

Amendment of  
section 121.

4. Section 121(2) of the principal Ordinance is amended by deleting paragraph (b) and substituting the following—

“(b) a tenancy—

(i) of premises to which Part I applies; or

(ii) of premises in respect of which there is in existence an order under section 4 other than the Landlord and Tenant (Consolidation) Ordinance (Application in New Territories) Order;”.

(Cap. 7,  
sub. leg.)

Declaration  
as to the  
application of  
Parts II, IV  
and V.

5. It is hereby declared that—

(a) no tenancy or sub-tenancy is excluded, or was at any time excluded—

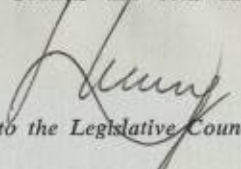
(i) from the application of Part II of the principal Ordinance by reason of the combined effect of the Landlord and Tenant (Consolidation) Ordinance (Application in New Territories) Order and section 50(6)(a) of the principal Ordinance; or

(ii) from the application of Part V of the principal Ordinance by reason of the combined effect of the Landlord and Tenant (Consolidation) Ordinance (Application in New Territories) Order and section 121(2)(b) of the principal Ordinance; and

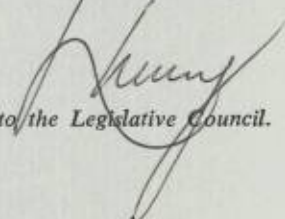
(b) Part IV of the principal Ordinance applies, and at all times applied, to any tenancy, as defined in that Part, of premises which are excluded from the application of Part I of the principal Ordinance by virtue of the Landlord and Tenant (Consolidation) Ordinance (Application in New Territories) Order.

(Cap. 7,  
sub. leg.)

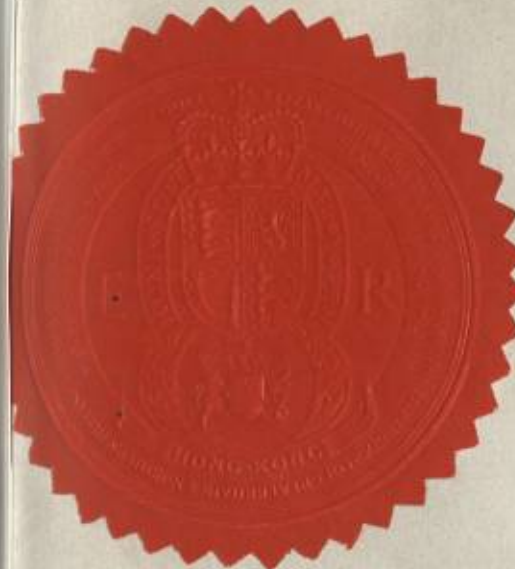
Passed by the Hong Kong Legislative Council this 11th day of June 1980.

  
Clerk to the Legislative Council.

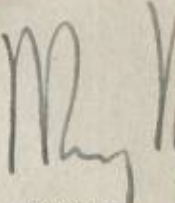
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

No. 25 OF 1980



I assent.



Governor.

26 June 1980.

An Ordinance to prohibit the promotion of pyramid selling schemes.

tenancy—  
(i) of premises to which Part I applies; or  
(ii) of premises in respect of which there is in existence an order under section 4 other than the Landlord and Tenant (Consolidation) Ordinance (Application in New Territories) Order;”

hereby declared that—  
tenancy or sub-tenancy is excluded, or was at any time excluded—

from the application of Part II of the principal Ordinance in consequence of the combined effect of the Landlord and Tenant (Consolidation) Ordinance (Application in New Territories) Order and section 50(6)(a) of the principal Ordinance; or

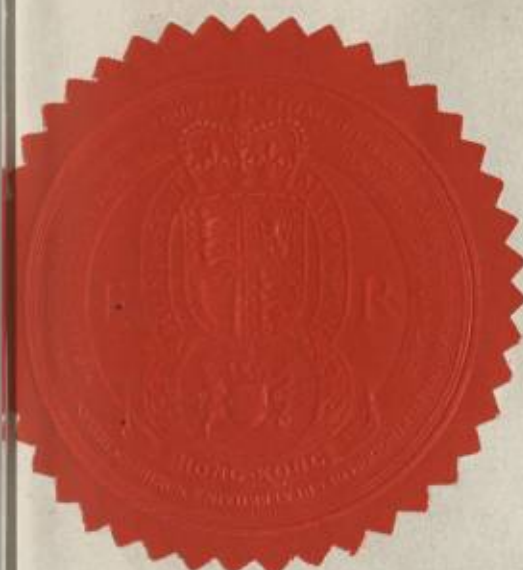
from the application of Part V of the principal Ordinance in consequence of the combined effect of the Landlord and Tenant (Consolidation) Ordinance (Application in New Territories) Order and section 121(2)(b) of the principal Ordinance; and

Part IV of the principal Ordinance applies, and at all times excluded, to any tenancy, as defined in that Part, of premises which are excluded from the application of Part I of the principal Ordinance by virtue of the Landlord and Tenant (Consolidation) Ordinance (Application in New Territories) Order.

by the Hong Kong Legislative Council this 11th day of

**HONG KONG**

No. 25 OF 1980



I assent.

Governor.

26 June 1980.

An Ordinance to prohibit the promotion of pyramid selling schemes and to provide for connected matters.

[ ]

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 Pyramid Selling Prohibition Ordinance 1980 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

2. In this Ordinance, unless the context otherwise requires—  
“goods” includes all chattels personal and things in action;  
“promote” means establish, advertise, manage or assist in the management of a pyramid selling scheme;

Interpretation.

“pyramid selling scheme” means a scheme whereby—  
(a) a participant in the scheme is granted a licence or right to introduce another participant into the scheme who is also granted such licence or right and who may further extend the chain of persons who are granted such licence or right, notwithstanding that there may be a limitation to the number of participants or that there may be any further conditions affecting eligibility for such licence or right; and  
(b) a participant receives a reward on, or at any time after, the introduction into the scheme by him of another participant which

reward is based, whether wholly or in part, otherwise than on the fair market value of goods or services actually sold by him or by or through that other participant;

"reward" includes refund, commission, discount or allowance but does not include payment for sales demonstration equipment and materials supplied at not more than their fair market value and not resold.

Offence of promoting a pyramid selling scheme.

3. Any person who knowingly promotes a pyramid selling scheme commits an offence and is liable on conviction upon indictment to a fine of \$100,000 and to imprisonment for 3 years.

Liability of directors, partners etc.

4. (1) Where an offence under this Ordinance has been committed by a body corporate or member of a body unincorporate, any person who at the time of the offence—

(a) in the case of a body corporate, was a director, secretary, principal officer or manager of that body corporate; or

(b) in the case of a member of a body unincorporate, was a partner or office holder in or a member or manager of that body unincorporate,

or who, in either case, was acting or purporting to act in any such capacity commits a like offence.

(2) Where any person referred to in subsection (1) is charged with an offence under this Ordinance it shall be a defence for him to prove that the offence was committed without his consent or connivance and that he exercised such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and to all other circumstances.

Power to award compensation.

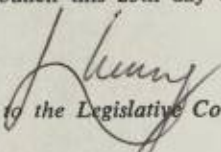
5. (1) Notwithstanding any provision in any other Ordinance, where a person is convicted of an offence under this Ordinance the court may, in addition to passing such sentence as may otherwise be passed by law, order the person so convicted to pay to any person who has suffered financial loss resulting from that offence, such amount as compensation as it thinks reasonable.

(2) An amount ordered as compensation under subsection (1) shall be recoverable as a civil debt by the person in whose favour the order is made.

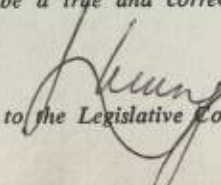
Saving of rights and claims.

6. Nothing in this Ordinance shall prejudice the enforcement by any person of any right or claim against any person ceasing to promote a pyramid selling scheme by reason of this Ordinance.

Passed by the Hong Kong Legislative Council this 25th day of June 1980.

  
Clerk to the Legislative Council.

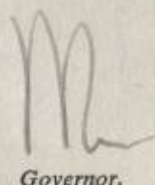
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

No. 26 OF 1980



I assent.

  
Governor.

26 June 1980.

or by or through that other participant;  
"d" includes refund, commission, discount or allowance but does not include payment for sales demonstration equipment and materials supplied at not more than their fair market value and not resold.

Any person who knowingly promotes a pyramid selling scheme commits an offence and is liable on conviction upon indictment to a fine of \$10,000 and to imprisonment for 3 years.

(1) Where an offence under this Ordinance has been committed by a body corporate or member of a body unincorporate, any person who at the time of the offence—

- (a) in the case of a body corporate, was a director, secretary, principal officer or manager of that body corporate; or
- (b) in the case of a member of a body unincorporate, was a partner or office holder in or a member or manager of that body unincorporate,

and who, in either case, was acting or purporting to act in any such capacity, shall be deemed to have committed the offence if he commits a like offence.

(2) Where any person referred to in subsection (1) is charged with an offence under this Ordinance it shall be a defence for him to prove that the offence was committed without his consent or connivance and that he exercised such diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of his functions and to all other circumstances.

(1) Notwithstanding any provision in any other Ordinance, where a person is convicted of an offence under this Ordinance the court may, in addition to passing such sentence as may otherwise be passed by law, order the person so convicted to pay to any person who has suffered financial loss resulting from that offence, such amount as compensation

## HONG KONG

No. 26 of 1980



I assent.

Governor.

26 June 1980.

An Ordinance to amend the Crimes Ordinance.

[27 June 1980]

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 Crimes (Amendment) Ordinance 1980. Short title.

2. Section 156 of the principal Ordinance is amended—

(a) in subsection (1)—

(i) by deleting "a person is accused of a rape offence or indecent assault" and substituting the following—

"an allegation is made that a rape offence or an indecent assault has been committed"; and

(ii) by deleting "accusation" and substituting the following—  
"allegation";

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

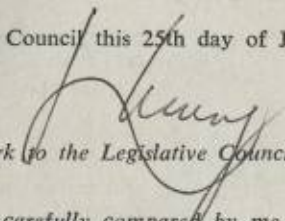
"(3A) A direction that subsection (1) shall not apply in relation to such complaint or such matter as is specified in the direction may be given, where it is necessary for the purpose of seeking information which may lead to the arrest

Amendment of  
section 156.  
(Cap. 200.)

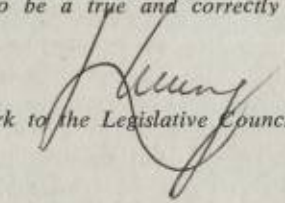
of a person responsible for an alleged rape offence or indecent assault, or is for any other reason in the public interest—

- (a) by a police officer of the rank of Senior Superintendent or above, where the complainant consents in writing to such a direction being given; or
  - (b) by the Attorney General in any other case, and notice of any such direction shall be published in the *Gazette*.”;
- (c) in subsection (4)—
- (i) by deleting “before the High Court”;
  - (ii) by inserting after “the judge” the following—  
“or, as the case may be, the District Judge, magistrate or juvenile court,”; and
  - (iii) by deleting “he” and substituting the following—  
“the judge or, as the case may be, the District Judge, magistrate or juvenile court,”;
- (d) in subsection (5) by deleting “an accusation which alleges a rape offence or indecent assault and” and substituting the following—  
“such allegation of a rape offence or indecent assault as”;
- (e) by deleting subsection (7) and substituting the following—
- “(7) For the purposes of this section an allegation of a rape offence or indecent assault is made if—
- (a) it is made to a police officer; or
  - (b) a complaint is made to or an information is laid before a magistrate alleging that a person has committed a rape offence or indecent assault against the complainant; or
  - (c) a person appears before a magistrate or a court charged with a rape offence or indecent assault against the complainant; or
  - (d) a person is committed for trial at the High Court on a charge alleging a rape offence or indecent assault against the complainant; or
  - (e) an indictment charging a person with a rape offence or indecent assault against the complainant is preferred before the High Court,
- and references in this section to an allegation of a rape offence or indecent assault shall be construed accordingly.”;
- (f) in subsection (8) in the definition of “complainant” by deleting “a person accused of a rape offence or indecent assault or an accusation alleging” and substituting the following—  
“an allegation of”; and
- (g) in subsection (9)(a)—
- (i) by deleting “accusation alleging” and substituting the following—  
“allegation of”; and
  - (ii) by deleting “the accused” and substituting the following—  
“a person”.

Passed by the Hong Kong Legislative Council this 25th day of June 1980.

  
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. 27 OF 1980



I assent.

*Governor.*

*26 June 1980.*

An Ordinance to amend the Independent Commission Against Corruption Ordinance.

[27 June 1980]

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

**1.** This Ordinance may be cited as the Independent Commission Against Corruption (Amendment) Ordinance 1980. Short title.

**2.** Section 10 of the principal Ordinance is amended—

(a) in subsection (1) by inserting after "Ordinance" in the third place where it occurs the following—

"or, being a Crown servant, is guilty of an offence of blackmail committed by or through the misuse of office"; and

(b) in subsection (5)—

(i) by inserting after paragraph (a) the following—

(Cap. 210.) "(aa) the offence of theft under section 9 of the Theft Ordinance;";

(ii) by inserting after paragraph (d) the following—

(Cap. 210.) "(dd) the offence of false accounting under section 19 of the Theft Ordinance;"; and

Amendment of  
section 10.  
(Cap. 204.)

(iii) by deleting paragraphs (f) and (g) and substituting the following—

- “(f) the offence of conspiracy to defraud and the offence of conspiracy to commit any of the offences referred to in paragraph (a), (aa), (b), (c), (d), (dd) or (e);
- (g) an attempt to commit any offence referred to in paragraph (a), (aa), (b), (c), (d), (dd) or (e) or the offence of aiding, abetting, counselling or procuring any offence so referred to.”.

Amendment of section 10A.

3. Section 10A of the principal Ordinance is amended—

- (a) by deleting “an assistant director of the Commission” wherever those words occur and substituting in each place the following—  
“an officer of the rank of Senior Commission Against Corruption Officer or above”; and
- (b) in subsection (3)(a) by deleting “such an assistant director” and substituting the following—  
“such an officer”.

Amendment of section 10C.

4. Section 10C of the principal Ordinance is amended—

- (a) in subsection (1)—
- (i) by deleting the full stop at the end of paragraph (c) and substituting a semicolon; and
- (ii) by inserting after paragraph (c) the following—  
“(d) subject to subsection (1A), detain any person found in any premises or place which he is empowered by this Ordinance to search until such premises or place have or has been searched.”; and
- (b) by inserting after subsection (1) the following—  
“(1A) A person may not be detained under subsection (1)(d) for more than 3 hours after the officer first entered unless, in the meantime, the person so detained is arrested.”.

Amendment of section 12.

5. Section 12(b) of the principal Ordinance is amended by inserting after “Ordinance” in the third place where it occurs the following—

“(and any alleged or suspected conspiracy to commit an offence under the Prevention of Bribery Ordinance and any alleged or suspected offence of blackmail committed by a Crown servant by or through the misuse of office”.

Addition of new section 13E.

6. The principal Ordinance is amended by adding after section 13D the following section—

“Time limit for prosecution of offences under section 13B or 13C. (Cap. 227.)

**13E.** (1) Notwithstanding section 26 of the Magistrates Ordinance, a complaint may be made or an information laid in respect of an offence under section 13B or 13C within 1 year from the time when the matter of such complaint or information respectively arose.

(2) Where a person has, before the commencement of the Independent Commission Against Corruption (Amendment) Ordinance 1980, committed an offence under section 13B or 13C and but for subsection (1) would not be liable to prosecution for that offence by reason of section 26 of the Magistrates Ordinance, he shall, notwithstanding subsection (1), not be liable to be prosecuted for that offence.”.

7. The principal Ordinance is amended by adding after section 17 the following—

“Welfare fund.

**17A.** (1) There shall be established a fund to be known as the “Independent Commission Against Corruption Welfare Fund”.

Addition of new section 17A.

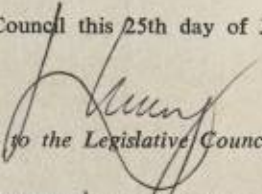
- (2) The fund shall consist of—
- (a) such donations and voluntary contributions as may be made thereto;
- (b) such sums as may, from time to time, be voted thereto by the Legislative Council; and
- (c) such sums as may accrue by way of dividend or interest from the investment of the fund or any part thereof.
- (3) The fund shall be controlled by the Commissioner and applied to the following purposes—
- (a) procuring for officers of the Commission and other persons employed by the Commission or for former officers or persons so employed who have ceased employment or retired on pension, gratuity or other allowance, comforts, conveniences or other benefits not chargeable to the general revenue;
- (b) granting loans to officers of the Commission and other persons employed by the Commission or former officers of the Commission and other persons formerly employed by the Commission who have ceased to be employed or retired on pension, gratuity or other allowance;
- (c) making grants to persons who were wholly or partially dependent at the time of his death on—
- (i) a deceased officer or a deceased former officer of the Commission who had ceased to be employed or had retired on pension, gratuity or other allowance; or
- (ii) a deceased person employed by the Commission or a deceased person who was at any time employed by the Commission and who had ceased to be employed or had retired on pension, gratuity or other allowance,
- and who are in need of financial assistance, whether towards the payment of funeral expenses of the deceased or otherwise.”.

8. The Independent Commission Against Corruption (Treatment of Detained Persons) Order is amended—

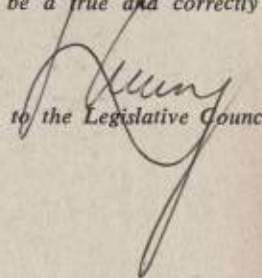
- (a) in paragraph 3—
- (i) by deleting “assistant director” and substituting the following—  
“officer”; and
- (ii) in sub-paragraph (a) by inserting before “cause a close relative” the following—  
“at the request of the detainee,”; and
- (b) in paragraph 5(1) by deleting “An assistant director of the Commission” and substituting the following—  
“An officer of the rank of Senior Commission Against Corruption Officer or above”.

Amendment of Independent Commission Against Corruption (Treatment of Detained Persons) Order. (Cap. 204, sub. leg.)

Passed by the Hong Kong Legislative Council this 25th day of June 1980.

  
Clerk to the Legislative Council.

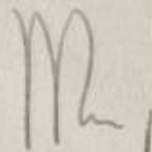
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Clerk to the Legislative Council.

NO. 28 OF 1980



I assent.

  
Governor.

*[Signature]*  
Clerk to the Legislative Council.

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

*[Signature]*  
Clerk to the Legislative Council.

**HONG KONG**

No. 28 OF 1980



I assent.

*[Signature]*  
Governor.

26 June 1980.

An Ordinance to amend the Prevention of Bribery Ordinance.

[27 June 1980]

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

1. This Ordinance may be cited as the Prevention of Bribery (Amendment) Ordinance 1980.

2. Section 2(1) of the principal Ordinance is amended—

Amendment of  
section 2.

(a) by deleting the definition of "banker's books" and substituting the following—

(Cap. 201.)

"banker's books" means—

- (a) any ledger, ledger card, statement of account, day book, cash book, account book or other book or document whatsoever;
- (b) any cheque, voucher, record card, report, letter or other document whatsoever; and
- (c) any copy of anything referred to in paragraph (a) or (b),

used in the ordinary business of a bank;"

- (b) in the definition of "company books" by deleting "or other book" and substituting the following—  
 " , report, letter or other book or document"; and
- (c) by inserting after the definition of "Crown servant" the following definition—  
 " "document" includes any register, book, record, tape-recording, any form of computer input or output, and any other material (whether produced mechanically, electrically, or manually or by any other means whatsoever);".

Amendment of section 4.

3. Section 4 of the principal Ordinance is amended—

- (a) in subsection (1) by inserting after "Any person who" the following—  
 " , whether in Hong Kong or elsewhere";
- (b) in subsection (2) by inserting after "Any public servant who" the following—  
 " , whether in Hong Kong or elsewhere"; and
- (c) by inserting after subsection (2) the following—  
 "(3) If a public servant other than a Crown servant solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section.  
 (4) For the purposes of subsection (3) permission shall be in writing and—  
 (a) be given before the advantage is offered, solicited or accepted; or  
 (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,  
 and for such permission to be effective for the purposes of subsection (3), the public body shall, before giving such permission, have regard to the circumstances in which it is sought."

Amendment of section 9.

4. Section 9 of the principal Ordinance is amended by deleting subsection (4) and substituting the following—

- "(4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2).  
 (5) For the purposes of subsection (4) permission shall—  
 (a) be given before the advantage is offered, solicited or accepted; or  
 (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,  
 and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought."

5. Section 12 of the principal Ordinance is amended—

Amendment of section 12.

- (a) in subsection (1)(a) by deleting "\$100,000" in both places where it occurs and substituting the following—  
 "\$500,000";
- (b) in subsection (1)(b) by deleting "\$50,000" and substituting the following—  
 "\$100,000"; and
- (c) in subsection (2) by deleting "\$20,000" and substituting the following—  
 "\$100,000".

6. The principal Ordinance is amended in Part II by adding after section 12 the following—

Addition of new section 12A.

"Conspiracy.

12A. (1) Any person convicted of conspiracy to commit an offence under this Part shall be dealt with and punished in like manner as if convicted of such offence and any rules of evidence which apply with respect to the proof of any such offence shall apply in like manner to the proof of conspiracy to commit such offence.

(2) The powers of investigation conferred by Part III of this Ordinance shall apply with respect to a conspiracy to commit an offence under this Ordinance in like manner as they apply to the investigation of any such offence."

7. Section 14(1) of the principal Ordinance is amended—

Amendment of section 14.

- (a) in paragraph (a)—  
 (i) in sub-paragraph (i) by deleting "the year" wherever it occurs and substituting in each place the following—  
 "the 3 years";  
 (ii) in sub-paragraph (ii) by deleting "1 year" and substituting the following—  
 "3 years"; and  
 (iii) in sub-paragraph (iii) by deleting "1 year" and substituting the following—  
 "3 years";
- (b) in paragraph (d)—  
 (i) by inserting after "all information in his possession" the following—  
 "or to which he may reasonably have access (not being information readily available to the public)"; and  
 (ii) by inserting after "any document in his possession or under his control" the following—  
 "or to which he may reasonably have access (not being a document readily available to the public)"; and
- (c) in paragraph (e) by inserting after "any document which is in his possession or under his control" the following—  
 "or to which he may reasonably have access (not being a document readily available to the public)".

Amendment of section 14A.

8. Section 14A of the principal Ordinance is amended—

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

“(1A) Where any property specified in a notice under subsection (1) includes any debt or obligation due by a bank or deposit-taking company to the person to whom the notice is given the Commissioner may serve on such bank or deposit-taking company a copy of that notice, which copy notice shall have the effect of directing the bank or deposit-taking company not to pay any money to the person specified in the copy notice without the consent of the Commissioner.”;

(b) by inserting after subsection (2) the following—

“(2A) Where any property specified in a notice under subsection (1) is immovable property, such notice shall be deemed to be an instrument affecting immovable property and shall be registrable as such in the Land Office under the Land Registration Ordinance in such manner as the Land Officer thinks fit.”; and

(Cap.128.)

(c) in subsection (5) by inserting after “subsection (1)” the following—

“or a bank or deposit-taking company which pays any money to a person specified in a copy of a notice served on it under subsection (1A)”.

Amendment of section 14B.

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

“(3A) Where the Commissioner has refused to give his consent under section 14A to a person the subject of a notice under subsection (1) of that section and as a result of that refusal the person is, before the determination of any application under this section against that refusal, unable to meet any contractual liability incurred before the notice was served on him, that person shall, if he is not charged with an offence arising out of the investigation or, having been so charged, is acquitted, be entitled to compensation for any loss sustained by him as a consequence of being unable to meet the contractual liability.

(3B) Any compensation under subsection (3A) shall be paid from the general revenue.”.

Amendment of section 14C.

10. Section 14C of the principal Ordinance is amended—

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

“(3A) Where any property specified in a restraining order is immovable property, such order shall be deemed to be an instrument affecting land and shall be registrable as such in the Land Office under the Land Registration Ordinance in such manner as the Land Officer thinks fit.”; and

(Cap. 128.)

(b) in subsection (4) by deleting “for a further period of 3 months” and substituting the following—

“for periods of 3 months at a time”.

Amendment of section 16.

11. Section 16 of the principal Ordinance is amended—

(a) in subsection (1)—

(i) by deleting the full stop at the end of paragraph (b) and substituting a semicolon; and

(ii) by inserting after paragraph (b) the following—

“(c) may, subject to subsection (1A), detain any person found in any office, registry or other room which he is empowered by paragraph (b) to search until such office, registry or other room has been searched.”;

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

“(1A) A person may not be detained under subsection (1)(c) for more than 3 hours after the investigating officer first entered unless, in the meantime, the person so detained is arrested.”; and

(c) in subsection (2)(b) by inserting after “subsection (1)(b)” the following—

“or in the exercise of the power to detain conferred by subsection (1)(c)”.

12. Section 17 of the principal Ordinance is amended—

Amendment of section 17.

(a) in subsection (1) by inserting after “search the same” the following—

“and to detain, subject to subsection (1A), any person found in any such premises or place until such premises or place have or has been searched”;

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

“(1A) A person may not be detained under subsection (1) for more than 3 hours after the investigating officer first entered unless, in the meantime, the person so detained is arrested.”; and

(c) in subsection (3) by deleting “powers of entry and search” and substituting the following—

“powers of entry, search and detention”.

13. The principal Ordinance is amended by adding after section 30 the following—

Addition of new section 30A.

“Protection of informers.

30A. (1) Save as provided in subsection (2)—

(a) no information for an offence under this Ordinance shall be admitted in evidence in any civil or criminal proceeding; and

(b) no witness in any civil or criminal proceeding shall be obliged—

(i) to disclose the name or address of any informer who has given information to the Commissioner with respect to an offence under this Ordinance or of any person who has assisted the Commissioner in any way with respect to such an offence; or

(ii) to answer any question if the answer thereto would lead, or would tend to lead, to discovery of the name or address of such informer or person, if, in either case, such informer or person is not himself a witness in such proceeding,

and, if any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceeding contain an entry in which any such informer or person is

named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated so far as may be necessary to protect the informer or such person from discovery.

(2) If in any proceeding before a court for an offence under this Ordinance the court, after full inquiry into the case, is satisfied that an informer wilfully made a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding a court is of opinion that justice cannot be fully done between the parties thereto without disclosure of the name of an informer or a person who has assisted the Commissioner, the court may permit inquiry and require full disclosure concerning the informer or such person."

Addition of  
new section  
31A.

14. The principal Ordinance is amended by adding after section 31 the following—

"Time limit for  
prosecution  
of offences.  
(Cap. 227.)

31A. (1) Notwithstanding section 26 of the Magistrates Ordinance, a complaint may be made or an information laid in respect of an offence under section 3, 14(5), 14A(5), 14C(6) or 33A within 2 years from the time when the matter of such complaint or information respectively arose.

(2) Notwithstanding section 26 of the Magistrates Ordinance, a complaint may be made or an information laid in respect of an offence under section 13(3), 13(4), 29 or 30(1) within 1 year from the time when the matter of such complaint or information respectively arose.

(3) Where a person has, before the commencement of the Prevention of Bribery (Amendment) Ordinance 1980, committed an offence under section 3, 13(3), 13(4), 14(5), 14A(5), 14C(6), 29 or 30(1) and, but for this section, would not be liable to be prosecuted for that offence by virtue of section 26 of the Magistrates Ordinance, he shall, notwithstanding this section, not be liable to be prosecuted for that offence."

Amendment of  
section 33.

15. Section 33(b) of the principal Ordinance is amended by inserting after "public body" the following—

" , other than a public body specified in the Schedule".

Addition of  
new section  
33A.

16. The principal Ordinance is amended by inserting after section 33 the following—

"Power of court  
to prohibit  
employment  
of convicted  
person.

33A. (1) Where a person has been convicted of an offence under Part II, a court may, on the application of the prosecution or on its own motion, where it considers it to be in the public interest so to do, order that the convicted person be prohibited from taking or continuing employment, whether temporary or permanent and whether paid or unpaid—

(a) in the case where the convicted person was employed by a corporation or a public body at the time of or prior to his conviction, as a director or manager or in such other capacity concerned with, whether directly or indirectly, the management of that corporation or any public body or any corporation that is a subsidiary of that corporation or any

public body within the meaning of section 2 of the Companies Ordinance; or

- (b) in the case where the convicted person was practising any profession or was otherwise self-employed at the time of or prior to his conviction, in the practice of his profession or in the business, or class of business, in which he was so employed, as the case may be;
- (c) in other cases, as a partner or as a manager of or in such other capacity concerned with, whether directly or indirectly, the management of such partnership, firm or person or such class of partnership, firm or person; and
- (d) for such period not exceeding 7 years,

as the court may determine.

(2) A person in respect of whom an order under subsection (1) has been made may at any time during the continuance in force of the order apply to the court for the order to be varied or cancelled.

(3) On an application under subsection (2) the court shall consider all the circumstances including any changes in the applicant's circumstances since the making of the order and whether it would be in the public interest for the order to be varied or cancelled.

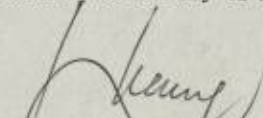
(4) Not less than 7 days before the hearing of an application under subsection (2) the person applying shall give written notice to the Attorney General of his intentions and on any hearing of an application the Attorney General shall have the right to appear and be heard.

(5) Any person in respect of whom an order under subsection (1) has been made who contravenes the order commits an offence and is liable to a fine of \$50,000 and to imprisonment for 12 months."

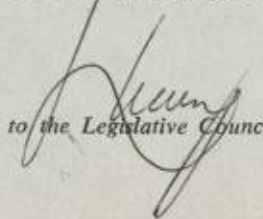
17. The Schedule to the principal Ordinance is amended by deleting "5. Commercial Television Limited."

Amendment of  
Schedule.

Passed by the Hong Kong Legislative Council this 25th day of June 1980.

  
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.

NO. 29 OF 1980



I assent

A handwritten signature in black ink, appearing to be 'M'.

Governor

26 June 19

An Ordinance to provide for the control and regulation of

**HONG KONG**

No. 29 of 1980



I assent.

*Governor.*

*26 June 1980.*

An Ordinance to provide for the control and regulation of money lenders and money-lending transactions, the appointment of a Registrar of Money Lenders and the licensing of persons carrying on business as money lenders; to provide protection and relief against excessive interest rates and extortionate stipulations in respect of loans; to provide for offences and for matters connected with or incidental to the foregoing; and to repeal the Money-lenders Ordinance.

[ ]

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

**PART I**

**PRELIMINARY**

1. (1) This Ordinance may be cited as the Money Lenders Ordinance 1980 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title, commencement and application.

(2) This Ordinance shall have effect notwithstanding any agreement to the contrary.

2. (1) In this Ordinance, unless the context otherwise requires—  
“disqualified person” means a person in respect of whom there is in force an order made by a court under section 32(2);

Interpretation.

Second  
Schedule.

"effective rate", in relation to interest, means the true annual percentage rate of interest calculated in accordance with the Second Schedule;

"firm" means an unincorporate body of 2 or more individuals, or 1 or more individuals and 1 or more bodies corporate, or 2 or more bodies corporate, who have entered into partnership with one another with a view to carrying on business for profit;

"interest" does not include any sum lawfully agreed to be paid in accordance with this Ordinance on account of stamp duty or other similar duty, but save as aforesaid includes any amount (by whatever name called) in excess of the principal, which amount has been or is to be paid or payable in consideration of or otherwise in respect of a loan;

"licence" means a money lender's licence issued under section 8 or 13, and "licensed" and "licensee" have corresponding meanings;

"licensing court" has the meaning assigned to it by section 10;

"loan" includes advance, discount, money paid for or on account of or on behalf of or at the request of any person, or the forbearance to require payment of money owing on any account whatsoever, and every agreement (whatever its terms or form may be) which is in substance or effect a loan of money, and also an agreement to secure the repayment of any such loan, and "lend" and "lender" shall be construed accordingly;

"money lender" means every person whose business (whether or not he carries on any other business) is that of making loans or who advertises or announces himself or holds himself out in any way as carrying on that business, but does not include a person specified in Part 1 of the First Schedule;

First  
Schedule.

"prescribed" means prescribed by regulations made under section 34;

"principal", in relation to a loan, means the amount actually lent;

"register" means the register kept by the Registrar under section 4;

"Registrar" means the Registrar of Money Lenders appointed under section 4.

Second  
Schedule.

(2) For the purposes of this Ordinance, where by an agreement for the loan of money the interest charged on the loan is not expressed in terms of a rate, any amount paid or payable to the lender under the agreement (other than simple interest charged in accordance with the proviso to section 22) shall be appropriated to principal and interest in the proportion that the total amount of principal bears to the total amount of the interest, and the rate *per cent per annum* represented by the interest charged as calculated in accordance with the Second Schedule shall be deemed to be the rate of interest charged on the loan.

(3) For the purpose of determining the amount of the principal of a loan, any amount thereof which is not shown to have been lent except for the purpose of treating it as an instalment paid by the borrower in repayment of the loan and which is so treated by the lender shall be disregarded.

Exemption.

3. (1) Parts II and III shall not apply to—

First  
Schedule.

- (a) any person specified in Part 1 of the First Schedule; or
- (b) as respects a loan specified in Part 2 of the First Schedule, any person who makes such loan.

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

4. (1) The Governor shall appoint a public officer to be the Registrar of Money Lenders.

Registrar  
of Money  
Lenders and  
supervisory  
functions of  
Registrar.

(2) The Registrar shall establish and maintain a register in which he shall cause to be kept particulars, other than specified particulars, of—

- (a) applications for the issue or renewal of licences;
- (b) licences which are in force or have been revoked or suspended;
- (c) such other matters, if any, as he thinks fit.

(3) In this section "specified particulars" means particulars furnished under section 8 which are specified in regulations made under section 34 as particulars which shall not be entered in the register.

5. (1) Except as may be necessary for the exercise or performance of any function or duty under this Ordinance or for carrying into effect the provisions of this Ordinance, the Registrar and every person employed in carrying out or in assisting any person to carry out the provisions of this Ordinance—

Official  
secrecy.

- (a) shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the exercise or performance of any function or duty under this Ordinance;
- (b) shall not communicate any such matter to any person other than the person to whom such matter relates; and
- (c) shall not suffer or permit any person to have access to any records in the possession, custody or control of any person to whom this subsection applies.

(2) Subsection (1) does not apply—

- (a) to the disclosure of information in the form of a summary of similar information provided by a number of persons if the summary is so framed as to prevent particulars relating to the business of any particular person being ascertained from it; or
  - (b) to the disclosure of information for the purpose of any legal proceedings in respect of an offence, or for the purpose of any report of any such proceedings.
- (3) Any person who—
- (a) contravenes subsection (1); or
  - (b) aids, abets, counsels or procures any person to contravene subsection (1),

commits an offence and shall be liable to a fine of \$100,000 and to imprisonment for 2 years.

6. (1) Any person shall be entitled on payment of the prescribed fee—

Inspection  
of register.

- (a) to inspect the register during ordinary office hours and take copies of any entry; or
- (b) to obtain from the Registrar a copy, certified by or under the authority of the Registrar to be correct, of any entry in the register.

(2) The Registrar shall give public notice, in such manner as he may deem fit, of the place where and the times when the register may be inspected.

## PART II

## LICENSING OF MONEY LENDERS

Restriction on carrying on of business of money lender.

7. (1) No person shall carry on business as a money lender—
- without a licence;
  - at any place other than the premises specified in such licence; or
  - otherwise than in accordance with the conditions of a licence.
- (2) A licence shall be in the prescribed form.

Application for licence and public notification of application.

8. (1) An application for a licence shall be made to the Registrar in the prescribed form and in the prescribed manner, and shall be accompanied by the prescribed fee and a statement in writing containing the prescribed particulars in respect of the application.

(2) An application made under this section in respect of a body corporate may be made by any person authorized in that behalf by such body corporate.

(3) An application made under this section in respect of partners in a firm may be made by any such partner.

(4) The Registrar shall, in such manner as may be prescribed, give public notice of every application made under this section.

Investigation and lodgement of applications.

9. (1) Where an application is made under section 8, the applicant shall at the same time send a copy of the application to the Commissioner of Police, and the Commissioner of Police may cause an investigation to be carried out in respect of the application for the purpose of determining whether, in the opinion of the Commissioner of Police, there are grounds for objecting to the application under section 11.

(2) For the purpose of carrying out an investigation under this section, the Commissioner of Police may in writing require the applicant to produce for inspection such books, records or documents or to furnish such information relating to the application or any business carried on or intended to be carried on by him as the Commissioner of Police may specify.

(3) In respect of an application made under section 8, no step other than the registration of such application shall be taken by the Registrar prior to—

- the date on which a period of 60 days after the date on which the application is made expires; or
- the date on which the Commissioner of Police notifies the Registrar that any investigation carried out under this section in respect of the application has been completed,

whichever is the earlier (in this section referred to as "the material date").

(4) Where the Registrar or the Commissioner of Police intends to object under section 11 to any application for a licence, he shall, not later than 7 days after the material date, serve notice on the applicant of his intention to object and of the grounds of such objection; and where such notice is served by the Commissioner of Police, he shall send a copy thereof to the Registrar.

(5) Upon the expiration of a period of 7 days after the material date in respect of any application made under section 8, the Registrar shall lodge the application in the office of a magistrate ordinarily sitting in or nearest to the area where the premises used or intended to be

used by the applicant as his principal place of business as a money lender are situated, together with a copy of any notice served on the applicant under subsection (4).

(6) The Registrar shall give notice to the Commissioner of Police of any lodgement made under subsection (5).

10. (1) Where an application is lodged in the office of a magistrate under section 9(5), that magistrate sitting with 2 assessors (in this Ordinance referred to as "the licensing court") shall hear and determine the application in accordance with section 11.

Licensing court.

(2) The magistrate shall be the presiding member of the licensing court.

(3) In determining any application lodged under section 9(5), the magistrate and each of the assessors shall have a vote but the decision of the licensing court shall be given as a single decision and shall be recorded in writing:

Provided that in the event of a difference between the members in deciding the application, the decision of the licensing court shall be that of the majority of the members.

(4) The Registrar shall be entitled, on request made at the office of the magistrate, to a copy of the decision of the licensing court.

(5) References in this section to an assessor are references to a person appointed to a panel of assessors under section 7A of the Magistrates Ordinance; and with respect to the selection and attendance of any such person as assessor at any sitting of a licensing court, sections 7A and 7B of that Ordinance shall apply *mutatis mutandis* for the purposes of this section as they apply in relation to proceedings heard with an assessor under that Ordinance.

(Cap. 227.)

11. (1) The licensing court shall fix a date for the hearing of an application lodged under section 9(5) and shall give 14 clear days' notice of such date to the applicant, the Registrar and the Commissioner of Police; and the licensing court may adjourn the hearing to another date and from time to time as the licensing court may deem fit.

Determination of application for licence.

(2) Subject to subsection (3), the licensing court shall grant a licence upon the hearing of an application lodged under section 9(5) except where—

- the Registrar or the Commissioner of Police has served notice under section 9 of his intention to object to the application and, at the hearing of the application, objection to the application is made by or on behalf of the Registrar or, as the case may be, the Commissioner of Police; or
- objection to the application is made by any other person appearing at the hearing in person or by counsel who—

(i) has served notice of his intention to object and the grounds of such objection on the applicant, the Registrar and the Commissioner of Police and lodged a copy of such notice in the office of the licensing court, prior to the date fixed for the hearing under subsection (1); or

(ii) is granted leave by the licensing court to make such objection,

and for the purposes of this section "counsel" means a person qualified to practise as a barrister or solicitor under the Legal Practitioners Ordinance. (Cap. 159.)

(3) The licensing court shall not grant a licence to a person who is a disqualified person.

(4) The licensing court shall, in considering an application to which subsection (2)(a) or (b) applies, hear any evidence given by the applicant or any witnesses called on his behalf and any evidence adduced by or on behalf of the Registrar or the Commissioner of Police or any other person who appears at the hearing under subsection (2)(b).

(5) Subject to subsection (3), the licensing court shall not grant a licence upon an application to which subsection (2)(a) or (b) applies unless the court is satisfied—

- (a) that the applicant, or in the case of a firm every partner thereof, is a fit and proper person to carry on business as a money lender;
- (b) in the case of a body corporate, that any person who controls such body corporate or in accordance with whose directions or instructions the directors thereof are accustomed to act is a fit and proper person to be associated with the business of money-lending;
- (c) that as respects the carrying on of business as a money lender, any person responsible or proposed to be responsible for the management of the business or any part thereof, or in the case of a body corporate any director or secretary or other officer thereof, is a fit and proper person to be associated with the business of money-lending;
- (d) that the name under which the applicant applies to be licensed is not misleading or otherwise undesirable;
- (e) that as respects any of the premises to which the application relates, such premises and the situation thereof are suitable for the carrying on of the business of money-lending;
- (f) that the applicant has complied with the provisions of this Part and any regulations relating to the application; and
- (g) that in all the circumstances the grant of such licence is not contrary to the public interest.

(6) A licence granted under this section shall be subject to such conditions as the licensing court may impose.

(7) A licence granted under this section shall not be issued and shall not enter into force except on payment to the licensing court of the prescribed fee.

12. Every licence shall authorize the person named therein to carry on business as a money lender at any premises specified therein for a period of 12 months from the date on which it is granted.

13. (1) A licensee may apply for the renewal of his licence within a period of 3 months prior to the expiration thereof.

(2) This section does not apply to a licensee whose licence is revoked.

(3) An application for renewal made under this section shall be made in the prescribed manner and shall be accompanied by the prescribed fee.

(4) Sections 8, 9, 10 and 11 shall apply to an application for renewal made under this section as they apply to an application made under section 8.

Effect and duration of licence.

Renewal.

(5) Any licence in respect of which an application for renewal is made under this section and which expires prior to the determination of such application shall, unless such application is withdrawn, or the licence is revoked or suspended under section 14, be deemed to continue in force until the determination of such application.

14. (1) On the application of the Registrar or the Commissioner of Police, a licensing court may make an order revoking or suspending any licence granted by the licensing court if, in the opinion of the licensing court—

- (a) the licensee has ceased to be a fit and proper person to carry on business as a money lender; or
- (b) the premises specified in the licence or any of such premises have, or the situation thereof has, ceased to be suitable for the carrying on of the business of money-lending; or
- (c) the licensee has been in serious breach of any condition of the licence or has ceased to satisfy any other condition relating to his business as a money lender in respect of which the licensing court is required to be satisfied under section 11(5); or
- (d) the business of the licensee has been carried on at any time or on any occasion since the date on which the licence was granted by recourse to the use of any methods, or in any manner, contrary to the public interest.

(2) The licensing court shall fix a date for the hearing of an application under this section, and shall give 14 clear days' notice of such date to the Registrar and the Commissioner of Police and the licensee; such notice shall call on the licensee to show cause as to why such application ought not to be granted and an order for the revocation or suspension of his licence ought not to be made.

(3) In this section "licence" includes a licence deemed to continue in force under section 13(5).

15. (1) Except as provided in this section, a licence shall not be transferable.

(2) Where a licensed money lender dies, the widow or widower or any member of the family of the deceased money lender of the age of 21 years or upwards, or any person on behalf of the family, may apply to the licensing court which granted the licence to have his or her name endorsed on the licence.

(3) Where a licensee intends to carry on business as a money lender at any premises in addition to the premises specified in his licence, he may apply to the licensing court which granted the licence to have such additional premises endorsed on his licence.

(4) Where a licensed money lender intends to transfer his business as a money lender from any premises specified in his licence to any premises not so specified, he may apply to the licensing court which granted the licence to have the premises to which he intends to transfer such business endorsed on his licence in substitution for such first-mentioned premises.

(5) Every application under this section shall be made in the prescribed manner and shall be accompanied by the prescribed fee and notice of the application shall be given to the Registrar and the Commissioner of Police.

(6) The Registrar and the Commissioner of Police shall be entitled to appear and be heard at the hearing of any application under this section and to object to the granting of any such application.

Revocation and suspension.

Transfer of licence and addition or substitution of new premises.

(7) The licensing court shall not grant an application under this section unless the court is satisfied that—

- (a) notice of the application has been given to the Registrar and the Commissioner of Police;
- (b) in the case of an application under subsection (2), the applicant is a fit and proper person to carry on the business of the deceased money lender;
- (c) in the case of an application under subsection (3), the additional premises and the situation thereof are suitable for the carrying on of the business of money-lending;
- (d) in the case of an application under subsection (4), the premises to which the money lender intends to transfer his business and the situation thereof are suitable for the carrying on of the business of money-lending;
- (e) in the case of an application in respect of any premises under subsection (3) or (4), any person responsible or proposed to be responsible for the management of the business carried on at such premises is a fit and proper person to be associated with the business of money-lending.

(8) Where the licensing court grants an application for an endorsement under this section, the endorsement shall be made in the office of the licensing court upon payment of the prescribed fee.

(9) A licence endorsed under subsection (2) shall have effect in all respects as if the licence had been issued to the person whose name is endorsed thereon and this Ordinance shall apply accordingly to such person as it applies to a licensee.

Appeals.

16. Any person aggrieved by a decision of a licensing court under section 11, 13, 14 or 15 may appeal to the High Court and the decision of the High Court shall be final.

Duty to notify changes of particulars.

17. (1) Where any change takes place in any particulars entered in the register in respect of any licensee, or a change takes place—

- (a) in the case of a firm, in the membership thereof whether by reason of an amalgamation or the reduction of the number of partners or otherwise;
- (b) in the case of a body corporate—
  - (i) in the officers thereof;
  - (ii) in the control thereof by any person;
  - (iii) in the number of shares, or shares of a prescribed class, therein held by any person whereby the nominal value of any such shares held by that person exceeds such proportion of the nominal value of the share capital thereof or of the issued shares of that class, as the case may be, as may be prescribed;
- (c) in the persons responsible for the management of his business as a money lender at any premises where the business is carried on,

the licensee shall give notice in writing of such change to the Registrar within 21 days after the change takes place.

(2) Where notice of any change is given to the Registrar under subsection (1), the Registrar may by notice in writing require the licensee to furnish him with such information, verified in such manner, as the Registrar may specify with respect to such change.

### PART III

#### MONEY LENDERS' TRANSACTIONS

18. (1) No agreement for the repayment of money lent by a money lender or for the payment of interest on money so lent, and no security given to any money lender in respect of any such agreement or loan, shall be enforceable unless—

Form of agreement.

- (a) within 7 days after the making of the agreement, a note or memorandum in writing of the agreement is made in accordance with subsection (2) and signed personally by the borrower, and a copy of such note or memorandum is given to the borrower at the time of signing; and
- (b) there is included in or attached to such copy a summary, in such form as may be prescribed, of such provisions of this Part and Part IV as may be prescribed,

and no such agreement or security shall be enforceable if it is proved that the note or memorandum was not signed by the borrower before the money was lent or the security was given.

(2) The note or memorandum shall contain all the terms of the agreement and in particular shall set out—

- (a) the name and address of the money lender;
- (b) the name and address of the borrower;
- (c) the name and address of the surety, if any;
- (d) the amount of the principal of the loan in words and figures;
- (e) the date of the making of the agreement;
- (f) the date of the making of the loan;
- (g) the terms of repayment of the loan;
- (h) the form of security for the loan, if any;
- (i) the rate of interest charged on the loan expressed as a rate *per cent per annum*, or the rate *per cent per annum* represented by the interest charged as calculated in accordance with the Second Schedule; and
- (j) a declaration as to the place of negotiation and completion of the agreement for the loan.

Second Schedule.

(3) Notwithstanding subsection (1), if the court before which the enforceability of any agreement or security comes in question is satisfied that in all the circumstances it would be inequitable that any such agreement or security which does not comply with this section should be held not to be enforceable, the court may declare that such agreement or security is enforceable to such extent and subject to such modifications or exceptions as the court may order.

19. (1) In respect of every agreement, whether made before or after the commencement of this Ordinance, for the repayment of money lent by a money lender, the money lender shall, on demand in writing being made by the borrower at any time during the continuance of the agreement and on tender by the borrower of \$10 for expenses, supply to the borrower or, if the borrower so requires, to any person specified in that behalf in the demand, a statement signed by the money lender or his agent showing—

Duty of money lender to give information to borrower.

- (a) the date on which the loan was made, the amount of the principal of the loan and the rate *per cent per annum* of interest charged;

- (b) the amount of any payment already received by the money lender in respect of the loan and the date on which it was made;
- (c) the amount of every sum due to the money lender but unpaid, and the date on which it became due, and the amount of interest accrued due and unpaid in respect of every such sum; and
- (d) the amount of every sum not yet due which remains outstanding, and the date on which it will become due.

(2) A money lender shall, on demand in writing by the borrower, supply a copy of any document relating to a loan made by him or any security therefor to the borrower or, if the borrower so requires and on payment by the borrower to the lender of \$10, to any person specified in that behalf in the demand.

(3) Subsection (1) or (2) does not apply to a request made by a borrower less than 1 month after a previous request thereunder relating to the same agreement was complied with.

(4) If a money lender to whom a demand has been made under this section fails without reasonable excuse to comply therewith within 1 month after the demand has been made, he shall not, so long as the default continues, be entitled to sue for or recover any sum due under the agreement on account either of principal or interest, and interest shall not be chargeable in respect of the period of default.

Duty of money lender to give information to surety.

20. (1) A money lender who makes any agreement for the loan of money in relation to which security is provided shall within 7 days after the making of the agreement give to the surety (if a different person from the borrower)—

- (a) a copy of the note or memorandum in writing made under section 18(1);
- (b) a copy of the security instrument, if any; and
- (c) a statement in writing signed by or on behalf of the money lender showing—
  - (i) the total sum payable under the agreement by the borrower;
  - (ii) the various amounts comprised in that total sum with the date, or the mode of determining the date, when each becomes due.

(2) Without prejudice to subsection (1), a surety may at any time during the continuance of an agreement (whether made before or after the commencement of this Ordinance) in relation to which the security is provided require the money lender by notice in writing to furnish him with a statement in writing signed by or on behalf of the money lender showing—

- (a) the total sum paid under the agreement by the borrower;
- (b) the total sum which has become payable under the agreement by the borrower but remains unpaid, and the various amounts comprised in that total sum, with the date when each became due; and
- (c) the total sum which is to become payable under the agreement by the borrower, and the various amounts comprised in that total sum, with the date, or the mode of determining the date, when each becomes due.

(3) Subsection (2) does not apply to a request made by a surety less than 1 month after a previous request under that subsection relating to the same agreement was complied with.

(4) If a money lender fails to comply with subsection (1) or a request to which subsection (2) applies he shall not be entitled, while the default continues, to enforce the security so far as provided in relation to the agreement.

21. (1) Subject to subsection (2), a borrower under any agreement for the loan of money by a money lender shall be entitled at any time by notice in writing to the money lender and the payment to the money lender of all amounts payable as principal by the borrower which are outstanding under the agreement, together with interest computed up to the date of such payment, to discharge his indebtedness under the agreement:

Early payment by borrower.

Provided that the effective rate of such interest shall not exceed the effective rate at which interest would have been payable under the agreement if the borrower had not exercised his right under this section to discharge his indebtedness.

(2) Subsection (1) shall not apply in relation to any loan made by a money lender (whether an individual, a firm or a company registered under the Companies Ordinance) who, at the time the agreement for the loan is made and throughout the continuance of the agreement, is recognized by the Financial Secretary by notice in the *Gazette* for the purposes of this subsection or is a member of an association so recognized.

(Cap. 32.)

22. Any agreement made for the loan of money by a money lender shall be illegal if it provides directly or indirectly for—

Illegal agreements.

- (a) the payment of compound interest;
- (b) prohibiting the repayment of the loan by instalments; or
- (c) the rate or amount of interest being increased by reason of any default in the payment of sums due under the agreement:

Provided that provision may be made by any such agreement that if default is made in the payment upon the due date of any sum payable to the money lender under the agreement, whether in respect of principal or interest, the money lender shall be entitled, subject to Part IV, to charge simple interest on that sum from the date of the default until the sum is paid at an effective rate not exceeding the effective rate payable in respect of the principal apart from any default, and any interest so charged shall not be reckoned for the purposes of this Ordinance as part of the interest charged in respect of the loan.

23. No money lender shall be entitled to recover in any court any money lent by him or any interest in respect thereof or to enforce any agreement made or security taken in respect of any loan made by him unless he satisfies the court by the production of his licence or otherwise that at the date of the loan or the making of the agreement or the taking of the security (as the case may be) he was licensed.

Loan etc. not recoverable unless money lender licensed.

#### PART IV

##### EXCESSIVE INTEREST RATES

24. (1) Any person (whether a money lender or not) who lends or offers to lend money at an effective rate of interest which exceeds 60 per cent per annum commits an offence.

Prohibition of excessive interest rates.

(2) No agreement for the repayment of any loan or for the payment of interest on any loan and no security given in respect of any such agreement or loan shall be enforceable in any case in which the effective rate of interest exceeds the rate specified in subsection (1).

(3) The Legislative Council may by resolution alter the rate specified in subsection (1):

Provided that in relation to any agreement for the repayment of any loan or for the payment of interest on any loan which is in force at the date when such rate is so altered, the rate so specified as at the coming into force of such agreement shall continue to apply.

(4) Any person who commits an offence under this section shall be liable to a fine of \$100,000 and to imprisonment for 2 years.

25. (1) Subject to section 24(2), where—

- (a) proceedings are taken in any court by any person (whether a money lender or not) for the recovery of any money lent or the enforcement of any agreement or security in respect of any loan; and
- (b) subject to subsection (3), there is evidence which satisfies the court that the transaction is extortionate,

the court may reopen the transaction so as to do justice between the parties having regard to all the circumstances, and, for that purpose, make such orders and give such directions in respect of the terms of the transaction or the rights of the parties thereunder as the court may think fit.

(2) For the purposes of this section, a transaction is extortionate if—

- (a) it requires the debtor or a relative of his to make payments (whether unconditionally or on certain contingencies) which are grossly exorbitant; or
- (b) it otherwise grossly contravenes ordinary principles of fair-dealing.

(3) Any agreement for the repayment of a loan or for the payment of interest on a loan in respect of which the effective rate of interest exceeds 48 *per cent per annum* shall, having regard to that fact alone, be presumed for the purposes of this section to be a transaction which is extortionate; but except where such rate exceeds the rate specified in section 24(1), the court may declare that any such agreement is not extortionate for the purposes of this section if, having regard to all the circumstances relating to the agreement, the court is satisfied that such rate is not unreasonable or unfair.

(4) In determining whether a transaction is extortionate for the purposes of this section, regard shall be had to such evidence as is adduced concerning—

- (a) interest rates prevailing at the time it was made;
- (b) the factors mentioned in subsections (5) and (6); and
- (c) any other relevant considerations.

(5) Factors applicable under subsection (4)(b) in relation to the debtor include—

- (a) his age, experience, business capacity and state of health; and
- (b) the degree to which, at the time of entering into the transaction, he was under financial pressure, and the nature of that pressure.

(6) Factors applicable under subsection (4)(b) in relation to the lender or other person by whom the proceedings are taken include—

- (a) the degree of risk accepted by the lender, having regard to the nature and value of any security provided;
- (b) his relationship to the debtor;

Reopening  
of certain  
transactions.

(c) whether or not a specious cash price was quoted for any goods or services included in the transaction; and

(d) where one or more other transactions are to be taken into account, the question how far any such other transaction was reasonably required for the protection of the debtor or the lender, or was in the interest of the debtor.

(7) Any court in which proceedings might be taken for the recovery of any loan or security in respect of a loan shall have and may at the instance of the debtor or any surety exercise the like powers as may be exercised under this section where proceedings are taken for the recovery of a loan; and the court may entertain any application under this subsection by the debtor or surety notwithstanding that the time for repayment of the loan or any instalment thereof has not arrived.

(8) On any application relating to the admission or amount of a proof by a money lender in any bankruptcy proceedings, the court may exercise the like powers as may be exercised under this section where proceedings are taken for the recovery of money.

(9) The Legislative Council may by resolution alter the rate specified in subsection (3) but, in relation to any agreement referred to in that subsection which is in force at the date when such rate is so altered, the rate so specified as at the coming into force of such agreement shall continue to apply.

(10) In this section "debtor" means any person primarily liable for the repayment of a loan or for the payment of interest in respect of a loan.

## PART V

### GENERAL

26. (1) A money lender shall not for the purpose of his business as such issue or publish or cause to be issued or published any advertisement, circular, business letter or other similar document which does not show the name of the money lender as specified in his licence in such manner as to be not less conspicuous than any other name.

Restriction on  
money-lending  
advertisements.

(2) Where any advertisement, circular, business letter or other similar document issued or published by or on behalf of a money lender purports to indicate the terms of interest on which he is willing to make loans or any particular loan, such advertisement, circular, business letter or other document shall show the interest proposed to be charged—

- (a) subject to section 24(1), as a rate *per cent per annum*; and
- (b) in such manner as to be not less conspicuous than any other matter mentioned therein.

(3) A money lender shall not for the purposes of his business as such issue or publish or cause to be issued or published any advertisement, circular, business letter or other similar document containing a name or description or expression which might reasonably be held to imply that he carries on banking business.

27. (1) Subject to subsection (2), any agreement entered into between a money lender and a borrower or intending borrower for the payment by the borrower or intending borrower to the money lender of any sum for or on account of costs, charges or expenses (other than stamp duties or similar duties) incidental to or relating to the negotiations for or the granting of the loan or proposed loan or the guaranteeing or securing of the repayment thereof shall be illegal.

Charges for  
expenses etc.  
not recoverable.

(2) Subsection (1) shall not apply in relation to any agreement for the payment of any sum for or on account of costs, charges or expenses in respect of a loan if—

(a) except where paragraph (b) applies,—

(i) the money lender (whether an individual, a firm or a company registered under the Companies Ordinance) is approved for the purposes of this paragraph by the Registrar, after consultation with the Financial Secretary, by notice in the *Gazette* or is a member of an association so approved; and

(ii) the terms of the agreement relating to such costs, charges or expenses comply with such restrictions or conditions, if any, in respect of costs, charges or expenses of that kind as may be specially approved for the purposes of this paragraph by the Registrar, after consultation with the Financial Secretary, by notice in the *Gazette*; or

(b) the terms of the agreement relating to such costs, charges or expenses comply with such restrictions or conditions, if any, in respect of costs, charges or expenses of that kind as may be generally approved for the purposes of this paragraph by the Registrar, after consultation with the Financial Secretary, by notice in the *Gazette*.

(3) It shall not be lawful for any money lender or his partner, employer, employee, principal or agent or any person acting for or in collusion with any money lender to charge, recover or receive any sum as for or on account of any such costs, charges or expenses (other than stamp duties or similar charges) or to demand or receive any remuneration or reward whatsoever from a borrower or intending borrower for or in connexion with or preliminary to procuring, negotiating or obtaining any loan made or guaranteeing or securing the repayment thereof.

(4) If any money or money's worth is directly or indirectly paid or allowed to or received by any person in contravention of this section, the amount or value thereof, to the extent of such contravention and notwithstanding any agreement to the contrary, may be recovered by the borrower from such person or, if such person is the money lender or a partner, employer, employee, principal or agent of the money lender or is in any way acting for or in collusion with him, may be set off against the amount actually lent (and that amount shall be deemed to be reduced accordingly) or may be recovered by the borrower from such person or from the money lender.

28. For the purpose of ascertaining whether the provisions of this Ordinance are being or have been complied with by any money lender, the Registrar or any other person authorized by the Registrar in writing in that behalf may enter any premises where the business of such money lender is being carried on and may demand the production of and inspect the money lender's licence or any books, accounts, documents or writings relating to any loan made by the money lender or relating to his business as a money lender, and may take notes, copies or extracts thereof or therefrom.

29. (1) Any person who carries on business as a money lender—

(a) without a licence; or

(b) at any place other than the premises specified in his licence; or

(c) otherwise than in accordance with the conditions of his licence; or

(Cap. 32.)

Power of Registrar to enter premises and inspect books etc.

Offences by money lenders.

(d) during any period when his licence is suspended, commits an offence.

(2) Any person who makes any false or misleading statement or furnishes any false or misleading information in connexion with any application for a licence or the renewal of a licence commits an offence.

(3) Any person who, being a licensee, fails to give notice under section 17(1) of any change in respect of such licensee, or who, having been required by the Registrar under section 17(2) to furnish any information in respect of such change, fails to furnish such information or furnishes any false or misleading information, commits an offence.

(4) Any money lender who—

(a) fails to make a note or memorandum in writing of an agreement in compliance with section 18;

(b) fails to give a copy of such note or memorandum to the borrower in compliance with section 18(1)(a); or

(c) fails to include in or attach to such copy a summary in writing in compliance with section 18(1)(b),

commits an offence.

(5) Any money lender who demands or accepts security for a loan in any form prohibited by regulations made under section 34 commits an offence.

(6) Any money lender who fails to comply with any demand in writing made by a borrower under section 19 to supply any statement or copy of any document to the borrower or any person specified in the demand commits an offence.

(7) Any money lender who fails to give a surety any information to which the surety is entitled under section 20(1) or in respect of which the surety has made a request by notice in writing under section 20(2) commits an offence.

(8) Any money lender who issues or publishes, or causes to be issued or published, any advertisement, circular, business letter or other similar document which contravenes any of the provisions of section 26 commits an offence.

(9) Any money lender who for any of the purposes of his business uses any name other than the name specified in his licence, or a name or description or expression which might reasonably be held to imply that he carries on banking business commits an offence.

30. (1) Any person who by any false, misleading or deceptive statement, representation or promise, or by any dishonest concealment of material facts, fraudulently induces or attempts to induce—

(a) any money lender to lend money to any person or to agree to the terms on which money is or is to be borrowed;

(b) any person to borrow money from a money lender or to agree to the terms on which money is or is to be lent,

commits an offence.

(2) Any person who—

(a) wilfully obstructs the Registrar or any person authorized by him in writing in the performance of his functions under section 28;

Offences of fraudulent inducement and obstruction.

- (b) without reasonable cause fails to give the Registrar or any such person authorized by him such assistance or information as he may require in the performance of such functions,

commits an offence.

Liability for offences by bodies corporate.

31. Where at any time a body corporate commits an offence under this Ordinance with the consent or connivance of, or because of neglect by, any individual, the individual commits the like offence if at that time—

- (a) he is a director, manager, secretary or similar officer of the body corporate; or  
 (b) he is purporting to act as such officer; or  
 (c) the body corporate is managed by its members, of whom he is one.

Penalties and disqualification.

32. (1) Any person who commits an offence under this Ordinance shall be liable—

- (a) in the case of an offence under section 29, to a fine of \$100,000 and to imprisonment for 2 years;  
 (b) in the case of any other offence for which no penalty is provided, to a fine of \$10,000 and to imprisonment for 6 months.

(2) Where any person is convicted of an offence under this Ordinance, the magistrate may order that such person shall be disqualified from holding a licence for such period not exceeding 5 years from the date of such conviction as may be specified in the order.

(3) A licence held by any person against whom an order is made under subsection (2) shall, as from the date of the order, cease to have effect for the purposes of this Ordinance.

Burden of proof.

33. (1) When in any proceedings under this Ordinance against any person it is alleged that such person is not the holder of a licence, it shall in the absence of proof to the contrary be presumed that such person is not licensed.

(2) When in any proceedings under this Ordinance against any person it is alleged that—

- (a) such person is not a person specified in Part 1 of the First Schedule; or  
 (b) that a loan alleged to have been made by such person is not a loan specified in Part 2 of the First Schedule,

the fact so alleged shall in the absence of proof to the contrary be presumed.

Regulations.

34. The Governor in Council may make regulations—

- (a) prescribing anything required or permitted to be prescribed under this Ordinance;  
 (b) specifying any particulars furnished under section 8 as particulars which shall not be entered in the register under section 4;  
 (c) imposing restrictions in relation to the form in which security for any loan may be demanded or accepted by a money lender;  
 (d) for the better carrying into effect of this Ordinance.

35. (1) The Money-lenders Ordinance is repealed.

Repeal and saving.

(2) Any money lender who, at the commencement of this Ordinance, is registered under the Money-lenders Ordinance shall be deemed to be licensed as a money lender under this Ordinance until—

(Cap. 163.)

(a) the date on which such registration would, if this Ordinance had not been enacted, have expired by virtue of section 4(2) of that Ordinance; or

(b) if such money lender makes an application for a licence under this Ordinance within a period of 2 months after the commencement of this Ordinance, the date on which such application is finally disposed of under this Ordinance.

(3) An application for a licence made by a money lender to whom subsection (2) applies shall be made under section 13 and shall be treated as an application for the renewal of a licence.

(4) The Registrar shall take possession of the register and any documents relating thereto kept at the office of the Registrar of Companies under the Money-lenders Ordinance, and such register and other documents shall be deemed to form part of the records kept by the Registrar under this Ordinance and shall be available for inspection in the same manner as the register kept under this Ordinance.

(Cap. 163.)

36. (1) This section applies to any agreement made before the commencement of this Ordinance for the payment of any loan or for the payment of interest on any loan, and to any security given (whether given before or after the commencement of this Ordinance) in respect of any such agreement or loan.

Existing loans.

(2) Nothing in this Ordinance shall render any agreement or security to which this section applies void or unenforceable, but no such agreement or security shall be enforceable as against the borrower or surety or any other person except to the extent that—

- (a) any benefit accruing to the lender by virtue thereof is not more favourable; and  
 (b) any obligation or liability incurred by the borrower or surety or other person by virtue thereof is not more onerous,

that it would have been if such agreement had been made or, as the case may be, such security had been given on terms consistent with the requirements of this Ordinance.

(3) Where proceedings are taken in any court for the enforcement of any agreement or security to which this section applies, the court may make such orders and give such directions in respect of the terms thereof or the rights and obligations of the parties in respect thereof as the court may deem necessary or desirable having regard to the requirements of this Ordinance relating to an agreement or security of the kind in question.

## FIRST SCHEDULE

[ss. 2, 3 & 33.]

### PART 1—EXEMPTED PERSONS

1. A bank licensed under the Banking Ordinance and any subsidiary thereof. (Cap. 155.)  
 2. A deposit-taking company registered under the Deposit-taking Companies Ordinance and any subsidiary thereof. (Cap. 328.)

- (Cap. 33.) 3. A co-operative society registered under the Co-operative Societies Ordinance.
- (Cap. 119.) 4. A credit union registered under the Credit Unions Ordinance and the Credit Union League of Hong Kong incorporated under Part XI of that Ordinance.
- (Cap. 332.) 5. A trade union registered under the Trade Unions Ordinance.
- (Cap. 32.) 6. A life insurance company registered as a company under the Companies Ordinance.
7. The Hong Kong Building and Loan Agency Limited.
8. The University and Polytechnic Grants Committee.

## PART 2—EXEMPTED LOANS

1. A loan made by an employer to a *bona fide* employee.
2. A loan made to a registered company secured by the issue of a debenture or similar instrument.
3. A loan made by a company registered under the Companies Ordinance (other than a bank or a deposit-taking company) under a *bona fide* credit-card scheme operated by the company to any holder of a credit-card issued under that scheme.
4. A loan made *bona fide* for the purchase of immovable property on the security of a mortgage of that property.
5. A loan made by a company registered under the Companies Ordinance or a firm or individual whose ordinary business does not primarily or mainly involve the lending of money, in the ordinary course of that business.
- (Cap. 166.) 6. A loan made by a licensed pawnbroker under the Pawnbrokers Ordinance, being a loan to which that Ordinance applies.
7. A loan regulated by any Ordinance relating to hire-purchase transactions.
8. A loan made by any statutory body under any power conferred by law in that behalf.
9. A loan made from—  
 (a) a fund established by resolution of the Legislative Council or by or under an Ordinance;  
 (b) any superannuation or provident fund.
- (Cap. 262.) 10. A loan made from any chit-fund operated under the Chit-Fund Businesses (Prohibition) Ordinance.

## SECOND SCHEDULE

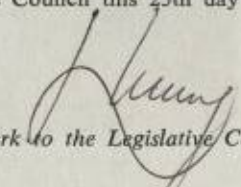
[ss. 2 &amp; 18.]

## CALCULATION OF TRUE ANNUAL PERCENTAGE RATE OF INTEREST

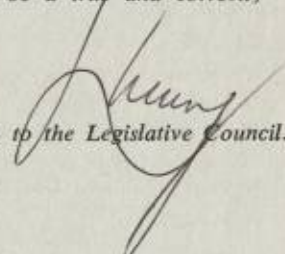
1. Any amount paid or payable to the lender under the agreement (other than simple interest charged in accordance with the proviso to section 22) shall be appropriated to principal and interest in the proportion that the total amount of principal bears to the total amount of the interest.

2. The amount of principal outstanding at any time shall be taken to be the balance remaining after deducting from the principal the total of the portions of any payments appropriated to principal in accordance with paragraph 1.
3. The several amounts taken to be outstanding by way of principal during the several periods ending on the dates on which payments are made shall be multiplied in each case by the number of calendar months during which those amounts are taken to be respectively outstanding, and there shall be ascertained the aggregate amount of the sum so produced.
4. The total amount of the interest shall be divided by one-twelfth part of the aggregate amount mentioned in paragraph 3 and the quotient, multiplied by one hundred, shall be taken to be the rate of interest *per cent per annum*.
5. If having regard to the intervals between successive payments it is desired so to do, the calculation of interest may be made by reference to weeks instead of months, and in such a case the foregoing paragraphs shall have effect as though in paragraph 3 the word "weeks" were substituted for the words "calendar months", and in paragraph 4 the words "one-fifty-second" were substituted for the words "one-twelfth".
6. Where any interval between successive payments is not a number of complete weeks or complete months, the foregoing paragraphs shall have effect as though 1 day were one-seventh part of a week or one-thirtieth part of a month (as the case may be).

Passed by the Hong Kong Legislative Council this 25th day of June 1980.

  
 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.

No. 30 of 1980



I assent.

A handwritten signature in black ink, appearing to be "M. J. [unclear]".

Governor.

**HONG KONG**

No. 30 OF 1980



I assent.

*Governor.*

26 June 1980.

An Ordinance to amend the Pensions Ordinance.

[27 June 1980]

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 Pensions (Amendment) Ordinance 1980. Short title.
2. Section 6 of the principal Ordinance is amended in paragraph (b) by inserting after "(a)" the following— Amendment of section 6. (Cap. 89.)

“(aa)”.
3. Section 17 of the principal Ordinance is amended— Amendment of section 17.
  - (a) in subsection (1) by deleting “\$5,000” and substituting the following—

“\$15,000”;
  - (b) by inserting after subsection (1) the following subsection—

“(1A) In computing a commuted pension gratuity for the purposes of subsection (1) the officer’s service shall be

deemed to include any period of untaken vacation leave for which an *ex gratia* payment corresponding to the salary for that period has been made.”;

- (c) in subsection (2) by deleting “\$5,000” and substituting the following—  
“\$15,000”;

- (d) in subsection (5)(a)(i) by inserting after “(1),” the following—  
“and notwithstanding subsection (1A),”;

- (e) in subsection (5)(b) by inserting after “Regulations” the following—  
“, as modified by subsection (1A),”.

4. Section 18 of the principal Ordinance is amended—

- (a) in subsection (1) by deleting paragraph (c) of the proviso and substituting the following paragraph—

“(c) a pension granted to a child under this section shall cease at the appropriate time provided in subsection (1A).”;

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

“(1A) A pension granted to a child under this section shall cease—

- (a) in the case of a male—

(i) at the age of 18 years unless at the time he attains that age he is receiving full-time education in any university, college, school or other educational establishment; or

(ii) at the time at which he has since attaining the age of 18 years ceased to receive continuous full-time education at any university, college, school or other educational establishment; or

(iii) at the age of 23 years,  
whichever first occurs;

- (b) in the case of a female—

(i) on her marriage; or

(ii) at the age of 21 years unless at the time she attains that age she is receiving full-time education at any university, college, school or other educational establishment; or

(iii) at the time at which she has since attaining the age of 21 years ceased to receive continuous full-time education at any university, college, school or other educational establishment; or

(iv) at the age of 23 years,  
whichever first occurs.

- (1B) (a) For the purposes of subsection (1A), a child on normal university, college, school or other educational establishment holidays or awaiting for a normal period admission to a university, college, school or other educational establishment is receiving full-time education.

Amendment of  
section 18.

- (b) In subsection (1A), university, college, school or other educational establishment means a university, college, school or other educational establishment recognized as such by the Director of Education.”.

5. (1) The Pensions Regulations are amended—

- (a) in regulation 19—

(i) in paragraph (1) by deleting “paragraphs (2) to (8)” and substituting the following—

“paragraphs (2) to (9)”;

(ii) in paragraph (3) by deleting “paragraph (2) or (8)(d)” and substituting the following—

“paragraph (2), (8)(d) or (9)”;

(iii) by inserting after paragraph (8) the following paragraph—

“(9) Where a female officer who—

(a) has, prior to the 17th November 1972, retired from the service by reason of her marriage; and

(b) has not, upon retirement, received a marriage gratuity under these regulations,

is without break in service subsequently re-employed in the service of the Colony, the period of service prior to such retirement shall be taken into account as pensionable service.”; and

- (b) in regulation 26 by inserting after paragraph (8) the following paragraph—

“(8A) Where a non-pensionable female officer who—

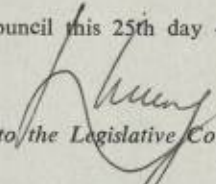
(a) has, prior to the 17th November 1972, retired from the service by reason of her marriage; and

(b) has not, upon retirement, received a marriage gratuity under these regulations,

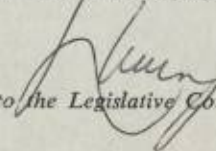
is without break in service subsequently re-employed in the service of the Colony, the period of service prior to such retirement shall be taken into account for the purpose of computing the period of service in respect of which an annual allowance or gratuity may be granted under these regulations.”.

- (2) This section shall be deemed to have come into operation on the commencement of the Pensions Regulations.

Passed by the Hong Kong Legislative Council this 25th day of June 1980.

  
Clerk to the Legislative Council.

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

  
Clerk to the Legislative Council.

Amendment of  
the Pensions  
Regulations.  
(Cap. 89,  
sub. leg.)

No. 31 of 1980



I assent.

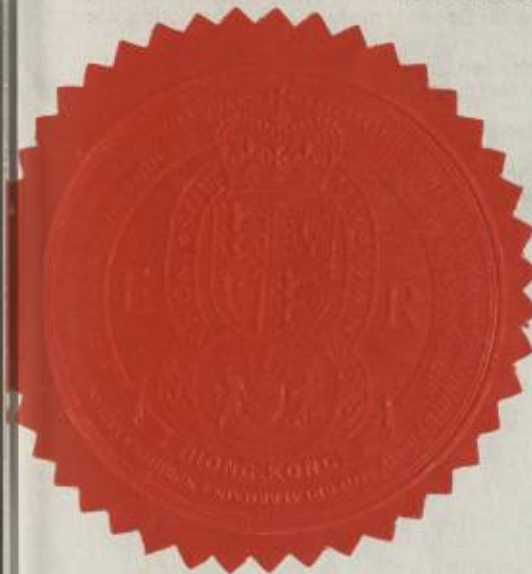
A handwritten signature in black ink, appearing to be 'M. H. S.', written over a horizontal line.

Governor.

26 June 1980

HONG KONG

No. 31 OF 1980



I assent.

*Governor.*

26 June 1980.

An Ordinance to amend the Maintenance Orders (Reciprocal Enforcement) Ordinance.

[27 June 1980]

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

1. This Ordinance may be cited as the Maintenance Orders (Reciprocal Enforcement) (Amendment) Ordinance 1980. Amendment of section 6. (Cap. 188.)
2. Section 6 of the principal Ordinance is amended—
  - (a) in subsection (7) by deleting “the date on which the order was made” and substituting the following—

“the date on which under the provisions of the order the variation is to take effect”; and
  - (b) in subsection (8) by deleting “the date on which the order was made” and substituting the following—

“the date on which under the provisions of the order the revocation is to take effect”.

Amendment of section 9.
3. Section 9 of the principal Ordinance is amended—
  - (a) in subsection (6) by deleting “the date on which the order was made” and substituting the following—

"the date on which they are required to be paid under the provisions of the order"; and

- (b) in subsection (7) by deleting "such date, being a date later than the date on which the order was made," and substituting the following—

"the date on which they are required to be paid under the provisions of the order or such later date".

4. Section 10 of the principal Ordinance is amended—

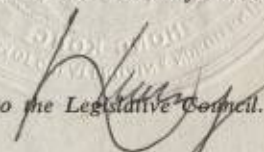
- (a) in subsection (8) by deleting "the date on which the order was made" and substituting the following—

"the date on which under the provisions of the order the variation is to take effect"; and

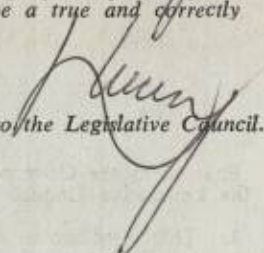
- (b) in subsection (9) by deleting "the date on which the order was made" and substituting the following—

"the date on which under the provisions of the order the revocation is to take effect".

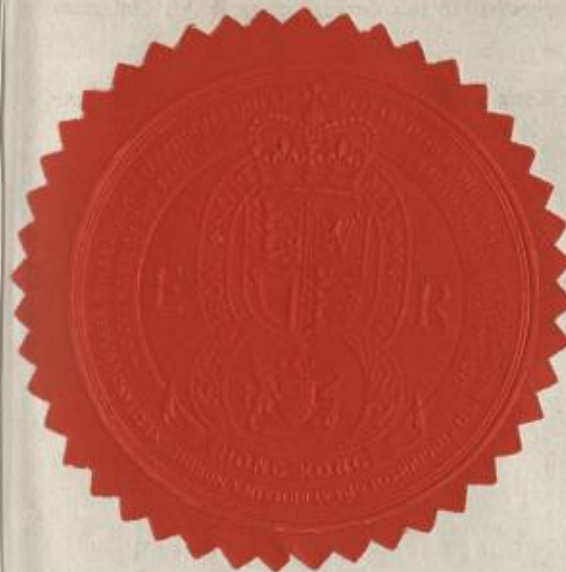
Passed by the Hong Kong Legislative Council this 25th day of June 1980.

  
Clerk to the Legislative Council.

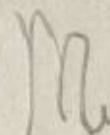
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

No. 32 of 1980



I assent.



Governor  
26 June 1980

subsection (7) by deleting "such date, being a date later than the date on which the order was made," and substituting the following—

"the date on which they are required to be paid under the provisions of the order or such later date".

Section 10 of the principal Ordinance is amended—

subsection (8) by deleting "the date on which the order was made" and substituting the following—

"the date on which under the provisions of the order the variation is to take effect"; and

subsection (9) by deleting "the date on which the order was made" and substituting the following—

"the date on which under the provisions of the order the revocation is to take effect".

Enacted by the Hong Kong Legislative Council this 25th day of June 1980.

*[Signature]*  
Clerk to the Legislative Council.

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

**HONG KONG**

No. 32 OF 1980



I assent.

*[Signature]*

Governor.

26 June 1980.

An Ordinance to protect creditors on the transfer of businesses, to provide for the liability of transferees of business, the manner in which such liability may be avoided and for matters incidental thereto and connected therewith; and to repeal the Fraudulent Transfers of Businesses Ordinance.

[27 June 1980]

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 Transfer of Businesses (Protection of Creditors) Ordinance 1980. Short title.

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

"appeal" includes a motion for a new trial or to set aside a verdict, finding or judgment;

"business" means a business, or any part thereof, consisting of a trade or occupation (other than a profession) whether or not it is carried on with a view to profit;

"charge" means—

- (a) a debenture within the meaning of the Companies Ordinance; (Cap. 32.)
- (b) a mortgage;
- (c) a bill of sale;

- (d) a lien; or
- (e) any document,

under or pursuant to which a business or any assets thereof are charged as security for the payment of money or the performance of an obligation, and includes an equitable charge;

"charge-holder" means a person who, under or pursuant to a charge, and for the purpose of enforcing payment of any money or for the performance of any obligation, may sell any business;

"date of transfer" means the date on which a transfer takes effect or is intended to take effect;

"notice of transfer" means a notice of transfer in accordance with section 5;

"registered charge" means a charge which is registered under—

- (a) the Land Registration Ordinance;
- (b) the Companies Ordinance;
- (c) the Bills of Sale Ordinance; or
- (d) any other enactment;

(Cap. 128.)

(Cap. 32.)

(Cap. 20.)

"transfer" means the transfer or sale of a business, but does not include—

- (a) the sale of the stock-in-trade of a business in the ordinary course of its trade;
- (b) the creation of a charge;
- (c) the transfer of land or any share or interest therein; or
- (d) the transfer of a vessel (or the transfer of any interest or share therein), other than—

(Cap. 313.)

(i) a vessel to which Part IV of the Shipping and Port Control Ordinance applies; or

(Cap. 281.)

(ii) a trawler to which Part XII of the Merchant Shipping Ordinance applies;

"transferee" means the person to whom a business is transferred by a transferor;

"transferor" means—

- (a) in the case of the sale of a business under or pursuant to a charge, the person whose business has been or is intended to be sold;
- (b) in every other case, the person by whom or on whose behalf the transfer has been or is intended to be made.

(2) For the purposes of this Ordinance "transferor" and "transferee" respectively include a sub-transferor and a sub-transferee.

3. (1) Subject to this Ordinance, whenever any business is transferred, with or without the goodwill thereof, the transferee shall, notwithstanding any agreement to the contrary, become liable for all the debts and obligations, including liability for tax charged or chargeable under the Inland Revenue Ordinance, arising out of the carrying on of the business by the transferor.

(2) Notwithstanding subsection (1), where a part of a business is transferred (other than the goodwill thereof) and in any proceedings—

- (a) the transferee would, but for this subsection, be adjudged liable under this Ordinance for any debts and obligations arising out of the carrying on of the business by the transferor; and
- (b) it is shown to the satisfaction of the court hearing the proceedings that—

Transferee of business to be liable for liabilities of transferor.  
(Cap. 112.)

(i) the transferee purchased such part of the business in good faith and for value; and

(ii) at the date of transfer of such part of the business, the transferee had no knowledge (whether actual, constructive or imputed) that what he was acquiring formed part of a business,

the transferee shall not be liable under this Ordinance for the debts and obligations arising out of the carrying on of the business by the transferor.

4. (1) A transferee shall not become liable under section 3 if a notice of transfer has been given not more than 4 months, and not less than 1 month, before the date of transfer and has become complete at the date of transfer.

Circumstances in which the transferee's liability ceases.

(2) Where a notice of transfer has been given but the notice has not become complete at the date of transfer, the liability of the transferee under section 3 shall cease with effect from the date on which the notice of transfer becomes complete.

(3) Where a notice of transfer has not been given before or at the date of transfer, the liability of the transferee under section 3 shall cease with effect from the date on which a notice of transfer, which is given after the date of transfer, becomes complete.

(4) A notice of transfer shall, subject to subsections (5) and (6), become complete upon the expiration of 1 month after the date of the last publication of the notice in accordance with section 5.

(5) Subject to subsection (6), in the case of a notice of transfer referred to—

- (a) in subsection (1), if proceedings are instituted against the transferor in respect of any liability of the transferor arising before such notice has become complete and out of the carrying on of his business; or
- (b) in subsection (2) or (3), if proceedings are instituted against the transferee in respect of any liability of the transferee under section 3 arising before such notice becomes complete,

the notice of transfer shall (for the purposes of such proceedings only) be deemed incomplete pending the final determination of such proceedings, including all possible appeals, and pending the expiration of all periods during which such appeals may be brought.

(6) Where proceedings are instituted, a notice of transfer shall not be deemed incomplete under subsection (5) unless within 1 month of the proceedings being instituted—

- (a) they are served on the transferor or transferee, as the case may be; or
- (b) written notice that they have been instituted is sent by registered post to the last known address of such transferor or transferee.

5. (1) Except in the case of a transfer by way of sale under or pursuant to a charge, a notice of transfer shall contain the following particulars—

- (a) the full name and address of the transferor;
- (b) the nature of the business and the name or style under which, and the full address at which, it has been carried on during the period of 6 months immediately preceding the date of transfer;
- (c) the date of transfer;

Contents of notice of transfer and manner of giving notice.

- (d) the full name and the residential and business addresses of the transferee;
- (e) if the transferee—
- (i) intends to carry on or is carrying on the business, the full address where, and the name and style under which, he is carrying it on or intends to carry it on; or
  - (ii) is not carrying on the business and does not intend to carry it on, a statement to that effect; and
- (f) a statement that at the expiration of 1 month after the date of the last publication of the notice pursuant to subsection (3), the liability of the transferee for all the debts and obligations arising out of the carrying on of the business by the transferor shall cease by virtue of this Ordinance unless proceedings are instituted prior to such expiration.
- (2) In the case of a transfer by way of sale under or pursuant to a charge, a notice of transfer shall contain the following particulars—
- (a) the nature of the business, and the name or style under which, and the full address at which, it has been carried on during the period of 3 months immediately preceding the date of transfer;
  - (b) the full name and address of the person whose business has been, or is intended to be, transferred by way of sale under or pursuant to the charge;
  - (c) details of the charge under or pursuant to which the transfer by way of sale has been or is to be made, sufficient to enable any document creating or evidencing the charge to be readily identified and, without limiting the generality of the foregoing, such details shall include—
    - (i) the date when the charge was made, given, executed or came into existence;
    - (ii) the consideration for which the charge was executed, made or given or, if there was no such consideration, the circumstances in which it came into existence;
    - (iii) in the case of a registered charge, the date of the registration of the charge, the title of any enactment under which it was registered and any number or other means of identifying the charge assigned to it upon registration;
  - (d) the date of transfer; and
  - (e) the amount of money, payment of which has been secured by the charge and which was owing—
    - (i) at the date of the publication of the notice of transfer; or
    - (ii) if the transfer has already taken effect, at the date of the transfer so taking effect.
- (3) Every notice of transfer shall be signed—
- (a) by both the transferor and the transferee, in the case of a transfer to which subsection (1) applies; or
  - (b) by the charge-holder and the transferee, in the case of a transfer to which subsection (2) applies,
- and shall be given by publication in—
- (i) the *Gazette*;
  - (ii) any 2 of such Chinese language newspapers circulating in Hong Kong as may be approved for the purpose by the Secretary for Home Affairs; and

(iii) 1 English language newspaper circulating in Hong Kong which has been so approved.

6. (1) The transferee shall be entitled to be indemnified—

- (a) by the transferor, except in the case of a transfer by way of sale under or pursuant to a charge; or
- (b) by the charge-holder, if the transfer is by way of sale under or pursuant to a charge,

Right of transferee to indemnity.

for all amounts for which the transferee is made liable under this Ordinance and for which he would not otherwise be liable.

(2) The amount of such an indemnity may be recovered by civil proceedings as a debt or liquidated demand.

7. Nothing in this Ordinance shall relieve or be deemed to relieve a transferor or transferee, or any person who sells a business under or pursuant to a charge, from any liability to which he would otherwise be subject.

Liability of parties not affected.

8. (1) A transferee who in good faith and without preference has paid in discharge or partial discharge of any liability for which he became liable under this Ordinance, and for which he would not otherwise have been liable, an amount which is equal to the value of the business acquired by him, at the date on which the transfer took effect, shall not be liable further under this Ordinance.

Limitation of liability of transferee.

(2) The value of a business acquired by a transferee at the date on which the transfer takes effect shall, until the contrary is proved, be presumed to be an amount equal to the amount paid or agreed to be paid (whether in terms of money or by means of any other consideration) for the acquisition of the business.

9. Subject to section 6, no action shall be instituted to recover any debt from or to enforce any obligation against any person liable therefor under this Ordinance, and for which he would not otherwise have been liable, more than 1 year after the date on which the transfer in respect of which the liability arose took effect.

Limitation of time for institution of proceedings.

10. This Ordinance shall not apply to any transferee where the transfer is effected—

Saving.

- (a) by the Official Receiver or a trustee in bankruptcy;
- (b) by the liquidator of a company in liquidation other than voluntary liquidation;
- (c) by the Colonial Treasurer Incorporated;
- (d) by the Director of Education Incorporated;
- (e) by the Director of Social Welfare Incorporated;
- (f) by a person selling under or pursuant to a charge which has been registered for not less than 1 year at the date when the transfer takes effect;
- (g) pursuant to any order or direction of any court;
- (h) by an executor or administrator; or
- (i) by operation of law.

11. (1) The Fraudulent Transfers of Businesses Ordinance is repealed.

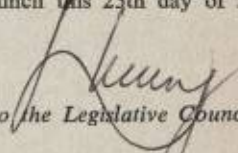
Repeal and saving. (Cap. 49.)

(2) Notwithstanding subsection (1), the Fraudulent Transfers of Businesses Ordinance shall continue to apply with respect to a transfer—

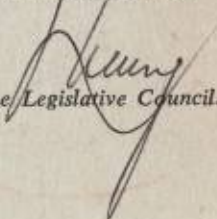
- (a) which took effect; and
- (b) in respect of which notice was given under section 3 of that Ordinance,

before the coming into operation of this Ordinance, as if this Ordinance had not been passed.

Passed by the Hong Kong Legislative Council this 25th day of June 1980.

  
Clerk to the Legislative Council.

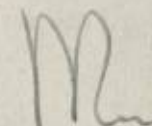
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

No. 33 of 1980



I assent.

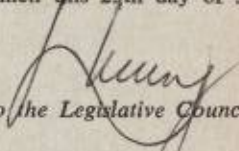


Governor.

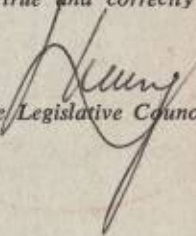
10 July 1980

respect of which notice was given under section 3 of that Ordinance, coming into operation of this Ordinance, as if this Ordinance had been passed.

by the Hong Kong Legislative Council this 25th day of June

  
Clerk to the Legislative Council.

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

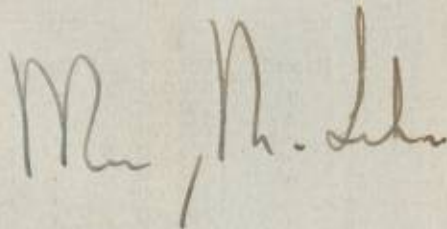
  
Clerk to the Legislative Council.

**HONG KONG**

No. 33 OF 1980



I assent.



Governor.

10 July 1980.

An Ordinance to amend the Estate Duty Ordinance.

[11 July 1980]

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 Estate Duty (Amendment) Ordinance 1980. Short title.

2. Section 3(1) of the principal Ordinance is amended in the definition of "applicable Schedule" by deleting "means the Thirteenth Schedule" and substituting the following— Amendment of section 3. (Cap. 111.)

"but before the commencement of the Estate Duty (Amendment) Ordinance 1980 means the Thirteenth Schedule, and in the case of persons dying on or after the commencement of the Estate Duty (Amendment) Ordinance 1980 means the Fourteenth Schedule".

3. Section 35(4) of the principal Ordinance is amended by deleting "Fourteenth" and substituting the following— Amendment of section 35.  
"Fifteenth".

4. The Thirteenth Schedule to the principal Ordinance is amended by deleting "until this Schedule is superseded" and substituting the following— Amendment of Thirteenth Schedule.

"before the commencement of the Estate Duty (Amendment) Ordinance 1980".

Renumbering of Fourteenth Schedule and insertion of new Fourteenth Schedule.

5. The principal Ordinance is amended—
- (a) by renumbering the Fourteenth Schedule as the Fifteenth Schedule; and
  - (b) by inserting before the Fifteenth Schedule (as so renumbered) the following new Schedule—

"FOURTEENTH SCHEDULE [ss. 3, 5, 14, 16, 17, 23, 24 & 27.]

(Persons dying on or after the commencement of the Estate Duty (Amendment) Ordinance 1980 and until this Schedule is superseded)

Where the principal value of the estate		Estate duty shall be payable at the rate per cent of
\$	\$	
Exceeds 600,000 and does not exceed	650,000	10
" 650,000 " " " "	700,000	11
" 700,000 " " " "	800,000	12
" 800,000 " " " "	900,000	13
" 900,000 " " " "	1,000,000	14
" 1,000,000 " " " "	1,500,000	15
" 1,500,000 " " " "	2,000,000	16
" 2,000,000 " " " "	3,000,000	17
" 3,000,000 .....		18

Passed by the Hong Kong Legislative Council this 9th day of July 1980.

*[Signature]*  
Clerk to the Legislative Council.

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

*[Signature]*  
Clerk to the Legislative Council.



I assent.

*[Signature]*

Governor.

10 July 1980.

principal Ordinance is amended—  
 renumbering the Fourteenth Schedule as the Fifteenth  
 Schedule; and  
 inserting before the Fifteenth Schedule (as so renumbered)  
 the following new Schedule—

"FOURTEENTH SCHEDULE [ss. 3, 5, 14, 16,  
 17, 23, 24 & 27.]

dying on or after the commencement of the Estate  
 Duty (Amendment) Ordinance 1980 and until this  
 Schedule is superseded)

the principal value of the estate		Estate duty shall be payable at the rate per cent of
\$	\$	
0,000 and does not exceed	650,000	10
0,000 " " " "	700,000	11
0,000 " " " "	800,000	12
0,000 " " " "	900,000	13
0,000 " " " "	1,000,000	14
0,000 " " " "	1,500,000	15
0,000 " " " "	2,000,000	16
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0,000 .....		18

HONG KONG

No. 34 OF 1980



I assent.

*[Handwritten signature]*

Governor.

10 July 1980.

An Ordinance to amend the Inland Revenue Ordinance.

[11 July 1980]

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

1. (1) This Ordinance may be cited as the Inland Revenue (Amendment) (No. 2) Ordinance 1980 and, subject to subsection (2), shall apply to the year of assessment commencing on 1 April 1979 and subsequent years of assessment. Short title and application.

(2) As respects the year of assessment commencing on 1 April 1979, this Ordinance shall not apply to any person assessed under section 18D(2) of the principal Ordinance prior to 27 February 1980.

2. Section 18D of the principal Ordinance is amended by inserting after subsection (2) the following— Amendment of section 18D. (Cap. 112.)

"(2A) Where a person ceases to carry on a relevant trade, profession or business on or after 1 April 1979, the following amount shall be treated as assessable profits therefrom for the year of assessment in which the cessation occurs and shall be in addition to the assessable profits therefrom which, apart from this subsection, fall to be computed for that year of assessment—

(a) in the case of an excepted trade, profession or business, the amount, if any, by which the relevant profits therefrom

arising in or derived from the Colony during the relevant period exceed the transitional amount;

- (b) in the case of any other relevant trade, profession or business, the full amount of any relevant profits therefrom arising in or derived from the Colony during the relevant period;

and, for the purposes of this subsection, profits are "relevant profits" if, but for subsection (2) and apart from Part VI, the assessable profits for that year of assessment would have included those profits, and—

"excepted trade, profession or business" means a relevant trade, profession or business referred to in the definition in this subsection of "transitional amount";

"relevant period" means the period beginning on the day next following the end of the basis period for the year preceding the year of assessment in which the cessation occurs and ending on 31 March in the year preceding the year of assessment in which the cessation occurs;

"relevant trade, profession or business" means a trade, profession or business to which subsection (2) applies and in the case of which the basis period for the year preceding the year of assessment in which the cessation occurs ends on a day other than 31 March;

"transitional amount" means—

- (a) where the assessable profits from a relevant trade, profession or business for the year of assessment commencing on 1 April 1974 fell to be computed under section 18(2) on the amount of profits therefrom for the year ending on a day other than 31 March in the year preceding that year of assessment, the amount of profits from the relevant trade, profession or business arising in or derived from the Colony during the period beginning on the day next following the corresponding day in that year of assessment and ending on 31 March 1975;
- (b) where the assessable profits from a relevant trade, profession or business for the year of assessment commencing on 1 April 1974 fell to be computed under section 18A(2), the amount of profits from the relevant trade, profession or business arising in or derived from the Colony during the period beginning on the day next following the end of the basis period for that year of assessment and ending on 31 March 1975;

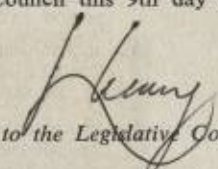
and where a loss was incurred in the carrying on of a relevant trade, profession or business referred to in paragraph (a) or (b) of this definition during the period therein referred to, "transitional amount", in relation to that trade, profession or business, shall be construed to mean a nil amount."

Amendment of  
section 18E.

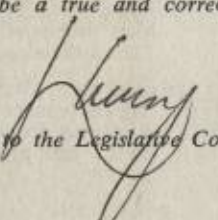
3. Section 18E of the principal Ordinance is amended by inserting after subsection (3) the following—

"(4) For the purposes of section 18D(2A), where in the case of a trade, profession or business it is necessary in order to arrive at the profits or losses for any period to divide or apportion to specific periods the profits and losses for any period for which accounts have been made up, or to aggregate any such profits or losses or any apportioned parts thereof, the Commissioner may make such division and apportionment or aggregation as he may deem proper in that case."

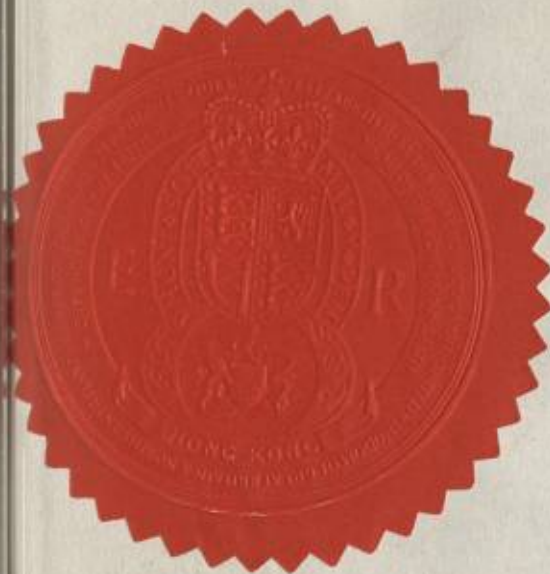
Passed by the Hong Kong Legislative Council this 9th day of July 1980.

  
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.

No. 35 OF 1980



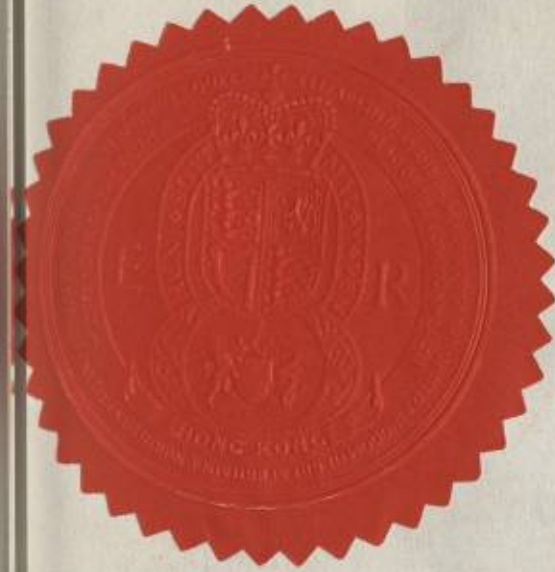
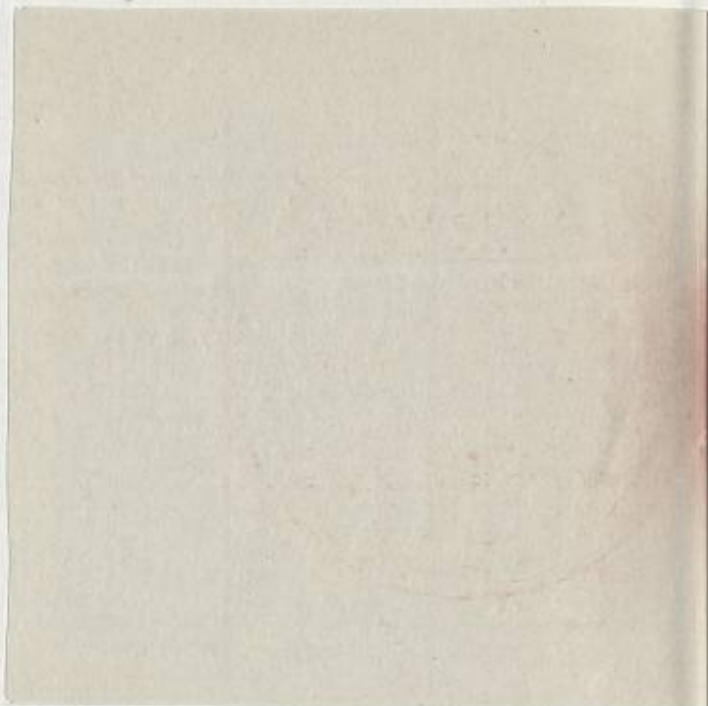
I assent

A handwritten signature in black ink, appearing to be "M. H. M." or similar.

Governor

**HONG KONG**

No. 35 of 1980



I assent.

*Governor.*

10 July 1980.

An Ordinance to provide for the collection of statistical information from banks and deposit-taking companies.

[ ]

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 Monetary Statistics Ordinance 1980, and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*. Short title and commencement.

2. In this Ordinance, unless the context otherwise requires—  
"bank" means a bank licensed under the Banking Ordinance; Interpretation.  
(Cap. 155.)  
"deposit-taking company" means a company registered as a deposit-taking company under the Deposit-taking Companies Ordinance; (Cap. 328.)  
"Secretary" means the Secretary for Monetary Affairs.

3. (1) Every bank any every deposit-taking company shall, within 14 days after the last day of each calendar month, submit to the Secretary in a form specified by him a return setting out such statistical information relating to the assets and liabilities of its offices and branches as he may require for the purpose of measuring developments in the monetary sector. Returns.

(2) In addition to any return required by subsection (1) the Secretary may, by notice in writing, call upon any bank or deposit-taking company to submit to him, within a time and in a form specified in the notice, such other return or such further or fuller return of statistical information as he may require for the purpose of measuring developments in the monetary sector.

(3) The Secretary may require any return or information submitted to him pursuant to a requirement under this section to be accompanied by a certificate of the auditors of the bank or deposit-taking company as to whether or not, in the opinion of the auditors, the return or information is correctly compiled from the books and records of the bank or deposit-taking company.

Secrecy.

4. (1) The Secretary and every person who is or has been authorized by him to have access to returns and information submitted by banks and deposit-taking companies under this Ordinance shall preserve and aid in preserving secrecy with regard to all such returns and information.

(2) Neither the Secretary nor any other person shall disclose to any unauthorized person any return or information submitted by any bank or deposit-taking company under this Ordinance.

(3) Neither the Secretary nor any other person shall suffer or permit any unauthorized person to have access to any return or information submitted by any bank or deposit-taking company under this Ordinance.

(4) Except in respect of a prosecution under this Ordinance, no return or information submitted by any bank or deposit-taking company under this Ordinance shall be disclosed or used in any proceedings, and neither the Financial Secretary nor the Secretary nor any person who has been authorized to have access to any such return or information shall be compellable in any proceedings to produce or give evidence regarding any such return or information.

(5) Nothing in subsection (2) shall apply to the disclosure of information—

- (a) by the Secretary to the Financial Secretary;
- (b) in the form of a summary of similar information provided by a number of banks or deposit-taking companies if the summary is so framed as to prevent particulars relating to the business of any particular bank or deposit-taking company being ascertained from it; or
- (c) to any court or magistrate for the purpose of proceedings instituted for an offence under this Ordinance.

Offences.

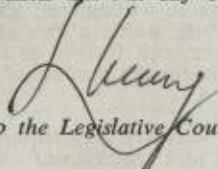
5. (1) Any person who contravenes section 4 commits an offence and is liable on conviction to a fine of \$50,000 and to imprisonment for 2 years.

(2) Any person who—

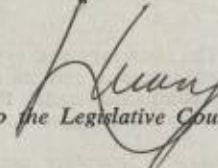
- (a) refuses or fails to submit any return or information which he is required to submit under this Ordinance; or
- (b) wilfully or negligently makes any false return, or gives any false information, or misleads or attempts to mislead the Secretary,

commits an offence and is liable on conviction to a fine of \$50,000 and in the case of a continuing offence, to a further fine of \$2,000 for every day during which the offence continues.

Passed by the Hong Kong Legislative Council this 9th day of July 1980.

  
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.

No. 36 of 1980



I assen


A handwritten signature in black ink, appearing to be "M. H. H."

Govern

**HONG KONG**

No. 36 OF 1980

I assent.



*M. N. S. Leung*

Governor.

10 July 1980.

An Ordinance to amend the Road Traffic Ordinance.

[11 July 1980]

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) Ordinance 1980. Short title.

2. Section 29 of the principal Ordinance is amended—

(a) by inserting after subsection (5) the following—

Amendment of  
section 29.  
(Cap. 220.)

“(5A) Without prejudice to subsection (5), any court or magistrate before whom a person is convicted of an offence under that subsection—

(a) may disqualify such person from holding or obtaining a driving licence for such period as the court or magistrate thinks fit; and

(b) shall have regard to the facts of the alleged offence in considering—

(i) the amount of any fine, or period of imprisonment, to be imposed; and

(ii) the period, if any, for which to order such person to be disqualified, for the offence under subsection (5).";

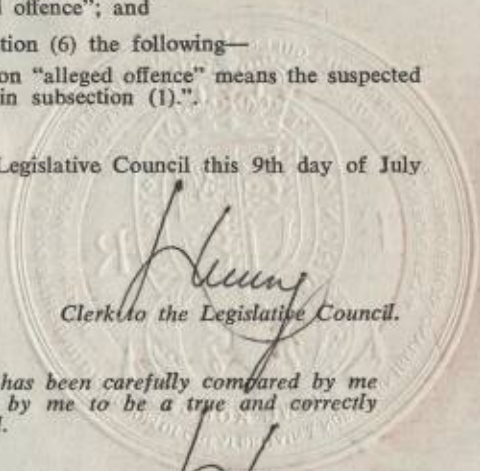
(b) in subsection (6) by deleting "suspected offence referred to in subsection (1)" and substituting the following—

"alleged offence"; and

(c) by inserting after subsection (6) the following—

"(7) In this section "alleged offence" means the suspected offence referred to in subsection (1)."

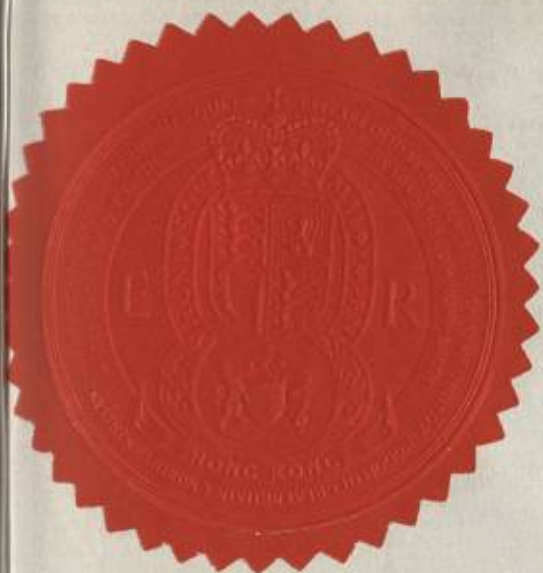
Passed by the Hong Kong Legislative Council this 9th day of July 1980.



*Heung*  
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.*

*Heung*  
Clerk to the Legislative Council.



I assent.

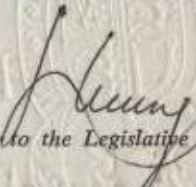
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Governor.

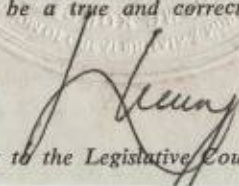
10 July 1980.

person to be disqualified,  
for the offence under subsection (5).";  
section (6) by deleting "suspected offence referred to in  
subsection (1)" and substituting the following—  
"alleged offence"; and  
starting after subsection (6) the following—  
"(7) In this section "alleged offence" means the suspected  
offence referred to in subsection (1)."

The Hong Kong Legislative Council this 9th day of July

  
Clerk to the Legislative Council.

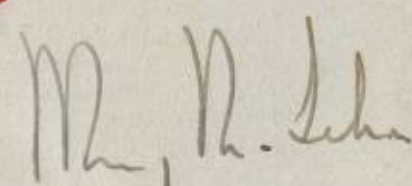
A printed impression has been carefully compared by me  
with the original and is found by me to be a true and correct  
copy of the said bill.

  
Clerk to the Legislative Council.

**HONG KONG**

No. 37 OF 1980

I assent.

  
Governor.

10 July 1980.

An Ordinance to amend the Dangerous Drugs Ordinance.

[11 July 1980]

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 Dangerous Drugs (Amend- Short title.  
ment) Ordinance 1980.

2. Section 4(1)(b) and (c) of the principal Ordinance is amended by Amendment of  
inserting after "drug" wherever it occurs, the following— section 4.  
"or in a substance he believes to be a dangerous drug". (Cap. 134.)

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

"Trafficking  
in purported  
dangerous  
drug.

4A. (1) No person shall, on his own behalf or on  
behalf of any other person, whether or not such other  
person is in Hong Kong—

- (a) traffic in any substance represented or held out by  
him to be a dangerous drug but which is not in  
fact a dangerous drug;
- (b) offer to traffic in any substance represented or held  
out by him to be a dangerous drug but which is  
not in fact a dangerous drug; or

(c) do or offer to do an act preparatory to or for the purpose of trafficking in any substance represented or held out by him to be a dangerous drug but which is not in fact a dangerous drug.

(2) Subsection (1) shall apply whether or not the substance represented or held out to be a dangerous drug is in Hong Kong or is to be imported into Hong Kong or is ascertained, appropriated or in existence.

(3) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall be liable—

(a) on conviction on indictment, to a fine of \$500,000 and to imprisonment for 7 years; and

(b) on summary conviction, to a fine of \$100,000 and to imprisonment for 1 year.

(4) No prosecution for an offence under this section shall be instituted without the consent in writing of the Attorney General, but this subsection shall not prevent the arrest, or the issue of a warrant for the arrest, of a person for any such offence, or the remand in custody or on bail of a person charged with such an offence."

Amendment of Third Schedule.

4. Item 1 in the Third Schedule to the principal Ordinance is amended by inserting at the top of the column headed "Other offences of which defendant may be convicted" the following—

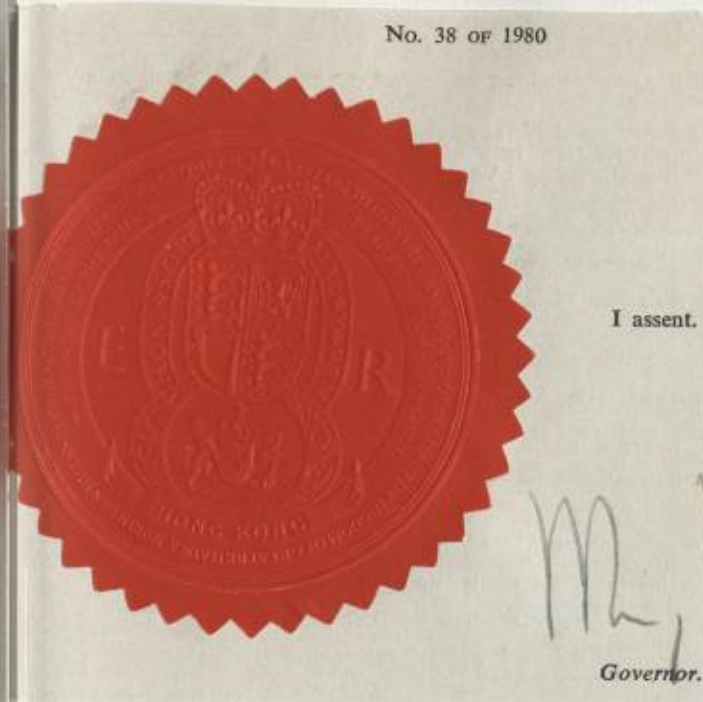
"Trafficking in a substance represented or held out to be a dangerous drug (section 4A)".

Passed by the Hong Kong Legislative Council this 9th day of July 1980.

*[Signature]*  
Clerk to the Legislative Council.

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

*[Signature]*  
Clerk to the Legislative Council.



I assent.

*[Signature]*  
Governor.

purpose of trafficking in any substance represented or held out by him to be a dangerous drug but which is not in fact a dangerous drug.

(2) Subsection (1) shall apply whether or not the substance represented or held out to be a dangerous drug is in Hong Kong or is to be imported into Hong Kong or is ascertained, appropriated or in existence.

(3) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall be liable—

(a) on conviction on indictment, to a fine of \$500,000 and to imprisonment for 7 years; and

(b) on summary conviction, to a fine of \$100,000 and to imprisonment for 1 year.

(4) No prosecution for an offence under this section shall be instituted without the consent in writing of the Attorney General, but this subsection shall not prevent the arrest, or the issue of a warrant for the arrest, of a person for any such offence, or the remand in custody or on bail of a person charged with such an offence."

Item 1 in the Third Schedule to the principal Ordinance is amended by inserting at the top of the column headed "Other offences of commandant may be convicted" the following—

trafficking in a substance represented or held out to be a dangerous drug (section 4A)".

Enacted by the Hong Kong Legislative Council this 9th day of July

## HONG KONG

No. 38 of 1980



I assent.

Governor.

10 July 1980.

An Ordinance to amend the Royal Hong Kong Auxiliary Police Force Ordinance; and to make a consequential amendment to the Auxiliary Forces Pay and Allowances Ordinance.

[11 July 1980]

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 Royal Hong Kong Auxiliary Police Force (Amendment) Ordinance 1980. Short title.

2. Section 2 of the principal Ordinance is amended—

(a) in the definition of "Commandant" by deleting "and" and substituting the following—

"or";

(b) in the definition of "Commissioner" by inserting after "Police" the following—

"or a deputy commissioner";

(c) in the definition of "constable" by deleting "corporal" and substituting the following—

"sergeant";

Amendment of section 2. (Cap. 233.)

- (d) in the definition of "duty" by inserting after "18" the following—  
 ", and a member shall be deemed to be on duty while proceeding to or returning from duty";
- (e) by deleting the definition of "gazetted officer" and substituting the following—  
 "gazetted officer" means a member holding any rank between the rank of Commandant and the rank of superintendent (Auxiliary), both inclusive;";
- (f) in the definition of "inspector" by deleting "auxiliary inspector of police" and substituting the following—  
 "inspector of police (Auxiliary)"; and
- (g) in the definition of "regular gazetted police officer" by deleting "assistant".

Amendment of section 6.

3. Section 6 of the principal Ordinance is amended—

- (a) in subsection (1)—  
 (i) by deleting "or resignation" in the first place where it occurs and substituting the following—  
 ", resignation or being invalidated out"; and  
 (ii) by deleting paragraph (a) and substituting the following—  
 "(a) any member who holds the rank of superintendent (Auxiliary) or above on retirement, resignation or being invalidated out of the Force; and"; and
- (b) in subsection (2) by deleting "or resignation" and substituting the following—  
 ", resignation or being invalidated out".

Amendment of section 9.

4. Section 9(1) of the principal Ordinance is amended by inserting after "promoted" the following—  
 ", reduced in rank".

Amendment of section 10.

5. Section 10 of the principal Ordinance is amended—

- (a) by deleting "prefixed by the word "Auxiliary"" and substituting the following—  
 "suffixed by the word in brackets "(Auxiliary)"; and
- (b) by deleting "A" and substituting the following—  
 "(A)".

Amendment of section 12.

6. Section 12(1) of the principal Ordinance is amended—

- (a) by deleting "of a departmental nature"; and
- (b) by deleting "Departmental" and substituting the following—  
 "Headquarters".

Amendment of section 13.

7. Section 13 of the principal Ordinance is amended—

- (a) by deleting "the regular" and substituting the following—  
 "any regular"; and
- (b) by deleting "the Staff Officer" and substituting the following—  
 "a Staff Officer".

8. Section 16 of the principal Ordinance is amended—

Amendment of section 16.

- (a) in subsection (2)—  
 (i) by deleting "departmental"; and  
 (ii) by deleting "duty" and substituting the following—  
 "active service";
- (b) in subsection (3), by deleting "duty" and substituting the following—  
 "active service";
- (c) in subsection (4), by deleting "or duty" wherever it occurs; and
- (d) in subsection (5), by inserting after "subsection (1)" the following—  
 "or (2), as the case may be".

9. Section 17 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 17.

"Powers and functions of members when on duty. (Cap. 232.)

17. (1) Every member when on duty may, subject to any direction by the Commissioner, perform any of the duties of the Police Force under section 10 of the Police Force Ordinance and exercise and perform any of the powers, duties or functions conferred or imposed upon a police officer by sections 50 to 59, both inclusive, of the Police Force Ordinance and by any other Ordinance.

(2) In the exercise and performance of any power, duty or function by virtue of subsection (1), a member shall be deemed to be a police officer and section 60 of the Police Force Ordinance shall apply to a member in respect of any act done by him in obedience to a warrant of a magistrate as it applies to a police officer."

10. Section 18 of the principal Ordinance is amended by deleting "who volunteers for duty, and every member so employed shall, while so employed and while proceeding to and returning from duty, have the same powers and protection as are conferred by section 17 upon a member who has been called out for duty" and substituting the following—  
 "for duty who volunteers for such".

Amendment of section 18.

11. Section 19 of the principal Ordinance is amended—

Amendment of section 19.

- (a) by being renumbered as subsection (1) thereof;
- (b) in subsection (1)(c) by inserting after "so" the following—  
 "or when he ceases to be a member for whatever reason"; and
- (c) by inserting after subsection (1) the following—  
 "(2) Notwithstanding subsection (1), any member failing to produce or deliver up, under subsection (1)(c), any property issued to him or placed under his control shall be guilty of an offence and shall be liable to a fine of \$500 and to imprisonment for 3 months."

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

Repeal and replacement of section 20.

"Offence of failing to serve as directed."

20. Any member who fails, without reasonable excuse, to serve as directed by any lawful order under section 16 or as directed by the Commissioner, shall be guilty of an offence and shall be liable to a fine of \$1,000 and to imprisonment for 6 months."

Amendment of the Auxiliary Forces Pay and Allowances Ordinance. (Cap. 254.)

13. Section 2 of the Auxiliary Forces Pay and Allowances Ordinance is amended, in paragraph (b) of the definition of "limited call out", by deleting "departmental".

Passed by the Hong Kong Legislative Council this 9th day of July 1980.

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

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

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

No. 39 OF 1980



I assent.

*[Handwritten Signature]*

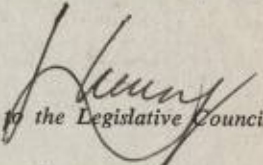
Governor.

10 July 1980

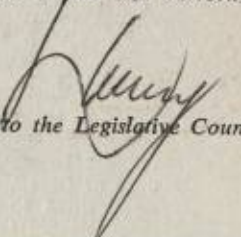
or as directed by the Commissioner, shall be guilty of an offence and shall be liable to a fine of \$1,000 and to imprisonment for 6 months."

tion 2 of the Auxiliary Forces Pay and Allowances Ordinance in paragraph (b) of the definition of "limited call out", by "departmental".

by the Hong Kong Legislative Council this 9th day of July

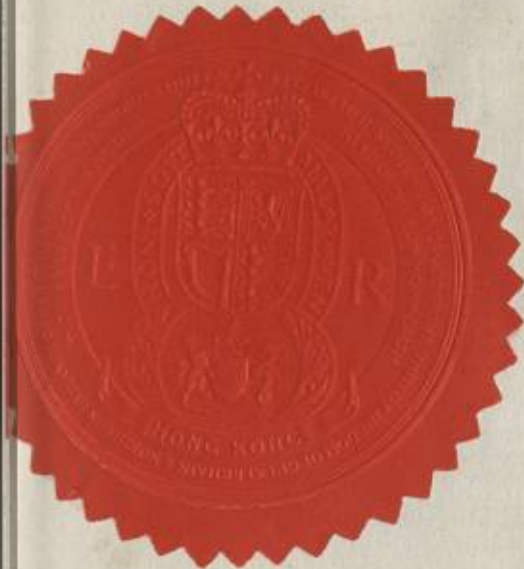
  
Clerk to the Legislative Council.

is printed impression has been carefully compared by me  
the bill, and is found by me to be a true and correctly  
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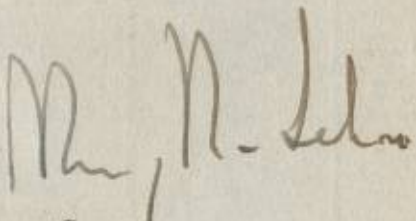
  
Clerk to the Legislative Council.

**HONG KONG**

No. 39 OF 1980



I assent.

  
Governor.

10 July 1980.

An Ordinance to provide for the creation of easements in and over land in favour of certain undertakings which generate, transmit or distribute electricity; and for matters incidental thereto and connected therewith.

[11 July 1980]

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 Electricity Networks (Statutory Easements) Ordinance 1980. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.  
"approved scheme" means a scheme approved by the Secretary for the Environment for the purposes of section 3;  
"electric line" means a wire, cable, conductor or other means of transmitting or distributing electricity from one location to another above or below ground, and any casing, coating, covering, tube, pipe, insulator, pole, mast or pylon enclosing, surrounding or supporting the same or any part thereof or any apparatus or ancillary facilities connected therewith;  
"electricity network" means a system for the transmission or distribution of electrical energy consisting of one or more electric lines, but does not include any such system which is in operation at the commencement of this Ordinance;

"owner", in relation to any land, means—

- (a) a person registered or entitled to be registered as owner of such land in the Land Office;
- (b) a person having any estate or interest in such land, or in lawful occupation thereof, under an instrument registered in the Land Office;

"power company" means a person or any body of persons, corporate or unincorporate, by whom electricity is generated or transmitted or distributed;

"route" means the alignment of the electric lines of an electricity network as specified by the terms of the approved scheme relating to such electricity network;

"terms", in relation to an approved scheme, includes the conditions, specifications, restrictions and other stipulations contained therein, and any plans, maps, drawings or other documents forming part thereof or referred to therein;

"works" means the construction, operation, maintenance, repair or replacement of an electricity network or any part thereof, or the investigation or examination thereof or of any land situated on the route thereof.

Provisions of Ordinance to apply to power company by order of Governor in Council.

3. (1) Where the Governor in Council is satisfied that a power company is carrying out or is about to carry out any works relating to an electricity network across any land in Hong Kong in accordance with the terms of a scheme approved by the Secretary for the Environment for the purposes of this section, the Governor in Council may, at the request of the company made in writing to the Secretary for the Environment, order that the provisions of this Ordinance shall apply to the company for the purpose of enabling the company to carry out such works in accordance with the approved scheme.

(2) Before an order is made under this section in respect of an electricity network, the approved scheme relating thereto shall be deposited in the Land Office.

(3) It shall be sufficient for the purposes of an order made under this section to refer therein to an approved scheme by the description and date assigned thereto in the Land Office for the purposes of subsection (2).

Statutory easements.

4. (1) Subject to this Ordinance, a power company specified in an order made under section 3 may, in accordance with the terms of the approved scheme relating to the electricity network in respect of which the order is made, exercise from time to time all or any of the following rights in or over land situated on the route of such electricity network—

- (a) the right to place and retain any electric line above or below ground across such land; and
- (b) the right to carry out any works required for the purposes of paragraph (a) on such land, including the right to excavate, drain, remove or cover over any part of the soil of such land, and to lop, cut or remove any trees, shrubs, growing crops or vegetation of any kind on such land which obstruct or interfere with any electric line; and
- (c) the right to enter on and pass over or under such land with such persons, animals, vehicles and equipment and to do all such acts thereon as may be necessary for or incidental to the exercise of any right conferred by this section,

but nothing in this section shall authorize the power company to place, construct, erect or retain any permanent structure, pole, mast or pylon on such land.

(2) In this section "land" does not include unleased land within the meaning of the Crown Lands Ordinance which is not occupied under Part II of that Ordinance. (Cap. 28.)

5. (1) The rights conferred by section 4 shall not be exercisable in or over any land by virtue of an order made under section 3 unless the order is registered under the Land Registration Ordinance. Easements not to have effect until order registered. (Cap. 128.)

(2) It shall be the duty of the power company specified in an order made under section 3 to register the order under the Land Registration Ordinance not later than 14 days after the date of publication of the order in the *Gazette*.

6. (1) Where an order made under section 3 is registered under the Land Registration Ordinance, the power company specified in the order shall, once in each of 2 consecutive weeks, publish in 2 Chinese language newspapers and an English language newspaper an advertisement containing the matters specified in subsection (2) in respect of such order: Registration of order to be advertised in press. (Cap. 128.)

Provided that—

- (a) such period of 2 consecutive weeks shall, for the purposes of this section, be deemed to commence on the date of publication of the first such advertisement;
  - (b) the first such advertisement shall be so published not later than 14 days after the date of registration of such order.
- (2) An advertisement published under this section shall contain—
- (a) a statement of the fact that an order made under section 3 has been registered under the Land Registration Ordinance;
  - (b) the number and date of the order, the date of registration and the number of the memorial thereof;
  - (c) particulars of the land affected by the order;
  - (d) a statement of the rights exercisable in or over such land under this Ordinance;
  - (e) the name and business address of the power company specified in the order; and
  - (f) a statement that claims for compensation under section 10 may be submitted in writing to the company at that address not later than 12 months after the date of registration of the order and, if the parties fail to agree, to the Lands Tribunal for final determination.

7. (1) The Governor may, at the request in writing (addressed to the Secretary for the Environment) of a power company specified in an order made under section 3, direct that the terms of the approved scheme in respect of which the order is made shall be rectified, modified or varied in such manner and to such extent as may be agreed in writing by the company and the Secretary for the Environment, and any such agreement shall be deposited in the Land Office and annexed to the copy of the scheme deposited therein under section 3(2).

Rectification etc. of approved scheme.

(2) Where an agreement for the rectification, modification or variation of the terms of an approved scheme is deposited in the Land Office under subsection (1), the Governor may by order declare that, subject to subsection (3), the approved scheme shall have effect subject to such rectification, modification or variation, as the case may be; and any reference in this Ordinance or any order thereunder to an approved scheme shall be construed as including a reference to an approved scheme as so rectified, modified or varied.

(3) Where the terms of an approved scheme are rectified, modified or varied by an order made under subsection (2) in such manner or to such extent that—

- (a) any part of the route of the electricity network comprised in the scheme is altered; or
- (b) any reference therein to land is added or substituted,

the rights conferred by section 4 shall not be exercisable in or over any land affected by the part of the route which is so altered or in respect of which such reference is so added or substituted unless the order is registered under the Land Registration Ordinance.

(Cap. 128.)

(4) Sections 5(2) and 6 shall apply in relation to the registration of an order made under subsection (2) as they apply in relation to the registration of an order made under section 3.

8. (1) Subject to this Ordinance, where—

- (a) a power company specified in an order made under section 3 intends to carry out any works relating to the electricity network in respect of which the order is made; and
- (b) it is necessary for that purpose for the company's officers, servants or agents or other persons authorized by the company to enter on and cross over any land in order to gain access to the site of such works,

the company, its officers, servants or agents or other persons authorized by the company in that behalf may enter on and cross over such land to and from such site with such persons, animals, vehicles and equipment as may be necessary for or incidental to the carrying out of such works.

(2) Nothing in this section shall apply to unleased land within the meaning of the Crown Lands Ordinance which is not occupied under Part II of that Ordinance.

(Cap. 28.)

9. (1) Subject to this section, a power company shall, before exercising any right conferred by section 4 or 8 in respect of any land, serve notice of its intention to do so on the owner of the land; and for the purposes of this section notice shall be deemed to have been duly served on the owner of land if, but only if—

- (a) it is delivered to him; or
- (b) it is sent by registered post addressed to him at his last postal address known to the power company; or
- (c) where the owner is not known or cannot be found or for any reason it is not practicable to serve the notice in accordance with paragraph (a) or (b), it is published—
  - (i) in the *Gazette*; and
  - (ii) in 2 Chinese language newspapers and an English language newspaper,

not less than 30 days prior to the exercise of such right:

Provided that in the case of emergency, a power company intending to exercise any such right in respect of any land may notify the owner of such land of its intention in such manner as the power company may deem practicable in the circumstances of the case, and subsections (2), (3) and (4) shall not apply to such case.

(2) Where the owner of any land on whom notice is served by a power company under subsection (1) wishes to object to the exercise by the power company of any rights to which the notice refers, he shall,

Right of access over other land.

Restrictions on exercise of rights under section 4 or 8.

before the expiration of the period of such notice, notify the power company in writing of his objection and the grounds thereof, and the power company shall, unless the objection is sooner withdrawn or resolved, deliver particulars in writing thereof to the Secretary for the Environment not later than 14 days after the expiration of such period.

(3) Where particulars of any objection are delivered to the Secretary for the Environment under subsection (2), he may direct a public officer to attend, within a period of not more than 30 days after the date of delivery of such particulars, on the owner by whom the objection is made and the power company, respectively, and to receive and record any representations as to the matters in dispute put forward by the owner or the power company, as the case may be, and to submit a report in respect thereof for the consideration of the Secretary for the Environment.

(4) The Secretary for the Environment shall consider any objection of which particulars are delivered to him under subsection (2) and any report directed to be submitted to him under subsection (3) in respect thereof, and shall give such directions to the power company relating to the exercise by the power company of any rights to which the objection relates as he may deem proper having regard to the public interest and shall give notice of such directions to the owner concerned; and it shall be the duty of the power company and the owner to comply with such directions.

10. (1) Where an order made under this Ordinance affecting any land is registered by a power company under the Land Registration Ordinance, the company shall be liable to pay compensation to the person who, at the date of registration of the order, is the owner of the land in respect of any diminution of the value of his estate or interest therein attributable to the registration of the order.

Compensation for diminution of value of land. (Cap. 128.)

(2) Any person claiming to be entitled to be paid compensation by a power company under this section in respect of any land may, not later than 12 months after the date of registration of an order made under this Ordinance affecting such land, deliver particulars of the claim in writing to the company.

(3) If, within a period of 28 days after the delivery of the particulars of any claim to a power company under this section, the claimant and the company fail to reach agreement in respect of the company's liability, if any, under this section, the claimant may, not later than 60 days after the expiration of that period, submit the claim to the Lands Tribunal for determination.

(4) The Lands Tribunal shall have jurisdiction to determine the amount of compensation, if any, payable in the case of any claim submitted to the Tribunal under this section; and in the application of the Lands Tribunal Ordinance to any such determination, section 11(1) of that Ordinance shall have effect as if for paragraphs (a) and (b) thereof there were substituted the words "the amount of compensation payable in the case of any claim submitted to it under section 10 of the Electricity Networks (Statutory Easements) Ordinance 1980".

(Cap. 17.)

(5) In the determination of the amount of compensation, if any, payable under this section, no compensation shall be given in respect of—

- (a) any expectancy or probability of the grant or renewal or continuance by the Crown or any person of any licence, permission, lease or permit whatsoever;
- (b) any use of the land which is not in accordance with the terms of the Crown lease under which the land is held.

(6) For the purposes of this section, "value", in relation to any land affected by an order made under this Ordinance, means the open market value of the land assessed as at the date of registration of the order.

Liability for  
loss or damage.

11. (1) Subject to this section, nothing in this Ordinance shall affect the liability of any person in respect of any loss or damage caused by or arising out of the exercise of any rights under this Ordinance.

(2) Where by reason of the exercise by a power company of any rights under this Ordinance in or over any land—

(a) any fixtures, growing crops, farm produce or plants on such land are damaged; or

(b) in the case of land which is used exclusively for the purpose of tillage, the use of such land for that purpose is temporarily prevented or restricted to such extent as to cause any loss,

the company shall be liable for such loss or damage notwithstanding that the company acted with reasonable care or that the loss or damage could not have been avoided without preventing or hindering the exercise of such rights:

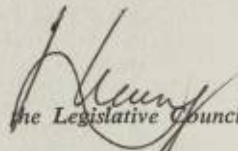
Provided that if the company proves that the loss or damage resulted wholly or partially either from an act or omission done with intent to cause any loss or damage by the person who suffered the loss or damage or from the negligence of that person, the company shall be exonerated wholly or partially from its liability to such person.

(3) This section shall not apply in relation to any claim for compensation in respect of the diminution of the value of any estate or interest in land.

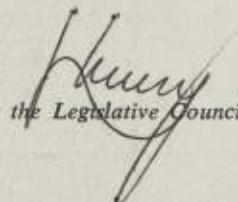
Offence to  
obstruct power  
company.

12. Any person who wilfully obstructs or interferes with the lawful exercise by any power company or its officers or servants or agents, or persons authorized by the company in that behalf, of any rights exercisable by the company under this Ordinance in respect of any land commits an offence and is liable to a fine of \$5,000 and to imprisonment for 6 months.

Passed by the Hong Kong Legislative Council this 9th day of July 1980.

  
Clerk to the Legislative Council.

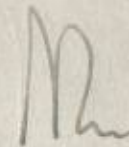
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

No. 40 of 1980



I assent.



Governor.

10 July 1980

land assessed as at the date of registration of the order.

Subject to this section, nothing in this Ordinance shall affect of any person in respect of any loss or damage caused by or of the exercise of any rights under this Ordinance.

ere by reason of the exercise by a power company of any r this Ordinance in or over any land—

y fixtures, growing crops, farm produce or plants on such nd are damaged; or

the case of land which is used exclusively for the purpose tillage, the use of such land for that purpose is temporarily evented or restricted to such extent as to cause any loss,

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ed that if the company proves that the loss or damage resulted partially either from an act or omission done with intent to loss or damage by the person who suffered the loss or damage e negligence of that person, the company shall be exonerated partially from its liability to such person.

is section shall not apply in relation to any claim for com- n respect of the diminution of the value of any estate or and.

y person who wilfully obstructs or interferes with the lawful any power company or its officers or servants or agents, or horized by the company in that behalf, of any rights exercisable

**HONG KONG**

No. 40 OF 1980



I assent.

Governor.

10 July 1980.

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

[11 July 1980]

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

1. This Ordinance may be cited as the Public Health and Urban Services (Amendment) (No. 2) Ordinance 1980. Short title.

2. The principal Ordinance is amended by adding, after Part X, the following new Part— Addition of new Part XA. (Cap. 132.)

**"PART XA**

**STREET NAMES**

Interpretation of this Part.

111A. In this Part, unless the context otherwise requires—

"private street" means a street on land held under Crown lease, licence or otherwise from the Crown or on land over which the Crown has granted or reserved a right of way;

"street" includes a private street and any area of land declared to be a street by the Director of Public Works.

Proposal of private street name.

**111B.** (1) Subject to subsection (2), a person may propose—

- (a) a name of a private street that has not been named; or
- (b) a change of name of a private street that has been named,

by notice in writing sent to the Authority.

(2) No person other than the owner of the land that is held under or by virtue of a Crown lease and on which the private street is situated may make a proposal under subsection (1) in connexion with that private street.

(3) The Authority shall, after the receipt of a proposal under subsection (1), consider the application and shall—

- (a) make a declaration under section 111C(1)(a) or (b), as the case may be; or
- (b) refuse to make a declaration.

(4) Where the Authority under subsection (3) has refused to make a declaration, the Authority shall serve notice of its decision, setting out reasons for its decision, upon the person who made application under subsection (1).

(5) A person upon whom a notice under subsection (4) has been served may, within 30 days of the date of that notice, appeal against the decision of the Authority by way of petition to the Governor in Council whose decision shall be final.

Declaration of street name.

**111C.** (1) Notwithstanding section 111B, the Authority, by declaration in the *Gazette*, may—

- (a) assign a name to a street that has not been named; or
- (b) change the name of a street that has been named.

(2) The Authority shall, not less than 30 days prior to a declaration under subsection (1)(b), give notice of its intention to change the street name.

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

- (a) contain a brief description of the proposal to change the street name;
- (b) specify an address for service of objections to the proposal;
- (c) specify the time within which objections may be lodged; and
- (d) be published—

(i) in the *Gazette*; and

(ii) by posting it in both the English and Chinese languages in a prominent place in or near the street or part of the street which will be affected by the proposed declaration.

(4) A person may, within 30 days of the date of publication in the *Gazette* of the notice under subsection (2), object, in writing to the Authority, against the proposed declaration under subsection (1)(b).

(5) The Authority shall consider an objection under subsection (4) and shall, before a declaration is made

under subsection (1)(b), serve notice of its decision, setting out reasons for its decision, upon the person who made an objection.

(6) A person upon whom a notice under subsection (5) has been served may, within 30 days of the date of that notice, appeal against the decision of the Authority by way of petition to the Governor in Council whose decision shall be final.

Penalty for marking or displaying other street name.

**111D.** Where the Authority has declared a street name under section 111C(1), any person who marks or displays any other street name other than that street name so declared on a building or erection in the street commits an offence."

3. The Third Schedule to the principal Ordinance is amended by inserting, after the item relating to section 111(1), the following—

"111B(1), (3), (4) and (5) Urban Council Secretary for the New Territories

111C(1), (2), (4), (5) and (6) Urban Council Secretary for the New Territories"

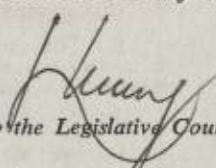
4. The Sixth Schedule to the principal Ordinance is amended by inserting, after the item relating to section 110(2), the following—

"111D Urban Council Secretary for the New Territories"

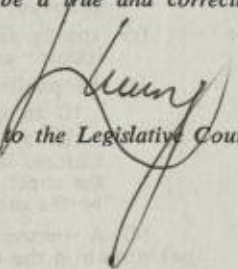
5. The Ninth Schedule to the principal Ordinance is amended by inserting, after the item relating to section 110(2), the following—

"111D \$2,000 fine —"

Passed by the Hong Kong Legislative Council this 9th day of July 1980.

  
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.

No. 41 of 1980



I assent.

A handwritten signature in black ink, appearing to be "M. H. M.", written over a horizontal line.

Governor.

10 July 1980

**HONG KONG**

No. 41 OF 1980



I assent.

*Governor*

10 July 1980.

An Ordinance to control the pollution of the waters of Hong Kong.

[ ]

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 Water Pollution Control Ordinance 1980 and, subject to section 7, 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.

“Appeal Board” means an Appeal Board constituted under Part VI;

“Authority” means—

- (a) in relation to a water control zone, a public officer appointed by the Governor under section 4(1)(b) for that zone;
- (b) in relation to the powers, functions and duties mentioned in section 4(3), the Director of Public Works;

"existing deposit", in relation to a water control zone, means a deposit of matter which—

- (a) was made, whether or not regularly or continuously, in any place and which is, or of which a component is, likely to enter the waters of Hong Kong or into inland waters or a public sewer or public drain in that zone; and
- (b) was so made during the period of 12 months ending with the day appointed by the Governor by order under section 7(2) which applies to that zone and that deposit;

"existing discharge", in relation to a water control zone, means a discharge of matter which was made, whether or not regularly or continuously—

- (a) into the waters of Hong Kong or into inland waters; or
- (b) into a public sewer or public drain,

in that zone during the period of 12 months ending with the day appointed by the Governor by order under section 7(2) which applies to that zone and that discharge;

"inland waters" means any river, stream, watercourse, lake, pool or pond, whether natural or artificial or above or below ground, and the bed or channel of any such river, stream, watercourse, lake, pool or pond which is for the time being dry, but excluding—

- (a) a lake, pool or pond the waters of which do not enter (whether directly or by way of another lake, pool or pond) any river, stream or watercourse or the territorial waters or tidal waters of Hong Kong unless the lake, pool or pond is brought within this definition by regulations made under section 46(1)(f);
- (b) waters in any waterworks within the definition of waterworks in section 2 of the Waterworks Ordinance;
- (c) any drain or sewer;

(Cap. 102.)

"licence" means a licence granted under section 20;

"public drain" means a drain which is vested in and maintained by the Government as a public utility;

"public sewer" means a sewer which is vested in and maintained by the Government as a public utility;

"register" means a register required to be kept under section 42;

"Secretary" means the Secretary for the Environment;

"water control zone" means any part of Hong Kong declared to be a water control zone under section 4;

"water quality objective" means a water quality objective established by the Secretary under section 5;

"waters of Hong Kong" means all inland waters, territorial waters and tidal waters of Hong Kong and in sections 5(1), 6(5)(a), 13(1), 17, 24 and 29(4)(a) includes the flora and fauna thereof.

(2) References in this Ordinance to discharging or making a discharge of matter into the waters of Hong Kong or into inland waters or into a public sewer or public drain are references to causing or permitting that matter to enter those waters or the public sewer or public drain (whether by emitting, throwing, placing or by any other means) at the place where the matter first enters the same.

(3) References in this Ordinance to discharging or making a discharge of matter into the waters of Hong Kong or into inland waters or into a public sewer or public drain in the water control zone include causing or permitting matter to be deposited in any place (whether in that zone or elsewhere) in circumstances where the matter, or any component of it, is likely to enter the waters of Hong Kong or inland waters in that zone or to enter the public sewer or public drain within a reasonably foreseeable time by falling, descending, percolating or being carried by wind or water.

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

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

## PART II

### WATER CONTROL ZONES AND WATER QUALITY OBJECTIVES

4. (1) The Governor in Council may by order published in the *Gazette*— Water control zones and Authorities therefor.

- (a) after consultation with the Environmental Protection Advisory Committee, declare any part of Hong Kong to be a water control zone for the purposes of this Ordinance;
- (b) designate a public officer by name or office to be the Authority for any water control zone and as such, subject to subsection (3), to exercise and perform in respect of that zone the functions, powers and duties conferred on the Authority by this Ordinance.

(2) An order under subsection (1)(b) may, subject to subsection (3), designate different public officers to be Authorities for a water control zone in relation to the discharge or deposit of any specified classes or descriptions of matter or matter resulting from the operation of specified classes or descriptions of trade or industry.

(3) Notwithstanding any designation under subsection (1)(b), the Director of Public Works shall be the Authority for the purposes of enforcing the prohibition in section 9 and exercising and performing any power, function or duty under this Ordinance in relation to discharges into public sewers and public drains.

(4) An order under subsection (1) shall, for each water control zone constituted thereby—

- (a) make reference to a plan or map of that zone deposited in the Land Office at Victoria; or
- (b) sufficiently describe the zone by other means.

5. (1) The Secretary shall, after consultation with the Environmental Protection Advisory Committee, establish for the waters of Hong Kong in each water control zone a water quality objective or different objectives for different parts of a zone. Secretary to establish quality objectives.

(2) The water quality objective for any particular waters shall be the quality which, in the opinion of the Secretary, should be achieved and maintained in order to promote the conservation and best use of those waters in the public interest.

(3) Any water quality objective may be amended from time to time by the Secretary, after consultation with the Environmental Protection Advisory Committee.

(4) A statement of every water quality objective established under subsection (1) and all amendments thereto, signed by the Secretary, shall be published in the *Gazette* and shall be kept with the register and made available for inspection by the public free of charge at the same times as the register is so available.

(5) Where under subsection (1) the Secretary establishes different water quality objectives for different parts of a water control zone he shall ensure that the statement thereof kept with the register pursuant to subsection (4) sufficiently delineates each part of the water control zone.

6. (1) The Secretary shall in writing notify an Authority of the objective or objectives of quality established for a water control zone for which that Authority is responsible and of any amendment thereof under section 5(3).

(2) The Secretary shall notify the Director of Public Works of all water quality objectives and of any amendment thereof under section 5(3).

(3) Each Authority shall exercise and perform his powers, functions and duties under this Ordinance with the aim of achieving the relevant water quality objectives as soon as is reasonably practicable and thereafter maintaining the quality so achieved.

(4) If in the opinion of the Secretary the achievement or maintenance of any water quality objective would be better served by the exercise by the Authority of any of his powers under section 17, 20(4) or 24, the Secretary may, subject to subsection (5), give directions in writing to the Authority as to the manner in which he shall exercise those powers; and, in the case of a direction which relates to section 20(4), any such direction may be of a general nature or relate to a particular case or particular cases.

(5) The Secretary shall not give any direction under subsection (4) as to the manner in which an Authority shall exercise the powers in section 17 or 24 in relation to a discharge or deposit unless he considers that—

- (a) any part of the waters of Hong Kong are in such a condition as to constitute a danger to the health of the public, or a section of the public, and the exercise of the powers in relation to that discharge or deposit would tend to lessen the danger; or
- (b) in the case of an exemption from section 9 or a licence for the purposes of that section, the discharge or deposit may be harmful to the operation of any sewage treatment plant.

(6) The Authority shall comply with any direction given to him under subsection (4) and the discretion conferred on the Authority by section 17(1), 20(4) or 24(1) shall not apply to any discharge or deposit in respect of which such a direction is in force.

Authority to seek to achieve quality objectives.

### PART III

#### PROHIBITED DISCHARGES AND DEPOSITS

7. (1) Notwithstanding that this Ordinance has come into operation by virtue of a notice under section 1, neither section 8(1)(a), nor section 8(1)(b) nor section 9(1) shall apply—

Application and commencement of sections 8 and 9.

- (a) to any discharge or deposit, not being an existing discharge or existing deposit, which would otherwise be prohibited by those sections until the day appointed by the Governor under subsection (2) which applies to that discharge or deposit;
  - (b) to an existing discharge or existing deposit which would otherwise be prohibited by those sections until the day appointed by the Governor under subsection (3) which applies to that discharge or deposit.
- (2) The Governor may from time to time by order published in the *Gazette* which is declared to be applicable to any water control zone appoint a day by reference to which the following shall be classified as an existing discharge or existing deposit for the purposes of this Ordinance—
- (a) the discharge of any matter, or any specified category of discharge, into the waters of Hong Kong or inland waters in that zone, being a discharge within the prohibitions in section 8(1);
  - (b) the deposit of any matter, or any specified category of deposit, which, or a component of which, is likely to enter the waters of Hong Kong or inland waters in that zone, being a deposit within the prohibitions in section 8(1);
  - (c) the discharge of any matter, or any specified category of discharge, into a public sewer or public drain in that zone, being a discharge within the prohibition in section 9(1);
  - (d) the deposit of any matter, or any specified category of deposit, which, or a component of which, is likely to enter a public sewer or public drain.
- (3) The Governor may from time to time by order published in the *Gazette* which is declared to be applicable to any water control zone appoint a day on and after which—
- (a) section 8(1)(a) shall apply to all existing discharges into the waters of Hong Kong in that zone or to all existing deposits which, or a component of which, is likely to enter the waters in that zone or to any specified category of such discharges or deposits;
  - (b) section 8(1)(b) shall apply to all existing discharges into inland waters in that zone or to all existing deposits which, or a component of which, is likely to enter the inland waters in that zone or to any specified category of such discharges or deposits;
  - (c) section 9(1) shall apply to all existing discharges into a public sewer or public drain in that zone or to all existing deposits which, or a component of which, is likely to enter a public sewer or public drain in that zone, or to any specified category of such discharges or deposits.
- (4) For the purposes of an order under this section, a category of discharge or deposit may be determined by reference to—
- (a) the discharge or deposit of a particular class or description of matter or of matter resulting from the operation of a particular class or description of trade or industry;

- (b) the discharge or deposit of matter at a particular rate or in a particular quantity during a specified period;
- (c) where section 9 applies, in addition to paragraphs (a) and (b), the fact that the discharge or deposit is of domestic sewage or surface water and is made into a public sewer or public drain provided for the carriage of foul water or of surface drainage water,

or a combination of all or any such factors.

(5) An order under this section may, in respect of the same water control zone, appoint different days for discharges, or any category thereof, and for deposits, or any category thereof.

8. (1) Subject to section 12, a person commits an offence who discharges—

- (a) any poisonous, noxious or polluting matter into the waters of Hong Kong in a water control zone;
- (b) any matter into any inland waters in a water control zone which tends (either directly or in combination with other matter which has entered those waters) to impede the proper flow of the water in a manner leading or likely to lead to a substantial aggravation of pollution.

(2) Where any matter referred to in subsection (1)(a) or (b) is discharged from any premises or vessel, then, subject to section 12, the occupier of the premises or the person having command or charge of the vessel commits an offence, in addition to any other person who may be guilty of an offence under subsection (1).

(3) This section does not apply to any of the following discharges or deposits—

- (a) a discharge which is made by way of a public sewer or public drain;
- (b) a discharge of oil or a mixture containing oil into the waters of Hong Kong (within the meaning of each of these terms in sections 45 and 46 of the Shipping and Port Control Ordinance);
- (c) a discharge incidental to, or derived from, the normal operation of a vessel (including a dynamically supported craft) or of its equipment;
- (d) a discharge which requires to be licensed under paragraph 1 of Schedule 1 to the Dumping at Sea Act 1974 (Overseas Territories) Order 1975;
- (e) a discharge or deposit made—

(i) by, or with the consent of, the Director of Marine for the purpose of carrying out harbour works or providing moorings or aids to navigation;

(ii) as part of an undertaking authorized by the Governor in Council under subsection (2) of section 3 of the Public Reclamations and Works Ordinance or by the Governor under subsection (3) of that section;

(iii) under, and in accordance with, a Crown lease granted under the Foreshores and Sea Bed Ordinance;

- (f) a discharge or deposit which is forbidden by the Dangerous Goods Ordinance or any regulations made thereunder.

Prohibited discharges into waters of Hong Kong and inland waters.

(Cap. 313.)

(SI 1975/1831.)

(Cap. 113.)

(Cap. 127.)

(Cap. 295.)

9. (1) Subject to section 12, a person commits an offence who discharges any matter into a public sewer or public drain in a water control zone other than—

- (a) a discharge of domestic sewage into—  
(i) a public sewer, or  
(ii) a public drain,

for the carriage of foul water;

- (b) a discharge of unpolluted water into—  
(i) a public sewer, or  
(ii) a public drain,

for the carriage of surface drainage water.

(2) Where any matter is discharged into a public sewer or public drain in a water control zone from any premises, then, subject to section 12, the occupier of the premises commits an offence, in addition to any other person who may be guilty of an offence under subsection (1).

(3) In subsection (1)—

“domestic sewage” means any waste of a kind and quantity which is ordinarily disposed of in a household by the normal use of a toilet, watercloset, bath, shower, sink, basin or other sanitary fitment by persons residing therein;

“unpolluted water” means—

- (a) rain water from any part of a building, including any area appurtenant to a building;
- (b) water which does not contain any poisonous, noxious or polluting matter.

(4) This section does not apply to—

- (a) a discharge or deposit which is forbidden by the Dangerous Goods Ordinance or any regulations made thereunder; or
- (b) water used—  
(i) for firefighting purposes;  
(ii) in connexion with an occurrence in which life or property is endangered;  
(iii) for the cleansing of streets, thoroughfares, and other areas.

10. In any proceedings for an offence under section 8(1), 8(2), 9(1) or 9(2) in which it is alleged that the defendant caused matter to enter the waters of Hong Kong or inland waters or a public sewer or public drain or caused matter to be deposited as provided in section 2(3) it shall not be necessary for the prosecution to prove that the acts or omissions in question were accompanied by any intention, knowledge or negligence on the part of the defendant as to any element of the offence.

11. A person who commits an offence under section 8(1), 8(2), 9(1) or 9(2) is liable to—

- (a) for a first offence, a fine of \$50,000;
- (b) for a second or subsequent offence, a fine of \$100,000,

and in addition, if the offence is a continuing offence, to a fine of \$500 for each day during which it is proved to the satisfaction of the court that the offence has continued.

Prohibited discharges into public sewers and public drains.

Mental ingredient of offences under sections 8 and 9.

Penalties.