or employment, that person may claim that, for the purposes of section 11, he be deemed to have ceased or commenced to derive income from a source on the commencement and cessation of each such period.

(3) Notwithstanding section 70 a claim under subsection (2) shall be entertained if it is made in writing within five years after the end of the year of assessment in which the period of absence during which no income was derived first commenced.

(4) A claim under subsections (2) and (3) shall be regarded as a valid objection to assessment under section 64 for the purposes of Part XI.

Receipt of income.

11D. For the purposes of sections 11, 11A and 11B—

- (a) income which has accrued to a person during the basis period for a year of assessment but which has not been received by him in such basis period shall not be included in his assessable income for that year of assessment until such time as he shall have received such income, when notwithstanding anything contained in this Ordinance, an additional assessment shall be raised in respect of such income:

Provided that for the purposes of this paragraph income which has either been made available to the person to whom it has accrued or has been dealt with on his behalf or according to his directions shall be deemed to have been received by such person;

- (b) income accrues to a person when he becomes entitled to claim payment thereof:

Provided that—

- (i) any lump sum payment received on or after the 1st day of April 1966, being a lump sum payment or gratuity paid or granted upon the retirement from or termination of any office or employment or any contract of employment of an employee or a lump sum payment of deferred pay or arrears of pay arising from an award of salary or wages, whether such a payment is paid by an employer to a person during employment or after that person has left his employ, shall upon the application in writing of the person entitled to claim payment thereof within two years after the end of the year of assessment in which the payment is made be related back and shall then be deemed to be income which has accrued during the periods in which the services or employment, in respect of which the payment was made, were performed or exercised, or, if the relevant periods of service or employment exceed three years, the payment shall be deemed to be income accruing at a constant rate over the three years ending on the date on which the person become entitled to claim payment thereof or ending on the last day of employment, whichever is the earlier; and, notwithstanding section 70, an application made by any person under this proviso for the adjustment of an assessment shall, to that extent, be regarded as a valid objection to the assessment under section 64; and
- (ii) subject to proviso (i), any payment made by an employer to a person after that person has ceased or been deemed to cease to derive income which, if it had been made on the last day of the period during which he derived income, would have been included in that person's assessable income for the year of assessment in which he ceased or is deemed to cease to derive income from that employment, shall be deemed to have accrued to that person on the last day of that employment.”.

6. Section 13 of the principal Ordinance is amended by deleting paragraph (a) of the proviso thereto. Amendment of section 13.
7. Section 29(2)(b) of the principal Ordinance is amended by deleting “specified form” and substituting the following—
“form approved by the Commissioner”. Amendment of section 29.
8. Section 40(1) of the principal Ordinance is amended by inserting, at the end of paragraph (b) of the definition of “basis period”, the following—
“but where, in respect of salaries tax, the interval is the year ending on 31st March 1973, that interval shall not be deemed to fall in the second basis period”. Amendment of section 40.
9. Section 42(1)(b) of the principal Ordinance is amended by deleting “computed in accordance with the provisions of Part III”. Amendment of section 42.
10. Section 42B(1) of the principal Ordinance is amended— Amendment of section 42B.
- (a) in paragraph (d)—
- (i) by deleting “the year preceding” in each place where it occurs;
- (ii) by deleting the proviso and substituting the following—
“Provided that—
- (A) the total allowance made to the individual under this paragraph shall not exceed an amount equal to one-sixth part of the total income of such individual as reduced by the allowance specified in paragraph (a) of this subsection;
- (B) in respect of the years of assessment up to and including the year of assessment commencing on the 1st day of April 1972, the allowances under this paragraph shall be the amounts paid or contributions made during the year preceding the year of assessment.”;
- (b) in paragraph (e) by deleting “made by the individual or his wife, not being a wife living apart from her husband, in the year preceding the year of assessment” and substituting the following—
“which, in relation to the years of assessment commencing on the 1st April 1971 and 1st April 1972, were made during the year preceding the year of assessment or which, in relation to the year of

assessment commencing on the 1st April 1973 and each year of assessment thereafter, are made during the year of assessment by the individual or his wife, not being a wife living apart from her husband".

Amendment of section 43.

11. Section 43 of the principal Ordinance is amended—

(a) in subsection (1)—

(i) by deleting the colon after "Schedule" and substituting a full stop;

(ii) by deleting the proviso;

(b) in subsection (2) by deleting "business".

Amendment of section 51.

12. Section 51(1) of the principal Ordinance is amended by deleting "and V" and substituting the following—

" , V and XA".

Addition of new Part XA.

13. The principal Ordinance is amended by adding, after Part X, the following new Part—

"PART XA

PROVISIONAL SALARIES TAX

Liability for provisional salaries tax.

63B. Every person who is chargeable to salaries tax under Part III in respect of the year of assessment commencing on the 1st April 1973 or any succeeding year of assessment shall be liable to pay provisional salaries tax in respect of that year of assessment in accordance with this Part.

Amount of provisional salaries tax.

63C. (1) Subject to subsections (2) and (3), provisional salaries tax in respect of any year of assessment shall be payable at the rates specified in the Second Schedule for that year of assessment by reference to the amount of the net chargeable income calculated in accordance with section 12, for the year preceding the year of assessment.

Second Schedule.

(2) If a person commences to derive income from a source on a day within a year of assessment commencing on or after the 1st April 1973, an assessor may estimate the sum in respect of which such person is liable to pay provisional salaries tax in that year and the succeeding year of assessment.

(3) If a person ceases to derive income from a source within a year of assessment commencing on or after the 1st April 1973, an assessor may estimate

the sum in respect of which such person is liable to pay provisional salaries tax for that year of assessment and for the year preceding that year of assessment.

(4) If a person is liable to pay provisional salaries tax, an assessor shall, as soon as may be after the expiration of the time limited by the notice requiring that person to furnish a return under section 51(1), assess the amount of the provisional salaries tax which he is liable to pay.

(5) Notwithstanding subsection (4), an assessor may assess the amount of provisional salaries tax which any person is liable to pay if he is of the opinion that the person is about to leave the Colony or that for any other reason it is expedient to do so.

(6) When an assessor has assessed the amount of provisional salaries tax which a person is liable to pay, the Commissioner shall give a notice to that person stating the amount of provisional salaries tax to be paid, and such due date for payment thereof as may be fixed by the Commissioner.

(7) For the purposes of Part XII, provisional salaries tax shall be deemed to be a tax charged under the provisions of this Ordinance and a notice under subsection (6) shall be deemed to be a notice of assessment.

Demands for provisional salaries tax.

63D. (1) In any year of assessment, a notice for payment of provisional salaries tax may be—

(a) given separately to any person liable to pay provisional salaries tax; or

(b) included in the notice of assessment to salaries tax.

(2) A person to whom a notice for payment of provisional salaries tax has been given under section 63C may object thereto in accordance with section 64 to the extent that his objection concerns the ascertainment of his net chargeable income for the year preceding the year of assessment.

Holding over of payment of provisional salaries tax.

63E. (1) Where, in relation to any year of assessment, a person is liable to pay provisional salaries tax, he may, by notice in writing lodged with the Commissioner not later than fourteen days before the day by which the provisional salaries tax is to

be paid, apply to the Commissioner on any of the grounds specified in subsection (2) to have the payment of the whole or part of such tax held over until he is required to pay salaries tax for that year of assessment.

(2) The grounds referred to in subsection (1) are—

- (a) that the person assessed to provisional salaries tax has become entitled during the year of assessment to an allowance under paragraph (b), (c) or (g) of section 42B(1), which allowance was not taken into account in the ascertainment of his net chargeable income for the year preceding the year of assessment or in estimating the sum in respect of which such person is liable to pay provisional salaries tax;
- (b) that the net chargeable income during the year of assessment of the person assessed to provisional salaries tax is, or is likely to be, less than eighty *per cent* of the net chargeable income for the year preceding the year of assessment or of the estimated sum in respect of which such person is liable to pay provisional salaries tax;
- (c) that the person assessed to provisional salaries tax has ceased, or will before the end of the year of assessment cease, to derive income chargeable to salaries tax.

(3) On receipt of an application under subsection (1), the Commissioner shall consider the same and may hold over the payment of the whole or part of the provisional salaries tax.

(4) The Commissioner shall, by notice in writing, inform the person applying under subsection (1) of his decision.

Provisional
salaries tax
to be
applied
against
salaries tax.

63F. (1) When any person has paid provisional salaries tax in respect of any year of assessment and the Commissioner has made an assessment of salaries tax in respect of the net chargeable income of that person for that year of assessment, the Commissioner

shall apply the amount of provisional salaries tax so paid in payment first of—

- (a) the salaries tax payable by that person for that year of assessment; then
- (b) the provisional salaries tax payable in respect of the year of assessment succeeding that year of assessment,

and shall refund to the person paying the provisional salaries tax the amount of the provisional salaries tax not so applied.


(2) If at any time in any year of assessment a person was married to a wife whose income was deemed under section 10 to be the income of that individual, any provisional salaries tax paid by the wife in respect of that income shall be applied by the Commissioner in payment of the salaries tax payable by the person for the year of assessment in which the marriage took place.”.

14. (1) Notwithstanding section 63C of the principal Ordinance, provisional salaries tax in respect of the year of assessment commencing on the 1st April 1973 shall be payable at the rates specified in the Second Schedule to the principal Ordinance for that year of assessment by reference to the amount of income arising in or derived from the Colony during the year commencing the 1st April 1972 computed in accordance with Part III of the principal Ordinance less the outgoings, expenses and allowances provided for in section 12 of the principal Ordinance.

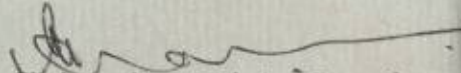
Transitional.

(2) Notwithstanding section 63C of the principal Ordinance, where a person commenced to derive income from a source within the year of assessment commencing on the 1st April 1972, an assessor may estimate the sum in respect of which such person is liable to pay provisional salaries tax for the year of assessment commencing on the 1st April 1973.

Passed by the Hong Kong Legislative Council this 31st day of January, 1973.


Clerk to the Legislative Council.


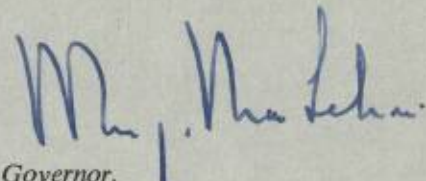
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.


Clerk to the Legislative Council.

HONG KONG

No. 9 OF 1973

I assent.



Governor.

1st February, 1973.

An Ordinance to amend the Merchant Shipping Ordinance.

[2nd February, 1973]

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

1. This Ordinance may be cited as the Merchant Shipping (Amendment) Ordinance 1973. Short title.

2. The principal Ordinance is amended in Part III by adding, after section 14, the following new section— Addition of new section 14A. (Cap. 281.)

14A. (1) Except with the permission of the master of the ship, no seaman who has been lawfully discharged from his ship shall be or remain on board the ship.

"Removal of discharged seamen.

(2) Any seaman who, having been lawfully discharged from his ship, does not leave the ship on being requested so to do by the master may be removed from the ship by an authorized officer.

(3) In this section "authorized officer" means any police officer of the rank of inspector or above and any officer of the Marine Department of the rank of Assistant Marine Officer or above."

Amendment of section 71.

3. Section 71 of the principal Ordinance is amended—

- (a) in paragraph (c) of subsection (1), by deleting "casts or deposits any dead body, ballast, rubbish, oil or other substance into such water without the written permission of the Director, or"; and
- (b) by deleting subsection (2).

Addition of new sections 71A, 71B, 71C and 71D.

4. The principal Ordinance is amended by adding, after section 71, the following new sections—

71A. (1) If any oil or mixture containing oil is discharged into the waters of Hong Kong, then the following shall be guilty of an offence—

"Discharge of oil into Hong Kong waters.

[cf. 1971, c. 60, s. 2.]

- (a) the person by whom the oil or mixture containing oil is so discharged or caused to be discharged; and
- (b) whether or not the person referred to in paragraph (a) has been charged with an offence—

(i) if the discharge is from a vessel, the owner, master, agent or charterer of the vessel, unless he proves that the discharge took place and was caused as mentioned in sub-paragraph (ii);

(ii) if the discharge is from a vessel but takes place in the course of a transfer of oil to or from another vessel or a place on land and is caused by the act or omission of any person in charge of any apparatus in that other vessel or that place, the owner, master, agent or charterer of that other vessel or, as the case may be, the occupier of that place;

(iii) if the discharge is from a place on land, the occupier of that place, unless he proves that the discharge was caused as mentioned in sub-paragraph (iv);

(iv) if the discharge is from a place on land and is caused by the act of a person who is in that place without the permission

(express or implied) of the occupier, that person;

(v) if the discharge takes place otherwise than as mentioned in sub-paragraph (i), (ii), (iii) or (iv) and is the result of any operations for the exploration of the sea-bed and subsoil or the exploitation of their natural resources, the person carrying on the operations.

[cf. 1971, c. 60, s. 29(3).]

(2) Reference in subsection (1) to the discharge of oil or mixture containing oil, or to its being discharged, from a vessel or place on land includes a reference to the escape of the oil or mixture, or (as the case may be) to its escaping, from that vessel or place on land.

(3) Any person guilty of an offence under this section shall be liable on conviction to a fine of twenty thousand dollars and to imprisonment for six months.

Duty to report discharge of oil into Hong Kong waters.

[1971, c. 60, s. 11.]

71B. (1) If any oil or mixture containing oil—

- (a) is discharged from a vessel into the waters of Hong Kong;
- (b) is found to be escaping or to have escaped from a vessel into any such waters; or
- (c) is found to be escaping or to have escaped into any such waters from a place on land,

the owner, master, agent or charterer of the vessel, or the occupier of the place on land, as the case may be, shall forthwith report the occurrence to the Director.

(2) A report made under subsection (1) by the owner, master, agent or charterer of a vessel shall state whether the occurrence falls within paragraph (a) or (b) of that subsection.

(3) Any person who fails to make a report as required by this section shall be guilty of an offence and shall be liable on conviction to a fine of four thousand dollars.

Interpretation of sections 71A and 71B.

[cf. 1971, c. 60, s. 2(3).]

71C. In sections 71A and 71B—

- (a) "place on land" includes anything resting on the bed or shore of the sea and anything afloat (other than a vessel) if it is anchored or attached to the bed or shore of the sea;

- (b) "occupier" in relation to—
- (i) any such thing as is mentioned in paragraph (a), if it has no occupier, means the owner thereof; and
 - (ii) a road vehicle, means the person in charge of the vehicle and not the occupier of the land on which the vehicle stands;
- (c) "mixture containing oil" means any mixture of oil with water or with any other substance;
- (d) "oil" means oil of any description and includes spirit produced from oil of any description and also includes coal tar.

[cf. 1971, c. 60,
s. 29(2).]

[cf. 1971, c. 60,
s. 29(1).]

Other forms
of pollution
of waters of
Hong Kong.

71D. (1) Any person who casts or deposits into the waters of Hong Kong any dead body, ballast, rubbish or other substance without the written permission of the Director shall be guilty of an offence and shall be liable on conviction to a fine of twenty thousand dollars and to imprisonment for six months.

(2) Without prejudice to anything contained in subsection (1), where any dead body, ballast, rubbish or other substance is cast or deposited from any vessel into the waters of Hong Kong the owner, master, agent or charterer of the vessel shall be guilty of an offence and shall be liable on conviction to a fine of twenty thousand dollars and to imprisonment for six months."

Amendment of
section 96.

5. Section 96 of the principal Ordinance is amended in subsection (1) by deleting the definition of "launch" and substituting the following—

"launch" means any mechanically propelled vessel of European type not exceeding three hundred tons which is designed or used for—

- (a) the conveyance of persons or things;
- (b) towing or pushing; or
- (c) any other purpose,

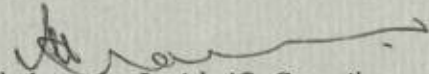
and does not carry passengers beyond the waters of the Colony."

Amendment of
section 104.

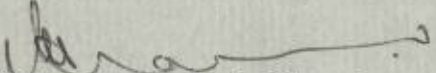
6. Section 104 of the principal Ordinance is amended in subsection (1) by inserting, after "diving barges," the following—

"oil barges, oil tankers,".

Passed by the Hong Kong Legislative Council this 31st day
of January, 1973.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



I assent.

M. J. Van Sledright

Governor.

1st February, 1973.

HONG KONG

No. 10 OF 1973



I assent.

M. M. Ma
Governor.

1st February, 1973.

An Ordinance to amend the Merchant Shipping (Recruiting of Seamen) Ordinance.

[2nd February, 1973]

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

1. This Ordinance may be cited as the Merchant Shipping (Recruiting of Seamen) (Amendment) Ordinance 1973. Short title.

2. Section 2 of the principal Ordinance is amended in subsection (1) by deleting the definition of "seaman" and substituting the following— Amendment of section 2. (Cap. 135.)

"seaman" means any person who is, or is to be, engaged for or employed in service at sea in a ship in any capacity other than—

- (a) that of master;
- (b) that of mate or engineer, duly certificated for the purposes of the Merchant Shipping Ordinance;
- (c) that of ship's doctor; and
- (d) that which the Authority may, after consultation with the Advisory Board and subject to such condi-

(Cap. 281.)

tions as he thinks fit, specify in writing to the Superintendent;”.

Amendment of section 5.

3. Section 5 of the principal Ordinance is amended—
- (a) in subsection (2), by deleting paragraph (b) and substituting the following—
- “(b) the Commissioner of Labour, the Deputy Commissioner of Labour or an Assistant Commissioner of Labour;” and
- (b) in subsection (6), by deleting “three” and substituting the following—
- “four”.

Amendment of section 6.

4. Section 6 of the principal Ordinance is amended in subsection (2) by deleting “four” and substituting the following—
- “three”.

Amendment of section 7.

5. Section 7 of the principal Ordinance is amended—
- (a) in subsection (3), by deleting “Part II or”;
- (b) in subsection (4), by deleting “Part II of the register and as between seamen whose names appear in Part II of the register shall give preference to seamen” and substituting the following—
- “Part III of the register”; and
- (c) in subsection (5), by inserting after “under”, where it first occurs, the following—
- “subsection (1) of section 17A, subsection (2) of section 17B or”.

Repeal of section 8.

6. Section 8 of the principal Ordinance is repealed.

Amendment of section 9.

7. Section 9 of the principal Ordinance is amended by deleting “or Part II”.

Amendment of section 10.

8. Section 10 of the principal Ordinance is amended in subsection (1)—
- (a) by inserting in paragraph (a), after “under”, where it first occurs, the following—
- “subsection (1) of section 17A, subsection (2) of section 17B or”; and
- (b) by inserting in paragraph (b), after “under”, where it first occurs, the following—
- “subsection (1) of section 17A, subsection (2) of section 17B or”.

9. Section 13 of the principal Ordinance is amended—
- (a) in subsection (1), by deleting the full stop and adding the following—

“unless, after such inquiry as he thinks fit, the Superintendent considers that the seaman was promoted without any or any sufficient cause.”; and

- (b) by adding, after subsection (2), the following new subsection—

“(3) The Superintendent may, if it comes to his notice that a seaman, whose name appears in Part I or Part IV, or in both Part I and Part IV, of the register, has fulfilled such requirements as the Authority may, after consultation with the Advisory Board, specify for the purpose, alter the seaman’s rating to a higher rating in the same grade or to a rating in a different grade.”.

Amendment of section 13.

10. Section 14 of the principal Ordinance is amended by deleting “Part II”, wherever it occurs, and substituting the following—

“PART I”.

Amendment of section 14.

11. Section 16 of the principal Ordinance is amended—
- (a) in subsection (1), by inserting in paragraph (a) after “Authority”, where it first occurs, the following—

“, the Deputy Director of Marine”; and

- (b) by adding, after subsection (3), the following new subsection—

“(4) The quorum at any meeting of a Board of Reference shall be four members thereof.”.

Amendment of section 16.

12. Section 17 of the principal Ordinance is amended—
- (a) in subsection (1)(b)(ii), by inserting after “Ordinance” the following—

“(Cap. 201.) or Part II of the Prevention of Bribery Ordinance”;

- (b) in subsection (2)—
- (i) by deleting “either” and substituting the following—

“any”;

(ii) by deleting “or”;

(iii) by deleting the full stop at the end thereof and substituting the following—

“; or”; and

Amendment of section 17.

(iv) by inserting, after paragraph (b), the following new paragraph—

“(c) if, within two years from the date on which a notice was served on the seaman under subsection (2) of section 17A, he has made no representation to the Superintendent.”.

Addition of
new sections
17A and 17B.

13. The principal Ordinance is amended by adding after section 17 the following new sections—

“Suspension
for deser-
tion or
failure to
join ship.

17A. (1) Whenever the Superintendent has reasonable grounds for believing that any seaman has, in Hong Kong or elsewhere—

- (a) deserted his ship; or
- (b) neglected, or refused without reasonable cause, to join his ship or to proceed to sea in his ship,

the Superintendent shall forthwith suspend the seaman's registration.

(2) Whenever a seaman's registration is suspended under subsection (1), the Superintendent shall, as soon as it is practicable to do so, serve notice thereof on the seaman specifying—

- (a) the ground on which his registration is suspended; and
- (b) the date and time at which the seaman may appear before the Superintendent for the purpose of making representations in the matter.

(3) The Superintendent shall, if he has under subsection (1) suspended the registration of a seaman whose name appears in Part IV of the register, whether or not the name of the seaman also appears in Part I of the register, forthwith give notice in writing thereof to every person in respect of whom the name of the seaman appears in Part IV of the register.

(4) The suspension under subsection (1) of a seaman's registration shall continue in effect until the Superintendent exercises, in relation to that seaman, any of the powers conferred on the Superintendent under subsection (1) or (2) of section 18.

Suspension
on medical
grounds.

17B. (1) The Superintendent may require any seaman, whose name appears on the register and whose registration is not for the time being suspended for any other reason, to undergo, within a specified period of time, such medical examinations as to his fitness for service in foreign-going ships as the Authority may, after consultation with the Advisory Board, specify in general directions to the Superintendent.

(2) The Superintendent may suspend the registration of any seaman who, having been required under subsection (1) to undergo a medical examination, fails to pass such examination within the time specified.

(3) The Superintendent shall, where under subsection (2) he has suspended the registration of a seaman whose name appears in Part IV of the register, whether or not the name of the seaman also appears in Part I of the register, forthwith give notice in writing thereof to every person in respect of whom the name of the seaman appears in Part IV of the register.

(4) The suspension under subsection (2) of a seaman's registration shall continue in effect until he produces to the Superintendent the certificate of a medical practitioner stating that the seaman is fit for service in foreign-going ships.”.

14. Section 18 of the principal Ordinance is amended by deleting subsections (1) and (2) and substituting the following—

Amendment of
section 18.

“(1) If, after considering any representations which the seaman may make on the occasion specified in a notice served on him under subsection (2) of section 17A or subsection (1) of section 19, it appears to the Superintendent that—

- (a) the seaman has deserted his ship, in Hong Kong or elsewhere;
- (b) the seaman has neglected, or refused without reasonable cause, to join his ship or to proceed to sea in his ship, in Hong Kong or elsewhere;
- (c) the seaman has been convicted, in Hong Kong or elsewhere, of any offence of such a nature as to render it desirable that he be suspended temporarily from service in foreign-going ships or should cease to serve on such ships;

- (d) the seaman has, while engaged in service with foreign-going ships, been guilty of misconduct of such a serious nature as to render it desirable that he be suspended temporarily from service on, or should cease to serve on, such ships, whether or not such misconduct constituted an offence, and, if the misconduct did constitute an offence, whether or not the seaman has been convicted of such offence; or
- (e) without reasonable excuse, the seaman has failed to comply with any order, direction, requirement or request made, given or issued under or for the purposes of this Ordinance by the Superintendent or any other public officer,

the Superintendent may—

- (i) suspend the seaman's registration for any period, not exceeding, in the case of desertion, twenty-four months or, in any other case, twelve months; or
- (ii) suspend the seaman's registration and forthwith refer the case to the Authority.

(1A) The period during which the seaman's registration is suspended under paragraph (i) of subsection (1) shall begin to run from the date when the seaman first appears before the Superintendent for the purpose of making representation in the matter after he has been served with a notice under subsection (2) of section 17A or under subsection (1) of section 19.

(2) Notwithstanding subsection (1), the Superintendent may in any case, in lieu of exercising any of the powers conferred on him by that subsection, issue the seaman with a caution in writing to be of good behaviour in the future.”.

15. Section 22 of the principal Ordinance is amended—

- (a) in subsection (1), by inserting after “Superintendent” the following—
“, unless the Authority has previously directed otherwise.”; and
- (b) in subsection (2), by inserting after “Superintendent” the following—
“, unless the Authority has previously directed that the proceedings shall continue.”;

Amendment of section 22.

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

“(3) If the hearing of an appeal under section 20 or of a case referred by the Authority under section 21 is not commenced within the period specified in subsection (1) or (2), as the case may be, the Authority, if he is satisfied that the failure to commence the hearing within the required time was—

- (a) caused by failure to serve notice on the seaman under subsection (3) of section 20 or section 21, as the case may be, despite reasonable attempts to do so; or
- (b) the result of an adjournment or postponement of the hearing at the request of or due in any way to the seaman,

may extend, and may further extend, the time within which the hearing shall be commenced for such period as he thinks fit.”.

16. Section 23 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 23.

“Hearings in absence of seaman.

23. A Board of Reference may proceed with a hearing notwithstanding that the seaman is not present—

- (a) in the case of an appeal under section 20, if the Board of Reference is satisfied that the notice required to be served on the seaman under subsection (3) of that section was duly served on him;
- (b) in the case of a reference to it under section 21, if the Board of Reference is satisfied that the notice required to be served on the seaman under that section was duly served by delivering it to him personally.”.

17. Section 24 of the principal Ordinance is amended—

Amendment of section 24.

- (a) in subsection (4), by deleting “British”, in both places where it occurs, and substituting the following—
“duly accredited”;
- (b) in subsection (5)—
(i) by deleting “British” and substituting the following—
“duly accredited”; and

(ii) by deleting the full stop and adding the following—

“or within such other time as may be allowed under the maritime law applicable to the ship concerned.”; and

(c) in subsections (6) and (8), by deleting “British” and substituting the following—

“duly accredited”.

Repeal and replacement of section 26.

18. Section 26 of the principal Ordinance is repealed and replaced by the following—

“Determina-
tion of
appeal under
section 20.

26. (1) If, on the hearing of an appeal under section 20 by a seaman on the ground that he disputes the ground on which his registration was suspended, the Board of Reference unanimously affirms the decision of the Superintendent, the Board of Reference shall dismiss the appeal.

(2) If on the hearing of any such appeal the Board of Reference does not unanimously affirm the decision of the Superintendent, the Board of Reference shall direct him to withdraw the suspension of the seaman's registration.

(3) On an appeal under section 20 by a seaman on the ground that the period for which his registration was suspended by the Superintendent is excessive, the Board of Reference may—

- (a) affirm the decision of the Superintendent;
- (b) direct that the seaman's registration shall be suspended for such shorter period, or for such longer period, not exceeding twenty-four months, as it thinks fit; or
- (c) direct the Superintendent to withdraw the suspension of the seaman's registration and issue him with a caution in writing to be of good behaviour in the future.”.

Amendment of section 28.

19. Section 28(1)(b)(ii) is amended by inserting after “Ordinance” the following—

“(Cap. 201.) or Part II of the Prevention of Bribery Ordinance”.

20. Section 29 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 29.

“Determina-
tion of cases
referred
to the
Authority
under
section
18(1)(ii).

29. (1) If, on the hearing of a case referred to a Board of Reference by the Authority under section 21 following a reference of the case to the Authority by the Superintendent under paragraph (ii) of subsection (1) of section 18, the Board of Reference unanimously affirms the decision of the Superintendent, the Board of Reference may, subject to section 30—

- (a) direct the Superintendent to remove the name of the seaman from the register; or
- (b) suspend the seaman's registration for such further period, not exceeding twenty-four months, as it thinks fit.

(2) If on the hearing of any such case the Board of Reference does not unanimously affirm the decision of the Superintendent, the Board of Reference shall direct him to withdraw the suspension of the seaman's registration.

(3) Notwithstanding that on the hearing of any such case the Board of Reference, under subsection (1), unanimously affirms the decision of the Superintendent, the Board of Reference may direct him—

- (a) to withdraw the suspension of the seaman's registration and issue him with a caution in writing to be of good behaviour in the future; or
- (b) to withdraw the suspension of the seaman's registration.”.

21. Section 34 of the principal Ordinance is amended, in subsection (8), by inserting after “under”, where it first occurs, the following—

Amendment of section 34.

“subsection (1) of section 17A, subsection (2) of section 17B or”.

22. Section 36 of the principal Ordinance is amended—

Amendment of section 36.

(a) in subsection (1), by inserting in paragraph (b) after “under”, where it first occurs, the following—

“subsection (1) of section 17A, subsection (2) of section 17B or”; and

- (b) by adding, after subsection (2), the following new subsection—

“(3) A person intending to recruit a seaman at a muster held in the Seamen’s Recruiting Office shall make available thereat for inspection by the seaman a copy of the articles of agreement on which it is proposed to engage the seaman together with a statement of any variations intended to be made in the terms and conditions of such agreement.”.

Amendment of section 37.

23. Section 37 of the principal Ordinance is amended by inserting after “under”, in the second place where it occurs, the following—

“subsection (1) of section 17A, subsection (2) of section 17B or”.

Amendment of section 38.

24. Section 38 of the principal Ordinance is amended by adding, after subsection (4), the following new subsection—

“(4A) Any such seaman who, having been selected for service in a foreign-going ship, without reasonable excuse fails or refuses—

(a) to sign the articles of agreement for service in that ship; or

(b) to join the ship or proceed to sea in the ship,

shall forfeit any fee paid by him pursuant to subsection (3).”.

Amendment of section 40.

25. Section 40 of the principal Ordinance is amended in subsection (1)—

(a) by inserting after “Office”, the following—

“, and without payment of any fee,”; and

(b) by inserting after “under”, where it first occurs, the following—

“subsection (1) of section 17A, subsection (2) of section 17B or”.

Addition of new section 40A.

26. The principal Ordinance is amended by adding, after section 40, the following new section—

“Notice of intention not to re-engage seaman.

40A. Whenever a seaman’s engagement on a foreign-going ship is for any reason terminated and it is not intended to re-engage him for service in that ship, the master, owner or charterer of the ship, or the agent of the master, owner or charterer, shall,

within one month of the date of the seaman’s discharge from the ship, cause to be delivered to the Superintendent a notice in the prescribed form of the intention not to re-engage the seaman.”.

27. Section 41 of the principal Ordinance is amended in subsection (1) by deleting “as soon as practicable thereafter” and substituting the following—

“within seven days after the last day of the month during which the engagement or re-engagement took place,”.

Amendment of section 41.

28. Section 42 of the principal Ordinance is amended in subsection (2) by deleting “as soon as practicable thereafter” and substituting the following—

“within seven days after the last day of the month during which the engagement took place,”.

Amendment of section 42.

29. Section 43 of the principal Ordinance is amended in subsection (3)—

(a) by deleting “As soon as practicable after” and substituting the following—

“When”; and

(b) by inserting after “shall” the following—

“, within seven days after the last day of the month during which the engagement took place, and”.

Amendment of section 43.

30. Section 44 of the principal Ordinance is amended in subsection (3)—

(a) by deleting “As soon as practicable after” and substituting the following—

“When”; and

(b) by inserting after “shall,” the following—

“, within seven days after the last day of the month during which the engagement took place, and”.

Amendment of section 44.

31. Section 45 of the principal Ordinance is amended in subsection (3)—

(a) by deleting “As soon as practicable after” and substituting the following—

“When”; and

(b) by inserting after “shall” the following—

“, within seven days after the last day of the month during which the engagement took place, and”.

Amendment of section 45.

Amendment of
section 46.

32. Section 46 of the principal Ordinance is amended in subsection (3)—

(a) by deleting “As soon as practicable after” and substituting the following—

“When”; and

(b) by inserting after “shall” the following—

“, within seven days after the last day of the month during which the engagement took place, and”.

Amendment of
section 47.

33. Section 47 of the principal Ordinance is amended in subsection (1) by deleting paragraph (b) and substituting the following—

“(b) which in the opinion of the Authority is capable of maintaining a crew department.”.

Amendment of
section 56.

34. Section 56 of the principal Ordinance is amended—

(a) in subsection (2), by inserting after “under” the following—

“subsection (3) of section 17A, subsection (3) of section 17B.”; and

(b) in subsection (3), by inserting after “under”, where it first occurs, the following—

“subsection (1) of section 17A, subsection (2) of section 17B or”.

Amendment of
section 60.

35. Section 60 of the principal Ordinance is amended in subsection (6) by deleting “fourteen”, in both places where it occurs, and substituting the following—

“sixteen”.

Amendment of
section 64.

36. Section 64 of the principal Ordinance is amended in subsection (1) by inserting after “under” the following—

“subsection (3) of section 17A, subsection (3) of section 17B.”.

Amendment of
section 65.

37. Section 65 of the principal Ordinance is amended in subsection (1) by deleting “as soon as practicable thereafter” and substituting the following—

“within seven days after the last day of the month during which the engagement or re-engagement took place.”.

38. Section 66 of the principal Ordinance is amended in subsection (3)—

Amendment of
section 66.

(a) by deleting “As soon as practicable after” and substituting the following—

“When”; and

(b) by inserting after “shall” the following—

“, within seven days after the last day of the month during which the engagement took place, and”.

39. Section 74 of the principal Ordinance is amended—

Amendment of
section 74.

(a) in section (2), by inserting after “under” the following—

“subsection (3) of section 17A, subsection (3) of section 17B.”; and

(b) in subsection (3), by inserting after “under”, where it first occurs, the following—

“subsection (1) of section 17A, subsection (2) of section 17B or”.

40. Section 82 of the principal Ordinance is amended in subsection (1) by inserting after “under” the following—

Amendment of
section 82.

“subsection (3) of section 17A, subsection (3) of section 17B.”.

41. Section 83 of the principal Ordinance is amended by deleting “as soon as practicable thereafter” and substituting the following—

Amendment of
section 83.

“within seven days after the last day of the month during which the engagement or re-engagement took place.”.

42. Section 84 of the principal Ordinance is amended in subsection (3)—

Amendment of
section 84.

(a) by deleting “As soon as practicable after” and substituting the following—

“When”; and

(b) by inserting after “shall” the following—

“, within seven days after the last day of the month during which the engagement took place, and”.

43. Section 90 of the principal Ordinance is amended in paragraph (b) by inserting, after “by”, the following—

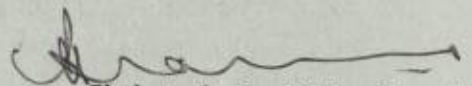
Amendment of
section 90.

“registered”.

Amendment of
Schedule.


44. The Schedule to the principal Ordinance is amended by deleting items 3 and 6.

Passed by the Hong Kong Legislative Council this 31st day of January, 1973.




Clerk to the Legislative Council.

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



Clerk to the Legislative Council.

I assent.



W. J. Van Lier

Governor.

1st February, 1973.

HONG KONG

No. 11 OF 1973



I assent.

M. J. Ma Leh
Governor.

1st February, 1973.

An Ordinance to repeal and replace the Rating Ordinance.

[1st April, 1973]

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

PART I

PRELIMINARY

1. This Ordinance may be cited as the Rating Ordinance 1973, and shall come into operation on the 1st day of April 1973. Short title and commencement.
2. In this Ordinance, unless the context otherwise requires— Interpretation.
 - "Collector of Rates" means the Accountant General;
 - "Commissioner" means the Commissioner of Rating and Valuation appointed under section 4;
 - "court" means the District Court;
 - "deletion" means a deletion from a valuation list under section 24;
 - "exempted" means exempted from assessment to rates by virtue of section 36;

- "interim valuation" means a valuation made under section 25;
- "occupier" includes the agent of any such occupier;
- "owner" means the holder of any tenement direct from the Crown, whether under lease, licence or otherwise, or the immediate landlord of any tenement, or the agent of any such holder or landlord and also means a mortgagee;
- "rates" means general rates and Urban Council rates;
- "specified form" means a form specified under section 54;
- "specified area" means any area of Hong Kong declared under section 3;
- "tenement" means any land (including land covered with water) or any building, structure, or part thereof which is held or occupied as a distinct or separate tenancy or holding or under any licence;
- "valuation list" means any list declared under section 13;
- "year" means financial year.

Application.

3. The Governor in Council may, by order, declare any area of Hong Kong to be a specified area for the purposes of this Ordinance.

PART II

APPOINTMENT AND POWERS OF COMMISSIONER

Appointments.

4. The Governor may appoint a Commissioner of Rating and Valuation, a Deputy Commissioner, and such Assistant Commissioners, Principal Rating and Valuation Surveyors, Senior Rating and Valuation Surveyors and Rating and Valuation Surveyors as he thinks fit.

General Powers of Commissioner.

5. The Commissioner, or any person authorized by him in writing, may—

- (a) serve on the owner or occupier of any tenement (whether or not the tenement is in a specified area) a requisition in the specified form, requiring him to furnish to the Commissioner, within such period of time as the Commissioner may specify in the form, the particulars required by the requisition;
- (b) require the owner or occupier of any tenement (whether or not the tenement is in a specified area) to exhibit to him all receipts for rent, rent-books, accounts or other documents whatsoever connected with the rent or value of the tenement and may take copies of any receipt for rent, rent-book, account or document as exhibited;

- (c) at any reasonable time, with the consent of the occupier thereof, or of the owner thereof if there is no occupier or if the occupier cannot be found, enter and inspect any tenement (whether or not the tenement is in a specified area) and take such measurements and other particulars as he thinks fit for all or any of the following purposes—

- (i) ascertaining the rateable value of the tenement;
- (ii) ascertaining whether any amount paid in respect of rates is refundable;
- (iii) ascertaining whether the tenement is qualified to be exempted;
- (iv) ascertaining whether the tenement is unoccupied; and
- (v) for any other purpose connected with the valuation of the tenement; and

- (d) where he is unable to effect an entry into the tenement in accordance with paragraph (c), serve on the owner and occupier of the tenement notice in writing requiring permission to enter and inspect the tenement for all or any of the purposes specified in paragraph (c), and after the expiry of twenty-four hours from the service of the notice may, at any reasonable time during day-light, enter (using such force as is necessary therefor) and inspect the tenement and take such measurements and other particulars as he thinks fit for any such purposes.

6. (1) An owner or occupier may, within the period of time specified in a requisition served on him under section 5(a), apply in writing to the Commissioner for an extension of the time allowed for furnishing the particulars required by the requisition.

(2) On receipt of an application under subsection (1), the Commissioner may grant such extension of time as to him appears reasonable in the circumstances.

Extension of time for furnishing particulars.

PART III

ASCERTAINMENT OF RATEABLE VALUE

7. (1) Subject to sections 8 and 9, the rateable value of a tenement shall be ascertained in accordance with this section.

(2) The rateable value of a tenement shall be an amount equal to the rent at which the tenement might reasonably be expected to let, from year to year, if—

- (a) the tenant undertook to pay all usual tenant's rates and taxes; and

Ascertainment of rateable value—general rule.

(b) the landlord undertook to pay the Crown rent, the costs of repairs and insurance and any other expenses necessary to maintain the tenement in a state to command that rent.

[1967, c. 9, s. 20.]

(3) For the purpose of an interim valuation of a tenement, the value to be ascribed to the tenement under subsection (2) shall not exceed the value which would have been ascribed thereto in the valuation list if the tenement had been subsisting throughout the year before that in which the valuation list came into force.

(4) For the purpose of an interim valuation of a tenement, it shall be assumed that at the time by reference to which that value would have been ascertained—

(a) the tenement was in the same state as at the time of the valuation and any relevant factors affecting the mode or character of occupation were those subsisting at the last mentioned time; and

(b) the locality in which the tenement is situated was in the same state, with regard to the other premises situated in the locality, the occupation and use of those premises, the transport services and other facilities available in the locality and other matters affecting the amenities of the locality, as at the time of the valuation.

Tenements
containing
machinery.

8. For the purpose of ascertaining the rateable value of a tenement under section 7—

(a) subject to paragraph (b), all machinery (including lifts) used as adjuncts to the tenement shall be regarded as part of the tenement, but the reasonable expenses incurred in working such machinery shall be allowed for in arriving at the rateable value of the tenement;

(b) no account shall be taken of the value of any machinery in or on the tenement for the purpose of manufacturing operations or trade processes.

Advertising
stations.

[1967, c. 9, s. 28.]

9. (1) Where the right to use land for the purpose of exhibiting advertisements is let, reserved or otherwise granted to a person other than the occupier of the land, or, where the land is not occupied for any other purpose, to any person other than the owner of the land, that right shall, subject to subsection (2), be deemed for rating purposes to be a separate tenement in the occupation of the person for the time being entitled to the right and, for the purpose of section 7,—

(a) in valuing that separate tenement for rating purposes, the rent at which it might be expected to be let shall be estimated as if the rent would include a proper amount in respect of any structure or sign for the time being available for use, for the purpose of exhibiting advertise-

ments, by the occupier of the separate tenement, notwithstanding that the structure or sign was provided by him or was provided after the said right was let, reserved or otherwise granted;

(b) in valuing the land on which the separate tenement exists for rating purposes, no account shall be taken of any value or increased value arising from the use of the land for the purpose of exhibiting advertisements in accordance with the said right.

(2) The separate tenement aforesaid shall be treated as coming into existence at the earliest time at which either—

(a) any structure or sign is erected in exercise of the said right; or

(b) any advertisement is exhibited in pursuance of the right.

(3) For the purpose of section 24 the erection, dismantling or alteration of any structure or sign, in exercise of the right under subsection (1), shall be treated as a structural alteration of the tenement.

(4) Where land is used temporarily or permanently for, or for the erection of, a structure used for or in connexion with, the exhibition of advertisements but is not otherwise occupied, and subsection (1) does not apply, the person permitting the land to be so used or, if that person cannot be ascertained, the owner of the land shall be deemed to be in occupation of the land and be rateable in respect thereof according to the value of that use of the land.

(5) Where a tenement, which is rateable in respect of its occupation for other purposes, is used temporarily or permanently for, or for the erection thereon of a structure used for or in connexion with, the exhibition of advertisements, and subsection (1) does not apply, any estimate of the rateable value of the tenement for the purpose of section 7 shall include the increased value arising from that use of the land.

(6) Where an advertisement is exhibited on any land, and subsections (1), (4) and (5) do not apply, the advertisement shall be deemed for rating purposes to be a separate tenement and shall be valued for rating purposes as if it were a separate tenement under subsection (1).

(7) In this section, "land" includes any structure, hoarding, frame, post or wall.

10. Subject to this Ordinance, the Commissioner shall separately estimate the rateable value of each tenement, except in the following cases—

Valuations to be separate except in certain cases.

- (a) if the value of a tenement is affected by the value of any other tenement contiguous to it or separated only by a street, and the other tenement is owned or occupied by the same person, the tenements may, in the discretion of the Commissioner, be valued together as a single tenement;
- (b) if two or more tenements are within the same lot or lots which form the site of a building or group of buildings, the Commissioner may value those tenements together as a single tenement.

PART IV

VALUATIONS AND VALUATION LISTS

Valuations.

11. The Governor may, at any time, direct the Commissioner to make a valuation of tenements in any specified area.

Preparation of lists of rateable values.

12. (1) The Commissioner shall, when directed to make a valuation under section 11, prepare, in respect of each of the specified areas designated in the direction, a list containing the address and, where necessary, a description of every tenement valued and its rateable value.

(2) A tenement, or part of a tenement, exempted from assessment to rates under section 36(1) and (2) shall not be included in any such list.

Verification of lists.

13. The Commissioner shall, when he has completed the preparation of a list under section 12, sign a declaration that, to the best of his knowledge and belief, the list contains a true account of the addresses, descriptions and rateable values of every tenement included therein.

Declared list to be valuation list.

14. (1) A list declared under section 13, as amended from time to time, shall be the valuation list, for the specified area to which it relates, for the year next following the date of the declaration and thereafter until a new valuation list comes into force.

(2) A list declared under section 13 shall be delivered to the Collector of Rates by the Commissioner.

Valuation lists to be open to inspection.

15. (1) The Collector of Rates shall, not later than the 9th day of March in every year, make available for inspection by the public, for a period of twenty-one days, a copy of each valuation list for the next following year.

(2) Prior notice of intention to make such valuation lists available for inspection, and of the place and time at which the

lists may be inspected, shall be published in the *Gazette*, and in at least one newspaper in the English language and one in the Chinese language, published daily for circulation in Hong Kong.

(3) Any person may, during such period of twenty-one days, take any extract from the copy of the valuation lists, which is made available for inspection.

16. (1) Subject to Part VI, Part IX and section 49, a valuation list in force shall not be altered except to correct—

- (a) a misdescription or clerical or arithmetical error; or
- (b) a misdescription resulting from a change of house number or street name notified in the *Gazette* or from the allocation of house numbers under section 32 of the Buildings Ordinance.

(2) The Commissioner shall, if he makes a correction under subsection (1)(a), serve on the owner or occupier of the tenement affected a notice in the specified form of the correction.

(3) The Commissioner shall, if he makes a correction—

- (a) under subsection (1)(a) and no notice of objection with regard thereto is served on him in accordance with section 40(1);
- (b) under section 40(2)(a); or
- (c) under subsection (1)(b),

direct the Collector of Rates to alter the valuation list, and the Collector of Rates shall alter the valuation list in accordance with the Commissioner's direction.

(4) Notwithstanding section 17(2), where a correction is made under subsection (1)(a), no rates shall be recoverable by the Collector of Rates until a notice under subsection (2) is served.

17. (1) If a tenement is included in a list prepared under section 12 and—

- (a) the tenement was not included in any previous valuation list; or
- (b) the existing address or description or rateable value of the tenement is altered,

the Commissioner shall serve on the owner or occupier of the tenement notice, in the specified form, of such inclusion or alteration, and of the rateable value of the tenement.

(2) Failure to serve such a notice shall not invalidate any valuation or relieve any person from the payment of rates.

Corrections.

(Cap. 123.)

Notice of inclusion in list or alteration thereto.

PART V

AMOUNT OF LIABILITY FOR AND PAYMENT OF RATES

Rates in urban areas.

18. (1) Subject to this Ordinance, there shall be payable, with effect from the 1st day of April in each year, on the rateable value of every tenement, which is situated in the urban areas and included in a valuation list in force, both general rates and Urban Council rates.

(2) Subject to subsection (3), general rates and Urban Council rates shall each be such percentage of the rateable value of the tenement as the Legislative Council may by resolution determine.

(3) General rates and Urban Council rates payable under subsection (1) shall not together exceed a total of fifteen *per cent* of the rateable value of the tenement.

(4) The percentage referred to in subsection (3) shall be reduced to—

- (a) fourteen *per cent* in the case of a tenement for which only an unfiltered supply of fresh water is available from a Government water-main; or
- (b) thirteen *per cent* in the case of a tenement for which no supply of fresh water is available from a Government water-main.

(5) For the purpose of subsection (4), a supply of fresh water shall be deemed to be available for a tenement from a Government water-main, even if the tenement is not connected to a Government water-main, if the tenement is situated within two hundred yards of a Government water-main which has been constructed for the purpose of supplying fresh water directly to tenements.

Rates in the New Territories.

19. (1) Subject to this Ordinance there shall be payable, with effect from the 1st day of April in each year, on the rateable value of every tenement, which is situated in the New Territories (other than New Kowloon) and included in a valuation list in force, general rates not exceeding eleven *per cent* of the rateable value of the tenement.

(2) The percentage referred to in subsection (1) shall be reduced to—

- (a) ten *per cent* in the case of a tenement for which only an unfiltered supply of fresh water is available from a Government water-main; or
- (b) nine *per cent* in the case of a tenement for which no supply of fresh water is available from a Government water-main.

(3) For the purpose of subsection (2), a supply of fresh water shall be deemed to be available for a tenement from a Government water-main, even if the tenement is not connected to a Government water-main, if the tenement is situated within two hundred yards of a Government water-main which has been constructed for the purpose of supplying fresh water directly to tenements.

20. The percentages referred to in sections 18 and 19 may be altered by resolution of the Legislative Council.

21. (1) The owner and occupier of a tenement shall both be liable to the Collector of Rates for payment of the rates assessed thereon, but the same shall be deemed to be an occupier's rate and, in the absence of any agreement to the contrary, shall be paid by the occupier.

(2) Where no such agreement exists and the rates assessed, or any part thereof, are paid by the owner of the tenement, the amount paid may be recovered by him from the occupier in an action for money paid to his use, or, if the occupier is still in occupation of the tenement, by distress in the same manner as for rent.

(3) Where such agreement to the contrary exists and the rates assessed, or any part thereof, are paid by the occupier of the tenement, the amount paid may be recovered by him from the owner in an action for money paid to his use.

(4) Where, under section 10, two or more tenements are valued together as a single tenement, the rates assessed on the single tenement shall be paid—

- (a) by the occupier of the single tenement if he is the sole occupier thereof; or
- (b) by any one of the owners or occupiers of the tenement who may be required by the Collector of Rates to adjust their respective shares of payment of such rates amongst themselves.

(5) An owner or occupier of a tenement who is liable to pay rates in accordance with subsection (4) may apply to the Commissioner for an apportionment of the rateable value applicable to the separate tenements.

(6) On receipt of an application under subsection (5) the Commissioner may apportion the rateable value.

(7) After making the apportionment the Commissioner shall, within a reasonable time, give notice of the apportionment in the specified form to the owner or occupier who made such application.

Power to alter amount of rates.

Liability for payment of rates.

(8) Notwithstanding an apportionment of rateable value under subsection (6), the rates assessed on the single tenement may continue to be payable in accordance with subsection (4).

Payment and recovery of rates.

22. (1) Subject to this Ordinance, rates shall be payable quarterly in advance to the Collector of Rates in the first month of each quarter, and the date on or before which, and the place at which, a payment of rates is to be made shall be notified quarterly by the Collector of Rates in the *Gazette*.

(2) Any rates not paid in accordance with a notification under subsection (1) shall be deemed to be in default and the Collector of Rates may order that not more than five *per cent* of the amount in default shall be added to the rates and recovered therewith.

(3) Any rates in default, and any sum added thereto by virtue of subsection (2), shall be recoverable as a debt due to the Crown.

Transfer of Urban Council rates.

23. (1) Before the end of the first month of each quarter the Collector of Rates shall pay to the Urban Council all Urban Council rates lawfully demanded by him during the previous quarter.

(2) All general rates, and sums recovered under section 22(3) shall be paid by the Collector of Rates into general revenue.

PART VI

DELETIONS AND INTERIM VALUATIONS

Deletions.

24. The Commissioner may at any time delete from a valuation list any tenement—

- (a) if there has been any structural alteration thereto;
- (b) if two or more tenements have previously been valued as one tenement and in the opinion of the Commissioner they should now be valued as separate tenements;
- (c) if the tenement ceases to be rateable.

Interim valuations.

25. The Commissioner may at any time make an interim valuation of a tenement which is not included in a valuation list and is liable to be rated.

Notification of deletions and interim valuations.

26. (1) The Commissioner shall, if he proposes to make a deletion or an interim valuation, serve notice thereof in the specified form on the owner or occupier of the tenement concerned.

(2) The Commissioner shall, if after the expiration of the period of twenty-one days referred to in section 40(1), no notice of objection has been received or, if a valid notice of objection has been lodged, after a notice of decision under section 40(2) has been served, notify the Collector of Rates in writing of the deletion or interim valuation of the tenement concerned and—

- (a) in the case of a deletion, of the date from which rates shall cease to be charged and of such other amendments to the valuation list as may be necessary;
- (b) in the case of an interim valuation, of the amount of the valuation, the date from which rates should be charged and of such other amendments to the valuation list as may be necessary.

(3) On receipt of a notification under subsection (2), the Collector of Rates shall cause the required amendment to be made to the valuation list.

(4) In the case of an interim valuation, no rates shall, notwithstanding section 17(2), be recoverable by the Collector of Rates in respect of the tenement concerned until a notice under subsection (1) has been served.

27. When there has been a deletion, the date from which rates shall cease to be chargeable shall be the first day of the month following that in which the tenement became subject to deletion, or on such other date as the Commissioner may determine.

Effective date of deletion.

28. (1) Subject to section 49 and to subsection (2), an interim valuation shall become effective on the first day of the month following that in which the tenement became subject to an interim valuation, or on such later date as the Commissioner may determine.

Effective date of interim valuations.

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

- (a) the expiration of six months from the date of issue of an occupation permit or temporary occupation permit under the Buildings Ordinance in respect of the tenement; or
- (b) the first day of the month following the date upon which the tenement was first occupied,

(Cap. 123.)

whichever is the earlier.

29. (1) Any rates due on an interim valuation shall be payable from—

- (a) the date when the valuation became effective; or

Payment of rates under an interim valuation.

- (b) twelve months before the date of the issue of the first demand therefor, made in writing by the Collector of Rates on the person liable for payment thereof,

whichever is the later.

- (2) Such rates shall—
- (a) be payable on a date specified in the demand note by the Collector of Rates, which shall not be less than twenty-eight days after the date of issue of the demand note;
- (b) include rates for the remainder (if any) of the quarter of the year in which the demand is made; and
- (c) be payable thereafter in accordance with section 22.
- (3) Section 22(2) and (3) shall apply in respect of any rates not paid in accordance with this section.

PART VII

REFUND OF RATES

Refunds in respect of unoccupied tenements.

30. (1) If a tenement, which comprises the whole or part of a building, is unoccupied (otherwise than by reason of an order of the Government) for the whole of a month in a quarter for which rates have been paid, a refund of half the amount paid for that month may be recovered in the manner provided in this section.

(2) If a tenement, other than a tenement to which subsection (1) applies, is unoccupied for the whole of a month in a quarter for which rates have been paid, a refund of the amount paid for that month may be recovered in the manner provided in this section.

- (3) If rates are payable—
- (a) under section 22, the owner or occupier of the tenement shall serve notice in writing on the Commissioner not later than the fifteenth day of the month from the first day of which he intends to claim a refund, that the tenement is unoccupied;
- (b) under section 29(2), the owner or occupier of the tenement shall serve notice in writing on the Commissioner not later than the last day on which the rates are payable, that such tenement was unoccupied.

(4) A person claiming the refund may, not later than twelve months after the last day on which rates were payable, apply to the Collector of Rates in the specified form for a refund.

(5) Where rates have been paid for a quarter and the Commissioner is satisfied that the tenement was unoccupied for the whole of a month in that quarter, the rates shall be refundable from general revenue in part or in whole in accordance with subsection (1) or (2).

(6) A refund may be made under this section only if—

- (a) the whole of a tenement valued as a single tenement has been unoccupied; and
- (b) the claimant has complied with the requirements of subsections (3) and (4).

31. The Collector of Rates shall refund any amount paid in respect of rates (including any sum added to rates deemed to be in default under section 22 or 29), if it is not recoverable apart from this section, and he is satisfied that—

- (a) the rates were charged otherwise than in accordance with the valuation list;
- (b) the tenement was exempted during any period;
- (c) rates were paid in respect of a period subsequent to the effective date of deletion of a tenement; or
- (d) the person who made a payment in respect of rates was not liable to make that payment.

32. (1) An executor, trustee or receiver shall have the same right to make a claim under this Part as the person whom he represents would have had if such person had not been prevented from making such claim by his death, incapacity, bankruptcy or liquidation and shall be entitled to have refunded to him for the benefit of such person, or the latter's estate, any rates paid and refundable in accordance with section 30 or 31.

(2) Where a tenement has been assessed to rates in the name of, and rates have been paid by, an agent, either the agent or his principal (but not both) may claim under this Part a refund of rates in accordance with section 30 or 31; and if a refund is made to the agent, his receipt shall be a valid discharge for the amount so refunded.

33. Any person who is aggrieved by a refusal by the Collector of Rates to refund rates may appeal against such refusal to the court, which may adjudicate upon the appeal, notwithstanding that the amount of refund claimed exceeds ten thousand dollars.

Refund of overpayments.
Inf. 1967, c. 9, s. 9.1

Executor, trustee, receiver of claimant.

Appeal against refusal to refund.

Sums added to rates in default not to be refunded.

Additional power to grant refunds.

34. No sum added to rates deemed to be in default under section 22 or 29 shall be refunded under section 30.

35. Notwithstanding anything in this Ordinance, the Governor may order a refund to be made of any amount paid in respect of rates, including any amount recovered therewith in respect of rates deemed to be in default under section 22 or 29.

PART VIII

EXEMPTION FROM ASSESSMENT

Exemption of certain tenements from assessment.

36. (1) The following tenements, or parts thereof, shall be exempted from assessment to rates—

- (a) agricultural land, that is to say, land used as farm land, a fish pond, a market garden or an orchard, or for animal husbandry, and any building (other than a dwelling house) thereon used wholly or mainly for any such purpose, but not land which is part of an ornamental park, garden or pleasure ground or which is used wholly or mainly for the purpose of sport or recreation;
- (b) those used wholly or mainly for public religious worship;
- (c) those occupied for public purposes by or on behalf of the Government, the Urban Council or the Colonial Treasurer Incorporated; and
- (d) those owned and occupied for public purposes by the government of a Commonwealth Country.

(2) The Governor in Council may, by order, declare any tenement or class of tenement, or any part of a specified area, to be exempted from assessment to rates.

(3) The Governor may exempt any tenement from the payment of rates, wholly or in part.

(4) A tenement, or part of a tenement, occupied for public purposes by or on behalf of the government of a Commonwealth Country shall be exempted from the payment of rates.

PART IX

PROPOSALS, OBJECTIONS AND APPEALS

37. (1) Any person who is aggrieved on any of the following grounds—

- (a) that a tenement for which he is liable to pay rates has been valued above its proper rateable value;

Proposal for alteration of valuation list.
(cf. 1967, c. 9, s. 69.)

(b) that a tenement included in a valuation list ought to be omitted therefrom;

(c) that a tenement which ought to be included in a valuation list has been omitted therefrom; or

(d) that a tenement has been valued below its proper rateable value,

may, within the period of twenty-one days referred to in section 15(1), serve a proposal in the specified form on the Commissioner for the alteration of the valuation list for the next following year so far as it relates to that tenement.

(2) A proposal under this section shall specify the grounds for the proposed alteration.

(3) If the person serving the proposal is neither the owner nor the occupier of the tenement referred to in the proposal, he shall, within the period of twenty-one days referred to in subsection (1), serve copies of the proposal on the owner and occupier of the tenement, and notify the Commissioner of such service.

(4) Within fourteen days of service on him of a copy of a proposal under subsection (3), the owner or occupier of the tenement referred to in the proposal may send his comments thereon to the Commissioner and the person serving the proposal.

38. (1) Where a proposal is served under section 37, the Commissioner, the person making the proposal and any person served with a copy of the proposal under section 37(3) may agree on an alteration to the valuation list (whether the alteration is that specified in the proposal or another alteration) in relation to the tenement concerned.

Agreed alterations.

(2) Where an alteration is agreed under subsection (1) the Commissioner, the person making the proposal and any other person on whom a copy of the proposal has been served shall sign an agreement in the specified form.

(3) An agreement referred to in subsection (2) may be signed on behalf of the Commissioner by an officer of the Rating and Valuation Department not below the rank of Senior Rating and Valuation Surveyor.

(4) Where an agreement has been signed under subsection (2), the Commissioner shall direct the Collector of Rates to alter the valuation list and the Collector of Rates shall comply with the Commissioner's direction.

Alterations to valuation lists not by agreement.

39. (1) Subject to subsection (2), where a person has served a proposal under section 37 and no agreement has been signed under section 38, the Commissioner shall, within three months from receipt of the proposal, serve on the person who made the proposal a notice of decision in the specified form, specifying—

- (a) that no alteration is to be made to the rateable value entered in the valuation list; or
- (b) what alteration (whether that specified in the proposal or another alteration) is to be made to the rateable value entered in the valuation list.

(2) Where section 37(3) applies, no notice of decision may be served under this section until fourteen days have elapsed from the date of the service of the copies of the proposal on the owner and occupier; and the Commissioner shall cause copies of the notice of decision to be served on the owner and occupier.

(3) A notice of decision referred to in subsection (1) may be signed on behalf of the Commissioner by an officer of the Rating and Valuation Department not below the rank of Senior Rating and Valuation Surveyor.

(4) Where a notice of decision is served under subsection (1)(b) the Commissioner shall direct the Collector of Rates to alter the valuation list and the Collector of Rates shall comply with the Commissioner's direction.

40. (1) An owner or occupier who is aggrieved—

- (a) by a correction to the valuation list under section 16(1)(a) on the ground that the correction is wrong;
- (b) by reason of a deletion on the ground that the tenement ought not to be deleted;
- (c) by an interim valuation on the ground that the tenement is valued above its proper rateable value or is not rateable,

may, within twenty-one days of service on him of the notice of correction under section 16(2) or of the notice of deletion or interim valuation under section 26(1), serve on the Commissioner a notice of objection in the specified form stating fully the grounds of his objection to the correction, deletion or interim valuation.

(2) On receipt of a notice of objection under subsection (1), the Commissioner shall consider such objection and shall—

- (a) if satisfied that a correction to the valuation list, or a deletion or an interim valuation is necessary, serve on the person making the objection a notice of decision in the specified form to that effect;
- (b) if satisfied that the correction to the valuation list or the deletion or the interim valuation is not necessary,

Objection to proposed corrections, deletions, interim valuations.

serve on the person making the objection a notice of decision in the specified form to that effect.

(3) A notice of decision referred to in subsection (2) may be signed on behalf of the Commissioner by an officer of the Rating and Valuation Department not below the rank of Senior Rating and Valuation Surveyor.

41. The Commissioner may accept a proposal under section 37 and a notice of objection under section 40 notwithstanding that it is not in the specified form.

42. (1) A person on whom a notice of decision has been served under section 39 or section 40 may, within twenty-one days of receiving such notice, appeal against the decision to the court.

(2) Where the appellant is a person who served a proposal under section 37 or made an objection under section 40, the grounds of appeal shall be confined to the grounds of the proposal or objection.

(3) A person appealing under subsection (1) shall, within the period of twenty-one days referred to in subsection (1)—

- (a) serve a copy of the notice of appeal on the Commissioner, who shall be the respondent in the appeal; and
- (b) where the appeal is in respect of a tenement neither owned nor occupied by the appellant, serve copies of the notice of appeal on the owner and the occupier of the tenement, both of whom may be heard on the hearing of the appeal.

43. (1) The appellant shall, within twenty-eight days after lodging notice of appeal under section 42(1) apply in writing to the Registrar of the court to have a date fixed for the hearing of the appeal; and shall at the same time serve a copy of the application on the Commissioner.

(2) When a date has been fixed for the hearing of the appeal, the Registrar shall give notice thereof to the appellant and the Commissioner and, on receipt of such notice, the appellant shall forthwith give notice of the date to each person on whom he has caused a copy of the notice of appeal to be served under section 42(3)(b).

(3) An appellant shall, if he withdraws his appeal, or decides not to proceed with it, notify the Commissioner and all other parties to the appeal accordingly.

44. (1) The court shall hear and determine the appeal and may—

- (a) make such order therein as it thinks proper;

Proposals and objections not in the specified form.

Appeals.

Fixing date for hearing.

Hearing of appeal.

- (b) award costs to any party;
 - (c) direct the Collector of Rates to amend the valuation list concerned in any manner; and
 - (d) make such other direction as to the payment of rates as may be necessary.
- (2) Notwithstanding the provisions of subsection (3), the court may, and on application by a party shall, reserve any question of law for the consideration of the Supreme Court, which shall have power to hear and determine the question so reserved and shall send its opinion thereon to the court.
- (3) The decision of the court on an appeal under this Ordinance shall be final.

PART X

OFFENCES AND PENALTIES

- False or incorrect statements.
45. Any person who knowingly makes a false statement—
- (a) in furnishing the particulars specified in the specified form under section 5(a); or
 - (b) for the purpose of recovering a refund under section 30 or 31 of any amount paid in respect of rates; or
 - (c) for the purpose of obtaining or retaining exemption under section 36 for a tenement or part of a tenement,
- shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars.
- Refusal to furnish information and obstruction.
46. Any person who—
- (a) refuses or neglects to furnish any of the particulars specified in the specified form under section 5(a); or
 - (b) refuses or neglects, when required under section 5(b), to exhibit any receipt, rent-book, account or other document whatever connected with the rent or value of a tenement; or
 - (c) obstructs the Commissioner or any person authorized by him from entering, or inspecting, or measuring any tenement under section 5(d),
- shall be guilty of an offence and shall be liable on conviction to a fine of two thousand dollars.
- Additional penalty in respect of loss in revenue.
47. A person convicted of an offence under this Ordinance shall, in addition to any penalty imposed therefor, be liable to pay a sum equal to the loss in revenue occasioned by his default,

with interest thereon at the rate of eight *per cent per annum*, such sum and interest to be determined by the court before which he is convicted and recoverable in the same manner as a fine.

48. Notwithstanding section 26 of the Magistrates Ordinance, a complaint or information in respect of an offence under this Ordinance may be made or laid at any time within six years after the date of the offence.

49. If a person has been convicted, in respect of any tenement, of an offence under this Ordinance and the offence has resulted in the insertion in the valuation list of a lesser value or in a tenement not appearing in the valuation list, the Commissioner may delete the rateable value or make an interim valuation of the tenement, or both, either or both of which shall become effective from the first day of the month following the conviction.

PART XI

MISCELLANEOUS

50. Service of a requisition, notice or other document required to be served by this Ordinance may be effected—
- (a) by personal service;
 - (b) on the owner of a tenement, by leaving the requisition, notice or other document at his usual address or by sending it to the address through the post; or
 - (c) on the occupier of a tenement, by leaving the requisition, notice or other document at the tenement or by sending it to the tenement through the post.
51. No misnomer or inaccurate description of a person, place or tenement, in a document required for the purposes of this Ordinance, nor any mistake, informality or omission committed in any proceedings hereunder, shall invalidate or prejudice the document or proceeding or in any way affect the operation of this Ordinance.
52. No judge, District Judge or magistrate shall be incapable of acting in his judicial office in any proceeding, by reason of his being, as being a ratepayer or a member of any other class of persons, liable in common with others to contribute to or to be benefited by any rate which may be increased, diminished or in any way affected by the proceeding.

Complaints may be laid within six years of offence. (Cap. 227.)

Interim valuation after conviction.

Mode of service of notices, etc.

Misnomer.

Competency of judge.

Regulations.

53. The Governor in Council may make regulations for the better carrying out of the objects of this Ordinance.

Forms.

54. (1) The Commissioner or the Collector of Rates may specify the form of any requisition, declaration, notice, claim or other document required for the purposes of this Ordinance.

(2) The Commissioner or the Collector of Rates may publish in the *Gazette* any forms specified by him under subsection (1).

Repeal.
(Cap. 116.)

55. The Rating Ordinance is repealed.

Saving.

56. (1) Any valuation list which has been declared or adopted under the Rating Ordinance repealed by this Ordinance shall continue in force and shall have effect as if such list had been declared by virtue of the corresponding provisions in this Ordinance.

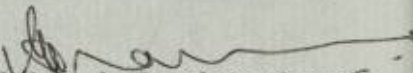
(2) Any notice, form, requisition, declaration or document made, issued or given under the Rating Ordinance repealed by this Ordinance shall continue in force as if it had been made, issued or given by virtue of the corresponding provisions in this Ordinance.

(3) Any rates paid in respect of a period before the coming into operation of this Ordinance for any tenement which was unoccupied shall be refunded in full in accordance with sections 32 and 33 of the repealed Ordinance.


(Cap. 1.)

(4) The provisions of this section shall be in addition to and shall not derogate from sections 23 and 36 of the Interpretation and General Clauses Ordinance.

Passed by the Hong Kong Legislative Council this 31st day of January, 1973.


Clerk to the Legislative Council.

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

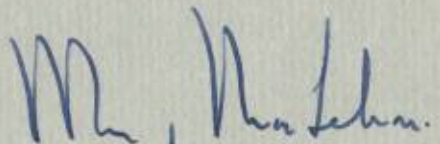

Clerk to the Legislative Council.

HONG KONG

No. 12 OF 1973



I assent.


Governor.

1st February, 1973.

An Ordinance to amend the Road Traffic Ordinance.

[2nd February, 1973]

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

1. This Ordinance may be cited as the Road Traffic (Amendment) (No. 2) Ordinance 1973.

Short title.

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

Addition of new section 3A.
(Cap. 220.)

"Regulations governing specified equipment.

3A. (1) Without prejudice to the provisions of section 3, the Governor in Council may make regulations permitting or requiring the use of specified equipment by persons driving, riding in or on, or using, any class of vehicle and controlling the sale, hire or possession of specified equipment.

(2) In this section, "specified equipment" means such equipment or apparatus as is specified in subsection (3).

(3) The following shall be specified equipment for the purposes of this section—

- crash helmets;
- safety belts.

(4) The Legislative Council may, by resolution, amend subsection (3)."

3. Sections 29 and 30 of the principal Ordinance are repealed and replaced by the following—

"Obligation to give certain information.

29. (1) Where the driver of a vehicle is suspected of having committed an offence under this Ordinance, any person (including both the registered owner of the vehicle and the person suspected of being the driver of the vehicle at the time of the alleged offence) shall, on demand made within three months after the date of the alleged offence, give to a police officer in the manner prescribed in this section the name, address and driving licence number of the person driving the vehicle at the time of the alleged offence and his relationship (if any) to the driver.

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

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

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

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

Repeal and replacement of sections 29 and 30.

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

- (a) to furnish, within twenty-one days after the date of the notice, to a police officer specified therein, a written statement, in such form as may be specified in the notice, giving the name, address and driving licence number of the person driving the vehicle at the time of the alleged offence and his relationship (if any) to the driver; and
- (b) to sign the said statement.

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

(6) In proceedings for an offence under subsection (5), it shall be a defence to show that the accused person did not know, and could not with reasonable diligence have ascertained, the name or address or driving licence number of the person driving the vehicle at the time of the suspected offence referred to in subsection (1).

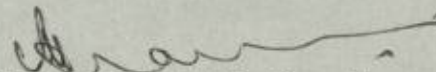
30. If, in any summary proceedings for an offence under this Ordinance, there is produced to the court a statement which—

- (a) purports to have been signed by the accused person;
- (b) was furnished in accordance with a notice served on him under section 29(2); and
- (c) states that the accused person was the driver of the vehicle at the time of the offence,

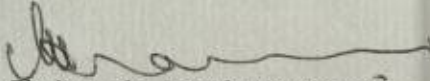
the court shall admit the statement as *prima facie* evidence that the accused person was the driver of the vehicle at the time of the offence."

Proof in summary proceedings of identity of driver.

Passed by the Hong Kong Legislative Council this 31st day of January, 1973.

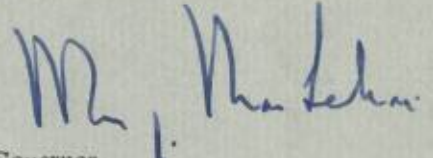

Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



I assent.


Governor.