

(c) by the deletion from the sixth line of subsection (8) of the words "the said provisions" and the substitution therefor of the following—

"such section".

Repeal and replacement of section 50.

18. Section 50 of the principal Ordinance is repealed and replaced by the following section—

"50. The Governor in Council may make regulations—

- (a) for describing and delineating the parts of the Colony wherein a valuation of the tenements may be ordered under section 7;
- (b) for prescribing the forms to be used hereunder; and
- (c) generally for the carrying out of the provisions of this Ordinance."

Repeal of section 51

19. (1) Section 51 of the principal Ordinance is repealed.

(2) The provisions of this section shall not affect the liability to pay rates assessed and imposed under section 51 for the year ending the 31st March, 1955.

(3) Rates on tenements in the New Territories other than New Kowloon assessed under the principal Ordinance as amended by this Ordinance shall not become payable before the 1st day of April, 1955.

Passed the Legislative Council of Hong Kong, this 11th day of August, 1954.

Deputy Clerk of Councils.

(Secretariat 1/3241/46C)

HONG KONG

No. 31 OF 1954.



I assent.

Officer Administering the Government.

12th August, 1954.

An Ordinance to amend the Supreme Court Ordinance, Chapter 4.

[13th August, 1954.]

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

1. This Ordinance may be cited as the Supreme Court Short title. (Amendment) Ordinance, 1954.

2. Section 15 of the Supreme Court Ordinance is amended by the insertion in the first line after the word "shall" of the following—

Amendment of section 15. (Cap. 4).

" , except with the sanction of the Secretary of State, ".

Passed the Legislative Council of Hong Kong, this 11th day of August, 1954.


Deputy Clerk of Councils.

(Secretariat 41/3231/50)

HONG KONG

No. 32 OF 1954.

I assent.



R. B. Sullivan

*Officer Administering
the Government.*

12th August, 1954.

An Ordinance to make better provision as to the constitution, duties and powers of the Fire Brigade and as to the discipline of members thereof and to make provision for a welfare fund; and for purposes connected with the matters aforesaid.

[13th August, 1954.]

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

PART I.

PRELIMINARY.

1. This Ordinance may be cited as the Fire Brigade Short title Ordinance, 1954.

2. In this Ordinance, unless the context otherwise requires— Inter-pretation.
“Chief Officer” means the chief officer of the fire brigade;

“Colonial Regulations” means the Regulations of Her Majesty’s Colonial Service;

“General Orders” means the General Orders of the Government;

“member” means a person who is either a senior officer, a subordinate officer, or of the rank and file of the fire brigade;

“rank and file” means members of the fire brigade below the rank of a subordinate officer;

“senior officer” means a member of the fire brigade of the rank of divisional officer or above;

“subordinate officer” means a member of the fire brigade of the rank of station officer, fire boat officer, sub-officer, head mechanic or ambulance dresser.

PART II.

CONSTITUTION, DUTIES AND POWERS.

Constitution.

3. The fire brigade of the Colony shall consist of such complement of senior officers, subordinate officers and rank and file as the Governor may direct.

Terms of service of members of the fire brigade. (Cap. 89). (Vol. IX, p. 6). (Cap. 93) (Vol. IX p. 31).

4. The Pensions Ordinance and the Pensions Regulations, the Public Services Commission Ordinance, and the Public Services Commission Regulations, Colonial Regulations and General Orders for the time being in force, save in so far as is otherwise provided therein or in this Ordinance or in any regulations made under this Ordinance, shall apply to all members.

Administration of fire brigade by Chief Officer.

5. The Chief Officer, subject to the orders and control of the Governor, shall be charged with the supreme direction and administration of the fire brigade.

Delegation of Chief Officer’s powers.

6. The functions of the Chief Officer under this Ordinance and under any regulations made thereunder and under any other enactment may, subject to the instructions of the Chief Officer, be performed by the Deputy Chief Officer.

7. The duties of the fire brigade shall be to take lawful measures for—

Duties of fire brigade.

- (a) extinguishing fires;
- (b) protecting life and property in case of fire;
- (c) executing such other duties as may be imposed on them.

8. The Chief Officer or other officer in charge of the fire brigade or any contingent thereof on the occasion of a fire may—

Powers of fire brigade on occasion of fire.

- (a) take such measures as may appear to him to be necessary or expedient for the protection of life and property;
- (b) remove or order any member under his command to remove any person interfering by his presence or actions with the operations of the fire brigade;
- (c) by himself or members under his command enter, break into or through and take possession of or demolish any premises for the purpose of putting an end to the fire;
- (d) close any street near the site of the fire;
- (e) use any convenient supply of water.

PART III.

DISCIPLINE.

9. Any member who commits any of the offences against discipline specified in the First Schedule shall be liable to be dismissed or otherwise punished as provided in this Ordinance and in regulations made thereunder.

Offences against discipline generally. First Schedule.

10. Whenever it is alleged that any senior officer has been guilty of an offence against discipline—

Offences against discipline by senior officers.

- (a) the provisions of Colonial Regulations and General Orders which relate to interdiction shall apply;
- (b) the matter shall be investigated and the senior officer dealt with in the appropriate manner provided by the said regulations and orders for allegations of misconduct made against a public officer.

Offences against discipline by subordinate officers and rank and file.

11. (1) Whenever it is alleged that any subordinate officer or any of the rank and file has committed an offence against discipline—

- (a) the Chief Officer may interdict him from duty;
- (b) investigation shall be made into the allegation in the manner prescribed by the rules of procedure contained in the Second Schedule and on proof thereof any such punishment as is mentioned in the Third Schedule may be awarded by the appropriate authority therein specified.

Second Schedule.
Third Schedule.

(2) Any subordinate officer or any of the rank and file who is interdicted from duty under subsection (1) shall receive half the emoluments of his office unless the Chief Officer thinks fit to order that he shall receive a larger proportion; if the proceedings against him are dismissed he shall be entitled to receive the balance of the full amount of the emoluments which he would have received if he had not been interdicted.

Penal deductions from emoluments.

12. (1) The following penal deductions may be made from the emoluments due to a member—

- (a) all emoluments for every day of absence either on desertion or without leave;
- (b) the sum required to pay any fine or other sum ordered to be paid on conviction for a criminal offence or for an offence against discipline.

(2) For the purposes of subsection (1)—

- (a) no member shall be treated as absent unless the absence has lasted six hours or upwards except where the absence prevented the prompt despatch of any contingent, appliance, ambulance, fire boat, or vehicle of the fire brigade in answer to any call;
- (b) the number of days shall be reckoned as from the time when the absence commences.

Removal of doubt.

13. For the avoidance of doubt it is hereby declared that—

- (a) if criminal proceedings are instituted or about to be instituted against a member, he may be interdicted from duty and thereafter paid emoluments as follows—
 - (i) if a senior officer in accordance with the provisions of Colonial Regulations and General Orders;

(ii) if a subordinate officer or of the rank and file in accordance with the provisions of section 11;

- (b) if a member is convicted of a criminal offence he may be dismissed in accordance with the provisions of Colonial Regulations and of General Orders;
- (c) nothing in this Part shall be construed to preclude the summary dismissal of any member in accordance with Colonial Regulations and General Orders.

PART IV.

WELFARE FUND.

14. There shall be established a fund to be known as the "Fire Brigade Welfare Fund" which shall consist of— Establishment of fund.

- (a) all fines inflicted upon members for offences against discipline;
- (b) all sums paid for the service of members detailed to do special duty under section 19;
- (c) all illegal gratifications given or offered to members, and all presents the receipt of which is prohibited by General Orders given or offered to members;
- (d) any donations and voluntary contributions thereto;
- (e) such sums as may be voted by the Legislative Council.

15. The Fire Brigade Welfare Fund shall be controlled by the Chief Officer subject to regulations made under section 20 and applied for the purpose of— Control of fund.

- (a) recompensing members for extra services rendered by them;
- (b) procuring for members who are serving or for former members who have been retired on pension, gratuity or other allowance, comforts, convenience or other advantages not chargeable to public revenue;
- (c) granting loans to members who are serving or to former members who have been retired on pension, gratuity or other allowance on rates and terms in accordance with regulations made under section 20.

PART V.

MISCELLANEOUS.

Fire
brigade
orders.

16. (1) The Chief Officer may make orders called "fire brigade general orders" not inconsistent with the provisions of—

- (a) this Ordinance and any regulations made thereunder;
- (b) the Stores Regulations of the Government;
- (c) Colonial Regulations and General Orders, as modified by this Ordinance and by regulations made thereunder.

(2) Such orders may prescribe or provide for—

- (a) the control, direction and information of the fire brigade;
- (b) discipline;
- (c) training;
- (d) classifications and promotions;
- (e) inspections, drills, exercises and parades;
- (f) welfare;
- (g) departmental finance;
- (h) buildings, grounds, stores, furniture and equipment;
- (i) services to be performed by members;
- (j) the manner and form of reports, correspondence and other records;
- (k) the performance of any act which may be necessary for the proper carrying out of the provisions of this Ordinance or any regulations made thereunder or of any other enactment or for the discharge of any duty imposed by law on the fire brigade;
- (l) such other matters as may be necessary or expedient for preventing abuse or neglect of duty, for rendering the fire brigade efficient in the discharge of its duties and for carrying out the objects of this Ordinance.

Damage
done at a
fire.

17. Any damage done by the fire brigade in the execution of their duties on the occasion of a fire shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

18. No member acting *bona fide* under powers conferred by this Ordinance shall be liable to any action for damages for any act done or omitted to be done by him in connexion with his duties on the occasion of a fire. Protection of members of fire brigade.

19. (1) On the application of any person, the Chief Officer may, if he thinks fit, detail any member to do special duty in upon or about any premises or business or vessel specified by the applicant. Special duty and expenses thereof.

(2) The applicant shall pay to the Chief Officer for the services of any member so detailed such fees as the Chief Officer may think fit.

(3) All fees so received by the Chief Officer shall be paid by him into the Treasury forthwith to the credit of the Fire Brigade Welfare Fund and be accounted for monthly and shall be recoverable by the Accountant General by action in the District Court in like manner as other Crown debts.

20. The Governor in Council may by regulation prescribe or provide for— Power to make regulations.

- (a) discipline and punishment of members;
- (b) the administration of the Fire Brigade Welfare Fund;
- (c) description of uniforms and equipment to be provided;
- (d) such other matters as may be necessary or expedient for rendering the fire brigade efficient in the discharge of their duties;
- (e) generally for carrying into effect the provisions of the Ordinance in relation to any matter, whether similar or not to those in this section mentioned, as to which it may be convenient to make regulations.

21. (1) The provisions contained in the First, Second and Third Schedules may be amended, cancelled or replaced by regulations made by the Governor in Council. Contents of Schedules.

(2) The regulations in the Fourth Schedule shall be deemed to have been made under section 20. Fourth Schedule.

Offences.

22. (1) Any person who resists or obstructs any member acting in the execution of his duty shall be guilty of an offence and shall be liable on conviction to a fine of two hundred and fifty dollars and to imprisonment for six months.

(2) Any member who—

(a) deserts;

(b) on the occasion of a fire wilfully disobeys a lawful command of a member whom it is his duty to obey,

shall be guilty of an offence and shall be liable on conviction to a fine of two hundred and fifty dollars and imprisonment for six months.

(3) Any person who, not being a member, wears, without permission of the Chief Officer, the uniform of the fire brigade, or any dress having the appearance or bearing any of the distinctive marks of that uniform, shall be guilty of an offence and shall be liable on conviction to a fine of two hundred and fifty dollars.

Repeal.
(Cap. 95).

23. The Fire Brigade Ordinance is repealed.

FIRST SCHEDULE.

[s. 9]

Offences against discipline.

Any member commits an offence against discipline who—

(1) is guilty of cowardice in the performance of his duty;

(2) without good and sufficient cause fails to carry out any lawful order, whether written or verbal;

(3) is insubordinate towards any member whose orders it is his duty to obey;

(4) (a) neglects or without good and sufficient cause fails to do, promptly and diligently, anything it is his duty to do;

(b) by carelessness or neglect in the performance of his duty contributes to the occurrence of any loss, damage or injury to any person or property;

(5) knowingly makes any false, misleading, or inaccurate statement in connexion with his duty either verbally or in writing;

(6) with intent to deceive destroys any official record, document or book or alters or erases any entry therein;

(7) without proper authority—

(a) divulges any matter which it is his duty to keep secret;

(b) directly or indirectly communicates to the press or to any other person any matter which may have come to his knowledge in the course of his official duties;

(c) publishes any matter or makes any public pronouncement relating to the fire brigade;

(8) (a) solicits or receives any unauthorized fee, gratuity or other consideration in connexion with his duties as a member;

(b) fails to account for, or to make a prompt and true return of, any money or property for which he is responsible, either in connexion with his duties as a member or with any fund connected with the fire brigade or the fire brigade staff;

(c) improperly uses his position as a member;

(9) without proper authority or reasonable excuse—

(a) absents himself from duty or from any place of parade;

(b) arrives late for any duty or parade;

(10) (a) wilfully or negligently damages or loses any articles of clothing or equipment, or any implement, accoutrement or appointment whatever, with which he has been provided or entrusted, or fails to take proper care thereof;

(b) neglects to report any damage to, or loss of, any article of clothing or equipment, or any implement, accoutrement or appointment whatever, with which he has been provided or entrusted;

(11) when on duty, or called upon for duty, is unfit for duty through drinking intoxicating liquor;

(12) when on or off duty acts in a disorderly manner, or in any manner prejudicial to discipline, or likely to bring discredit upon the fire brigade or the public service;

(13) is guilty of anything, whether by reason of contravention of General Orders or otherwise, which amounts to misconduct in a public officer.

SECOND SCHEDULE.

[s. 11]

Rules of procedure for the investigation into offences against discipline by subordinate officers and rank and file.

1. Every charge shall be entered on a charge sheet.

2. Every charge shall be investigated by the Chief Officer in the first instance without delay in the presence of the accused and a full record thereof be made by the Chief Officer.

3. The charge shall be read and explained to the accused.

4. Evidence shall not be on oath.

5. The accused shall have full liberty to cross-examine any witness against him and to call any witnesses and make any statement in his defence.

6. No documentary evidence shall be used against the accused unless he has previously been supplied with a copy thereof or has been given access thereto.

7. The Chief Officer may at any stage of the proceedings amend the charge or add a new charge: Provided that in such event the amended or new charge shall be read and explained to the accused who shall be entitled to have any witnesses who have given evidence recalled for further cross-examination and to call such further witnesses as he may desire.

8. At the conclusion of the hearing of a charge, the Chief Officer shall—

- (a) if in his opinion the evidence does not show that some offence against discipline has been committed, dismiss it;
- (b) if in his opinion the evidence does show that some offence against discipline has been committed, either—
 - (i) award a punishment within his powers, or
 - (ii) refer the case to the Governor.

9. (1) Whenever the Chief Officer refers a case to the Governor under paragraph (b) of rule 8 he shall forward—

- (a) a typed copy of the record of proceedings, (including the charge) certified by himself to be a true copy of the original thereof;
- (b) a report setting out—
 - (i) his reasons for considering the charge proved;
 - (ii) his recommendations as to punishment;
- (c) the accused's conduct sheet.

(2) Whenever the Chief Officer so refers a case he shall inform the accused that he may within fourteen days forward any further representations he may wish to make in writing to the Governor.

10. Upon reference to him of a case and after consideration of any representations in writing of the accused, the Governor shall—

- (a) if he is of opinion that the charge has not been proved, either—
 - (i) dismiss it, or
 - (ii) order either further investigation by the Chief Officer, or a fresh investigation in such manner and by such person or persons as he may think fit;
- (b) if he is of opinion that the charge is proved, or if, after any further or fresh investigation ordered under paragraph (a), he is of such opinion, shall award a punishment within his powers.

11. Every punishment awarded shall be entered in the conduct sheet of the member so punished.

THIRD SCHEDULE. [s. 11]

Punishment of subordinate officers and rank and file for offences against discipline.

PART I—SUBORDINATE OFFICERS.

Subordinate officers found guilty of an offence against discipline may be awarded punishments as follows—

- (1) by the Governor—
 - (a) any of the following—
 - (i) dismissal;
 - (ii) reduction in rank;
 - (iii) stoppage of increment;

- (iv) fine;
- (v) extra drills;
- (vi) severe reprimand;
- (vii) reprimand;

(b) in addition to any of the above, payment by way of compensation for any loss of or damage to any article of clothing or equipment, or any implement, accoutrement or appointment whatever with which he has been provided or entrusted, or to any Government property;

(2) by the Chief Officer any of the following—

- (a) a fine not exceeding fifty dollars;
- (b) extra drills;
- (c) severe reprimand;
- (d) reprimand.

PART II—RANK AND FILE.

Rank and file found guilty of an offence against discipline may be awarded punishments by the Chief Officer as follows—

(1) any of the following—

- (a) dismissal;
- (b) reduction in rank;
- (c) stoppage of increment;
- (d) fine not exceeding fifty dollars;
- (e) extra drills;
- (f) severe reprimand;
- (g) reprimand;

(2) in addition to any of the above, payment by way of compensation for any loss of or damage to any article of clothing or equipment, or any implement, accoutrement or appointment whatever with which he has been entrusted, or to any Government property.

FOURTH SCHEDULE. [s. 20]

The Fire Brigade (Welfare Fund) Regulations, 1954.

1. These regulations may be cited as the Fire Brigade (Welfare Fund) Regulations, 1954. Citation.

2. (1) All monies due to the Fire Brigade Welfare Fund (referred to herein as the Fund) as prescribed by section 14 of the Ordinance shall immediately be paid in full to the Accountant General who shall credit them to an account entitled "Deposits—Fire Brigade Welfare Fund". Maintenance of fund.

(2) When any illegal gratification or any gift the receipt of which is prohibited by General Orders given or offered to a Fire Brigade Officer is in a form other than money or negotiable security and is a saleable commodity, it shall be sold under the direction of the Chief Officer and the proceeds of the sale shall be paid to the Accountant General and credited by him to the account "Deposits—Fire Brigade Welfare Fund".

(3) The Accountant General shall render to the Chief Officer after the closing of each month's accounts a return showing all transactions of the Fund in his accounts during the previous month.

Investment.

3. All sums considered by the Chief Officer to be surplus to the normal requirements of the Fund shall on his request be invested by the Accountant General in Hong Kong Government stocks or shall be remitted to the Crown Agents for investment in such securities as are permitted for the investment of Colonial Government funds. The interest or dividends received on account of such investments shall be credited to the Account "Deposits—Fire Brigade Welfare Fund."

Valuation of investments.

4. All investment of the Fund shall be valued at the middle market price in Hong Kong or London on the 31st March in each year, and the balance of the Fund on that date shall be increased or decreased as may be required in accordance with such valuation.

Realization of investments.

5. Should at any time the uninvested portion of the Fund fall below a figure which in the opinion of the Chief Officer is the minimum necessary for the normal requirements of the Fund, he shall request the Accountant General to sell on the local market or in London such part of the Fund's investments as will together with the existing uninvested portion provide an adequate working balance.

Certification of advances.

6. All vouchers submitted to the Accountant General in respect of payments to be made out of the Fund shall either be certified by the Chief Officer or shall have attached to them certified true copies of the Chief Officer's approval for each withdrawal. In the latter event the certificates and vouchers may be signed by an officer so authorized by the Chief Officer. The Accountant General shall pay only on the authority of the Chief Officer as indicated above and shall be advised of the name of any officer authorized by the Chief Officer to sign on his behalf.

Loans by Fund.

7. When a loan is granted under the authority of section 15 of the Ordinance to a member or to a former member who has been retired, it will normally be subject to the following conditions—

- (a) it shall be repaid in such monthly instalments as the Chief Officer may in his discretion specify, save that the number of monthly instalments shall not exceed twenty-four; upon default in one instalment the whole balance outstanding shall immediately become due;
- (b) it shall be limited to a maximum sum of one thousand dollars;
- (c) whenever it shall be necessary to recover the amount of a loan it shall be deemed to be an amount due to a department of Government.

Write-off.

8. Upon a recommendation of the Chief Officer, the Financial Secretary may authorize the writing off of any asset or any debt due to the Fund which he considers irrecoverable: Provided that any such write-off shall take effect for the purpose of accounting records alone and shall not extinguish any right of the Fund to recovery of any such asset or debt.

Accounting details.

9. Detailed accounts of the Fund shall be maintained by the Chief Officer, and shall show the amounts received under each of the heads of revenue set out in section 14 of the Ordinance, together with all sums received in repayment of loans and interest thereon, interest or dividends on investments and all sums received on account of sales of investments. All disbursements shall be recorded under the following headings—

- (a) cash awards of a maximum to be fixed by the Chief Officer to the winning crews in the annual fire brigade drill competition and for providing trophies therefor;

(b) comforts, convenience or other advantages not chargeable to the public revenue, subdivided into—

- (i) purchase of sports gear and clothing;
- (ii) expenses incurred on the maintenance or improvement of playing fields;
- (iii) transport expenses of fire brigade teams or members taking part in organized sports;
- (iv) grants or assistance to fire brigade clubs, canteens or recreation rooms;
- (v) books, magazines and other periodicals;
- (vi) educational expenses;
- (vii) entertainment expenses;
- (viii) medical and dental attention not covered by the Government medical services;
- (ix) grants on death of serving members or pensioners;
- (x) other suitable purposes under this heading;

(c) loans to members;

(d) purchase of securities in accordance with regulation 3.

10. The Accountant General shall keep the Chief Officer informed of all transactions on account of the Fund's investments and the latter shall balance his accounts monthly and reconcile them with the deposit account maintained by the Accountant General. The accounts shall be subject to periodical audit by the Director of Audit.

Duties of Accountant General and Director of Audit.

11. As soon as possible after the 31st March in each year, the Chief Officer shall prepare a receipts and payments account covering the transactions of the Fund for the year ended on the previous 31st March, together with a balance sheet showing the state of the Fund as at the same date. The total receipts and payments of the Fund for the year shall be summarized in the former under the various headings set out in regulation 9. The balance sheet shall show the value of the Fund as on the 1st April in the preceding year, the excess of receipts over payments or payments over receipts for the year together with the appreciation or depreciation in the valuation of the Fund's investments, the total value of the Fund, the cash balance of the Fund and the market value of investments. There shall be attached to the balance sheet a detailed statement of investments held by the Fund at that date showing purchase price nominal value and current market value in each case.

Annual accounts.

12. After examination by the Director of Audit, the annual accounts referred to in regulation 11 shall be laid before the Legislative Council.

Tabling.

Passed the Legislative Council of Hong Kong, this 11th day of August, 1954.

Deputy Clerk of Councils.

(Secretariat 22/3231/52)

HONG KONG

No. 33 OF 1954.



I assent.

*Officer Administering
the Government.*

26th August, 1954.

An Ordinance to make better provision with regard to prospecting for minerals and mining, and for purposes connected therewith.

[]

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

PART I.

PRELIMINARY PROVISIONS.

1. This Ordinance may be cited as the Mining Ordinance, 1954, and shall come into operation on a day to be appointed by the Governor by proclamation in the *Gazette*.

Short title
and com-
mencement.

Inter-
pretation.

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

“Commissioner” means the Commissioner of Mines appointed under the provisions of section 44 and also the Deputy Commissioner of Mines appointed under that section;

“Crown land” means all land other than private land;

“functions” includes powers and duties;

“mine” includes any place, excavation or working whereon, wherein or whereby an operation in connexion with mining is carried on;

“to mine” means intentionally to win minerals and includes any operation necessary for the purpose;

“mines officer” means any officer appointed under the provisions of section 44;

“mineral” does not include mineral oils, but includes the minerals classified hereunder—

(a) metalliferous minerals, including antimony, arsenic, bismuth, cerium, copper, cobalt, columbium, chromium, cadmium, iron, lead, manganese, mercury, molybdenum, nickel, tantalum, tin, tungsten, zinc and all others of a similar nature to any of them, and all ores containing them and combinations of any of them with each other or with any other substance, excepting only those that occur in the form of precious minerals;

(b) combustible carbonaceous minerals, including—

(i) coal;

(ii) lignite including brown coal and any coal which the Governor may declare to be lignite if advised by the Superintendent that the estimated average ash content is so high or the estimated average thermal value is so low that such coal may properly be classed as lignite;

(c) non-metallic minerals, including minerals used for their abrasive or refractory qualities and asbestos, barytes, bauxite, china clay, fuller's earth, graphite, gypsum, marble, mica, nitrates, phosphates, pipeclay, potash, salt, slate, soda, sulphur, talc and all other substances of a similar nature to any of them;

(d) precious minerals including—

(i) precious stones, namely: amber, amethyst, beryl, cat's eye, chrysolite, diamond, emerald, garnet, opal, ruby, sapphire, turquoise and all other substances of a similar nature to any of them;

(ii) precious metals, namely: gold, silver and metals of the platinoid group in the unmanufactured state, including ores containing such metal, but not including ores containing any such metal in combination with another mineral when such metal cannot be worked apart from such mineral and the value of such metal is less than the cost of producing both the metal and the mineral; and

(iii) radio-active minerals, namely pitch-blende and other ores of uranium;

(e) the valuable parts of ores or other substances when unmanufactured; and

(f) the product of treating or dressing ores or other substances for marketing or export;

“mineral oil” includes pitch, asphalt and natural gas;

“owner”, in its application to land, means the person entitled to the land under Crown Lease or agreement for lease or other form of valid title from the Crown;

“pollute” includes any contamination with any chemical or any other substance in such a quantity as to be injurious to human, animal or vegetable life;

“private land” means land held under lease, agreement for lease, tenancy agreement, licence, permit, deed of appropriation, or other valid title from the Crown, and also land occupied by Her Majesty's Forces under lease, licence, permit requisition or other permanent or temporary title;

“prospect” and “prospecting” mean to search for minerals and also such working as is reasonably necessary to enable the prospector to test the mineral-bearing qualities of the land, but do not include the removal of overburden from ground which can reasonably be sampled by pits not exceeding seven feet in depth or by bore-holes;

“regulations” means any regulations for the time being in force, made under the provisions of this Ordinance;

“Superintendent” means the Superintendent of Mines appointed under the provisions of section 44;

“tailings” means all gravel, sand, slime or other substance which is the residue of mining operations.

PART II.

GENERAL PROVISIONS.

Property in and control of minerals declared to be vested in the Crown.

3. It is hereby declared that the entire property in and control of all minerals and mineral oils in, under or upon any lands or under any waters within the Colony is vested in the Crown, save in so far as such property and control may be limited by any express grant by the Crown.

Prospecting and mining restricted.

4. Save as provided in this Ordinance, no person shall prospect or mine in, under or upon any lands or under any waters within the Colony.

Ordinance not to apply to mineral oils.

5. Nothing in this Ordinance shall be construed so as to confer any right to prospect for or to win any mineral oil.

Saving of sacred areas, trees and other objects of veneration.

6. (1) Nothing in this Ordinance shall be construed so as to sanction prospecting or mining in, under or upon any area held to be sacred or to sanction the injury or destruction of any tree or other thing which is the object of veneration.

(2) If any question arises under this section as to whether any area is held to be sacred or whether any tree or other thing is the object of veneration, such question shall be referred, where the area or the tree or other thing is situate in the New Territories, to the District Commissioner, and in any other case, to the Secretary for Chinese Affairs; and the decision of the District Commissioner or Secretary for Chinese Affairs, as the case may be, shall be final.

7. (1) When not resident in the Colony every holder of a prospecting or mining licence and every lessee of a mining lease shall at all times have a duly authorized attorney, approved by the Land Officer, resident in the Colony, with full power to represent the holder or lessee in all matters relating to his licence or lease, and shall, within one month after appointing such attorney or making any change in such appointment, produce to the Land Officer the original of the power of attorney or of the document whereby such power of attorney is altered, and supply a copy thereof for his retention.

Holder of mining title not resident in Hong Kong to appoint attorney resident in Hong Kong.

(2) If the holder of a prospecting or mining licence or the lessee of a mining lease fails to comply with any of the provisions of subsection (1), the Land Officer may, by a notice published in the *Gazette*, prohibit the continuance of operations in the area the subject of the licence or lease.

(3) If any such default continues for three months after the publication of the notice mentioned in subsection (2), the Land Officer may, by a further notice published in the *Gazette*, revoke the licence or lease.

8. (1) Every holder of a prospecting or mining licence and every lessee of a mining lease shall, at all times, keep correct plans of all prospecting or mining done, and correct records of all minerals found and ore reserves calculated on the area the subject of his licence or lease, and shall supply to the Superintendent, on request, copies of such plans and records.

Plans of prospecting and mining operations.

(2) The plans required to be kept by subsection (1) shall be on the prescribed scale.

9. No prospecting licence, mining licence or mining lease granted under this Ordinance shall be deemed to authorize prospecting or mining on or in, or the occupation of, any of the following lands—

Lands excluded from prospecting and mining.

- (a) land set apart for, or used for or appropriated or dedicated to, any public purpose (other than mining), except with the prior consent in writing of the Director of Public Works and subject to such conditions as he may impose;
- (b) land appropriated for any railway or situate within one hundred yards of any railway, except with the prior consent in writing of the General Manager of Railways and subject to such conditions as he may impose;

- (c) land which is the site of, or is within one hundred yards of, any Government or public building, the limits of any reservoir or catchment area, or any road in use by vehicular traffic, or any land which is the site of or forms part of any thoroughfare, except with the prior consent in writing of the Director of Public Works and subject to such conditions as he may impose;
- (d) land actually under cultivation, except with the prior consent in writing of the owner and any lawful occupier of the land;
- (e) land which is the site of, or is within one hundred yards of, any building, except with the prior consent in writing of all persons having any estate or interest in such land or building.

Royalties.

10. There shall be paid in respect of all minerals obtained in the course of prospecting or mining operations such royalties as may be prescribed:

Provided that no royalty shall be payable on any mineral sample certified by the Superintendent as being required solely for the purpose of assay or experiment or as a scientific specimen and not being of a greater quantity than in his opinion is necessary for such purpose.

Governor may close areas to prospecting or mining.

11. (1) The Governor may, by notice in the *Gazette*, declare any area to be closed to prospecting or mining, either generally or for any specified mineral and for such period as may be specified in such notice or without period assigned, and thereupon a prospecting licence, mining licence or mining lease, whether granted before or after publication of such notice, shall not be taken to authorize the holder or lessee to prospect or mine, as the case may be, in contravention of the terms of such notice.

(2) The Governor may grant authority on such terms as he may think fit to any person (including the holder of any existing licence or lease) to prospect or mine in, under or upon any land which has been declared to be closed to prospecting or mining.

Governor may prohibit all

12. The Governor may, by notice in the *Gazette*, prohibit all prospecting or mining for any specified mineral, and thereupon a prospecting licence, mining licence or mining lease, whether

granted before or after publication of such notice, shall not be taken to authorize the holder or lessee to prospect or mine, as the case may be, for the specified mineral.

prospect-
ing or
mining for
specified
minerals.

13. (1) Where any area has been closed to prospecting or mining under section 11, or where prospecting or mining has been prohibited under section 12, compensation shall be paid by the Government to the holder of a prospecting or mining licence or the lessee of a mining lease who is adversely affected by such closure or prohibition.

Compensa-
tion where
action is
taken
under
section 11
or 12.

(2) Compensation shall only be paid in respect of disturbance and loss of reasonable expectation of profits from proved minerals in, under or upon any land within the area in respect of which the prospecting or mining licence or the mining lease, as the case may be, is held.

(3) Any dispute as to what are proved minerals in, under or upon any land to which this section relates, and any dispute as to whether any compensation is payable or as to the amount of such compensation, shall, in default of agreement, be determined by arbitration in accordance with the provisions of Order XXV of the Code of Civil Procedure.

PART III.

PROSPECTING.

14. (1) The Commissioner may grant to any person applying therefor in the prescribed manner and on payment of the prescribed fee a prospecting licence.

Prospecting
licences.

(2) A prospecting licence shall be in the prescribed form and shall be subject to such terms and conditions as the Commissioner may determine.

(3) A prospecting licence shall not be transferable and any right or interest conferred thereby shall not be assignable except with the prior consent in writing of the Commissioner.

(4) A prospecting licence shall remain in force for six months from the date thereof, unless previously cancelled under the provisions of this Ordinance, but a licence not so cancelled may be renewed by the Commissioner for one further term of six months.

Rights of the holder.

15. (1) The holder of a prospecting licence shall have the right to enter upon and prospect on any Crown land within the area the subject of the licence and, subject to the provisions of subsection (2), on any private land within such area, and may, whilst engaged in *bona-fide* prospecting, drill, dig trenches, sink shafts and generally make the necessary excavations.

(2) The holder of a prospecting licence shall have no right to enter upon or prospect on private land unless he obtains the prior consent in writing of the owner and any lawful occupier thereof.

Duties of the holder.

16. The holder of a prospecting licence shall—

- (a) carry on all prospecting in a safe and workmanlike manner in accordance with the regulations;
- (b) keep such registers and books and make such returns as may be prescribed;
- (c) permit at all reasonable times any mines officer to inspect any prospecting and to inspect and take copies of any register and any book of account in the possession or under the control of the holder and kept in connexion with the prospecting;
- (d) not divert water from any river, stream, spring, reservoir, filter-bed, well or water course without the prior consent in writing of the Superintendent;
- (e) if not personally residing within the area the subject of his licence or sufficiently near thereto as to give continuous supervision to the prospecting on such lands, at all times have a responsible agent supervising the prospecting.

Ownership and disposal of minerals.

17. (1) Minerals obtained in the course of prospecting under a prospecting licence shall be the property of the Crown and shall not be removed from the land or disposed of except with the prior consent in writing of, and upon such terms and conditions as may be imposed by, the Superintendent; but nothing herein contained shall be construed to prohibit any such holder from removing, from time to time, samples of such minerals sufficient in quantity to enable them to be tested or analysed or experiments to be made for the purpose of ascertaining the content and the commercial value thereof.

(2) The Superintendent may authorize the removal of minerals from the land from which they have been obtained to any place approved by him for safe custody, subject to such conditions as he may impose.

(3) If the holder of a prospecting licence desires to retain or dispose of any minerals obtained in the course of prospecting, he shall make application to the Superintendent in the prescribed manner and, if the Superintendent is satisfied that such holder has been conducting such operations only as are reasonably necessary to enable him to test the mining potentialities of the land, he may authorize the applicant to retain and dispose of the minerals in respect of which application is made on payment of the prescribed royalty.

18. A prospecting licence shall not be granted to any person who is already the holder of a prospecting licence.

No person to hold more than one prospecting licence.

19. Where any area is the subject of a prospecting licence, the Governor in Council may authorize the grant of a further prospecting licence in respect of the same area for a different mineral if he is satisfied that by so doing the rights or interests of the holder of any existing prospecting licence will not be prejudicially affected.

Further prospecting licences for same area.

20. The Commissioner may, by notice in writing, cancel a prospecting licence—

Cancellation of prospecting licence.

- (a) if the holder thereof or any attorney, partner, agent or servant of such holder is convicted of any offence against this Ordinance or the regulations or fails to comply with any of the requirements of this Ordinance or the regulations;
- (b) if the holder fails to comply with any of the terms or conditions of the licence;
- (c) if the holder becomes bankrupt, or makes a composition or scheme of arrangement with his creditors, or, being a company, goes into liquidation, whether compulsory or voluntary (except a voluntary liquidation of a solvent company for the purposes of reconstruction), or if a receiver or manager of the company's business or undertaking is appointed, or if possession is taken, by or on

- behalf of the holders of debentures secured by a charge, of any property comprised in or subject to the charge; or
- (d) if, without the prior consent in writing of the Commissioner, the holder wholly or substantially discontinues prospecting.

PART IV.

MINING.

Mining
licences.

21. (1) The Commissioner may grant to any person applying therefor in the prescribed manner and on payment of the prescribed fee a mining licence.

(2) A mining licence shall be in the prescribed form, shall specify the area and the minerals in respect of which it is granted, and shall be subject to such rentals, fees, royalties, premiums and other payments as may be prescribed and to such terms and conditions as the Commissioner may determine.

(3) A mining licence shall not be transferable and any right or interest conferred thereby shall not be assignable except with the prior consent in writing of the Commissioner.

(4) A mining licence shall remain in force for six months from the date thereof, unless previously cancelled under the provisions of this Ordinance, but a licence not so cancelled may be renewed by the Commissioner for further terms of six months each:

Provided that the total period of the original licence together with all renewals thereof shall not exceed two years, and where the holder has previously held a prospecting licence for the same or substantially the same area, the total period of prospecting and mining under licence shall not extend beyond the said period of two years.

Cancellation
of
mining
licence.

22. The Commissioner may, by notice in writing, cancel a mining licence—

- (a) if the holder thereof or any attorney, partner, agent or servant of such holder is convicted of any offence against this Ordinance or the regulations or fails to comply with any of the requirements of this Ordinance or the regulations;

- (b) if the holder fails to comply with any of the terms or conditions of the licence;
- (c) if the holder becomes bankrupt, or makes a composition or scheme of arrangement with his creditors, or, being a company, goes into liquidation, whether compulsory or voluntary (except a voluntary liquidation of a solvent company for the purposes of reconstruction), or if a receiver or manager of the company's business or undertaking is appointed, or if possession is taken, by or on behalf of the holders of debentures secured by a charge, of any property comprised in or subject to the charge; or
- (d) if, without the prior consent in writing of the Commissioner, the holder wholly or substantially discontinues mining operations.

23. (1) The Land Officer may grant a mining lease to any person applying therefor in the prescribed manner, if he is satisfied that the mineral-bearing qualities and quantities of the land in the area applied for are such as to justify the grant of a mining lease:

Mining
leases.

Provided that the person, if any, who is carrying on or has carried on under licence adequate prospecting or mining operations on the area shall be preferred:

Provided further that if a person having a prior claim to a mining lease is unable to obtain the same on the ground that he does not command sufficient working capital to ensure the proper development and working of the area applied for, the person who obtains a mining lease in respect of the area, if he has not himself adequately prospected or mined the same under licence, shall compensate such other person in such an amount as shall be determined by the Land Officer.

(2) Any amount so determined may be recovered by the person entitled thereto by civil action, and in such action a certificate under the hand of the Land Officer specifying the amount of compensation so determined shall, without further proof, be received as conclusive evidence of the amount thereof.

(3) A mining lease shall specify the area and the minerals in respect of which it is granted, and shall be subject to such rentals, fees, royalties, premiums and other payments as may be prescribed, and shall contain such covenants and conditions and shall be in such form, as the Land Officer may determine.

Require-
ments as
to capital.

24. (1) An applicant for a mining lease shall satisfy the Land Officer that he commands sufficient working capital to ensure the proper development and working of the area applied for, and the Land Officer may require the applicant to furnish a guarantee of a bank or person approved by the Land Officer, for such amount and in such form as he may determine.

(2) In the event of the applicant failing to satisfy him as aforesaid or, when so required, to furnish a guarantee to the satisfaction of the Land Officer, the Land Officer may refuse the application, but the applicant may make a fresh application at any time.

Duration
and
renewal of
mining
lease.

25. (1) A mining lease may be granted for such term not being more than twenty-one years as the Land Officer may determine:

Provided that the Governor in Council may authorize the grant of a mining lease for a term of more than twenty-one years.

(2) If, during the term originally granted or any renewal thereof—

- (a) the lessee has carried on work in a normal and business-like manner;
- (b) the lessee has in all respects performed and observed all the terms and conditions of the lease; and
- (c) the lessee has given to the Land Officer not less than six months' prior notice in writing of his desire to obtain renewal of the lease,

the lessee may be granted, on payment of the prescribed fee and subject to the provisions of this section, a renewal of the lease for such term as may be approved by the Land Officer, not exceeding twenty-one years, upon the conditions and subject to such rentals, fees, royalties, premiums and other payments as are then applicable to new leases and subject to such covenants and conditions as the Land Officer may determine.

Rights
under a
mining
licence or
mining
lease.

26. A mining licence or mining lease shall be deemed to confer on the holder or lessee the following rights—

- (a) to carry out mining operations below the surface of the area in respect of which the licence or lease is granted;
- (b) to enter upon, use and carry out mining operations on the surface of any Crown land within the said area; and

(c) with the prior consent in writing of the owner and any lawful occupier of any private land within the said area, to enter upon, use and carry out mining operations on the surface thereof.

27. The lessee of a mining lease shall not assign, mortgage, charge, underlet or otherwise alienate or dispose of any of his rights under the lease, or enter into any agreement so to do, without the prior consent in writing of the Land Officer.

Assign-
ment etc.
of mining
rights.

28. (1) The holder of a mining licence or mining lease shall not—

Diversion
or pollution
of waters
prohibited.

- (a) divert the waters of any river, stream, spring, reservoir, filter-bed, well or water course, without the prior consent in writing of the Superintendent; or
- (b) pollute, or permit to become polluted, any water, or in any way render such water unfit for the purpose for which it is being used.

(2) Any holder of a mining licence or mining lease who contravenes any of the provisions of subsection (1) may, without prejudice to any other remedy therefor, be required by the Superintendent to take such action as may be directed to prevent a continuance or recurrence of such contravention and within such time as may be specified.

29. Every person who uses water in connexion with mining operations, whether for the generation of power or for the removal of mineral substances or for concentrating, milling or otherwise, shall make such provision as will ensure that all water so used shall not contain any injurious substance in quantities likely to prove detrimental to human, animal or vegetable life when it leaves the mining area in which it has been so used.

Purifica-
tion of
water.

30. If at any time it is shown to the satisfaction of the Commissioner that a mine is in such condition as to render mining dangerous to the safety or health of persons employed in or about such mine, the Commissioner may order either that such mine be closed, and a notice to that effect be published in the *Gazette*, or that such works be executed as will enable mining to be carried out with due regard to the safety or health of persons employed in or about such mine.

Power of
Commis-
sioner to
close
mine.

Acceptance of rent not to operate as a waiver of right of re-entry or forfeiture.

31. The acceptance by or on behalf of the Crown of any rent shall not operate as a waiver by the Crown of any right of re-entry accruing or of any forfeiture incurred by reason of the breach of any of the provisions of this Ordinance or the regulations or of any covenant or condition, express or implied, in any lease granted under this Ordinance.

Power of Land Officer to revoke a mining lease.

32. (1) The Land Officer may, by notice in writing, revoke any mining lease in any of the following cases, that is to say—

- (a) if the lessee or any attorney, partner, agent or servant of such lessee is convicted of an offence against this Ordinance or the regulations or fails to comply with any of the requirements of this Ordinance or the regulations; or
- (b) if the lessee or any attorney, partner, agent or servant of such lessee commits any breach of the terms or conditions whether express or implied of his lease; or
- (c) if the lessee becomes bankrupt, or makes a composition or scheme of arrangement with his creditors, or, being a company, goes into liquidation, whether compulsory or voluntary (except a voluntary liquidation of a solvent company for the purposes of reconstruction), or if a receiver or manager of the company's business or undertaking is appointed, or if possession is taken, by or on behalf of the holders of debentures secured by a charge, of any property comprised in or subject to the charge; or
- (d) if, without the prior consent in writing of the Commissioner, the lessee wholly or substantially discontinues mining operations during a continuous period of six months; or
- (e) if the lease has been granted in error, whether such error relates to the area or to the boundaries or to any other matter whatsoever.

(2) The lessee or his attorney shall be given an opportunity to show cause why the lease should not be revoked.

(3) Before a lease is revoked under the provisions of subsection (1), the Land Officer shall give notice in writing of his intention to the lessee or his attorney, specifying the reasons for the proposed revocation, and the lessee or his attorney may,

within one month after receipt of such notice, appeal by way of petition to the Governor in Council against the proposed revocation.

(4) A petition to the Governor in Council under the provisions of subsection (3) shall be lodged with the Clerk of Councils.

(5) On consideration of the petition, the Governor in Council may make such order as he thinks proper and such order shall be final.

PART V.

COMPENSATION.

33. (1) For the purpose of hearing appeals under section 34, a Mining Compensation Board (hereinafter referred to as the Board), shall be established, and shall consist of a Chairman and two other members appointed by the Governor. Mining Compensation Board.

(2) The members of the Board shall retain their membership during the Governor's pleasure and, subject thereto, for such period as may be specified in their instruments of appointment.

(3) The procedure of the Board on the hearing of an appeal shall, subject to any regulations made in that behalf under section 68, be of an informal character, but shall be such as to allow each of the parties an adequate opportunity to present his case.

(4) The Governor shall appoint a Secretary to the Board, and may determine his remuneration, if any.

34. (1) Reasonable compensation for use of the surface of any private land or any disturbance of the surface rights or any damage to such land or anything built, planted, grown or standing thereon, caused by prospecting or mining, shall be paid by the person prospecting or mining to the owner of such land and any lawful occupier thereof. Compensation for disturbance of surface rights, etc.

(2) Any dispute as to whether any compensation is payable under subsection (1), or as to the amount of any compensation so payable, may, in default of agreement, be referred to, and determined by, the Commissioner, who shall notify the parties of his decision.

(3) If either of the parties is dissatisfied with the decision of the Commissioner, such party may, within fifteen days of such notification, appeal to the Mining Compensation Board, whose decision thereon shall be final and conclusive and shall be notified to the parties.

(4) Notice in writing of intention to appeal from a decision of the Commissioner shall be given by the person wishing to appeal to the Secretary to the Board and to any other person interested in the subject matter of the appeal.

(5) The amount of compensation awarded by the Commissioner or, in the event of an appeal, by the Board shall be paid to the Treasury for the account of the person entitled thereto, within fifteen days of the date on which the amount is notified to the person liable to pay such compensation.

(6) If the amount so awarded is not paid within the time specified in subsection (5), such amount may be recovered by the person entitled thereto by civil action.

(7) In any proceedings in court under subsection (6), a certificate under the hand of the Commissioner or of the Secretary to the Board, as the case may be, specifying the amount of compensation awarded shall, without further proof, be received as conclusive evidence of the amount of compensation payable.

(8) Upon the determination of an appeal under this section, the Board may direct that the unsuccessful party pay to the successful party the expenses reasonably incurred by the successful party in connexion with the appeal, or such portion thereof as the Board may think reasonable having regard to all the circumstances (including the conduct of the appeal, the issues raised thereon and the determination of those issues), and in default of agreement between the parties as to the amount of such expenses, the Board shall determine the same.

(9) Any expenses which the Board directs to be paid under subsection (8) may be recovered by the person entitled thereto by civil action, and the provisions of subsection (7) shall apply as if the reference therein to compensation were a reference to expenses.

(10) Nothing in this section shall prevent an owner or occupier of private land from pursuing any other remedies he may have by law.

35. (1) In the case of a prospecting or mining licence, the Commissioner may, at any time, require the holder, and in the case of a mining lease, the Land Officer may similarly require the lessee, to give security for the payment of compensation which may become payable under section 34.

Security for payment of compensation may be required.

(2) Such security shall be of such amount as the Commissioner or the Land Officer, as the case may be, shall determine, and may be given by way of a cash deposit with the Accountant General or a guarantee of a bank or person approved by the Commissioner or the Land Officer, as the case may be.

PART VI.

POSSESSION AND PURCHASE OF MINERALS.

36. For the purposes of this Part, the term "minerals" means the metalliferous minerals, in their unmanufactured state, classified in paragraph (a) of the definition of the word "mineral" in section 2 and any other minerals to which the Governor may, by order, apply this Part.

Meaning of "minerals" for purposes of this Part.

37. No person shall possess any minerals unless he is the lessee of a mining lease or the holder of a prospecting or mining licence, or a holder of a licence granted under section 39 or is the duly authorized employee of such lessee or holder.

Possession of minerals.

38. No person shall purchase any minerals unless he is the holder of a licence granted under section 39.

Purchase of minerals.

39. (1) The Superintendent may, on payment of the prescribed fee, issue an Authorized Buyer's Licence in the prescribed form authorizing the person named therein to purchase minerals, and may attach to the licence such conditions as he may think fit.

Licence to purchase minerals.

(2) Every such licence shall continue in force for one year from the date thereof, unless previously cancelled, and shall not be transferable.

40. No person shall sell any minerals to a purchaser within the Colony, unless he has first satisfied himself that the purchaser is the holder of an Authorized Buyer's Licence authorizing him to purchase such minerals.

Duty of seller of minerals to satisfy himself that purchaser is licensed to buy.

Holder of licence to satisfy himself that the seller is authorized to possess and dispose of minerals.

Duty of licensee.

41. The holder of an Authorized Buyer's Licence shall not purchase any minerals unless he has first satisfied himself that the vendor is authorized to be in possession of such minerals and to dispose of the same.

42. The holder of an Authorized Buyer's Licence shall—

- (a) keep proper books showing—
 - (i) all purchases made by him and the nature and weight of the minerals purchased;
 - (ii) the date of each purchase;
 - (iii) the name of the seller and his title or authority to be in possession and to dispose of the minerals;
 - (iv) details of disposal of the minerals after purchase by him; and
- (b) produce such books for the inspection of any mines, revenue or police officer whenever required to do so.

Cancellation of Authorized Buyer's Licence.

43. (1) In the event of any contravention by the holder of an Authorized Buyer's Licence of any of the provisions of section 41 or 42 or of any of the conditions of his licence, the Superintendent may cancel the licence and such cancellation shall be in addition to any other penalty.

(2) An appeal shall lie by way of petition to the Governor in Council from any cancellation imposed by virtue of subsection (1), and such petition shall be lodged with the Clerk of Councils within one month after such cancellation.

(3) On consideration of the petition, the Governor in Council may make such order as he thinks proper and such order shall be final.

PART VII.

APPOINTMENT AND FUNCTIONS OF MINES OFFICERS.

Appointment of mines officers.

44. The Governor may, from time to time, appoint a Commissioner of Mines, a Deputy Commissioner of Mines, a Superintendent of Mines, Mining Engineers, Mines Inspectors and such other officers as he may consider necessary for carrying out the purposes of this Ordinance.

45. In addition to any other functions prescribed by this Ordinance, the Superintendent shall—

Functions of the Superintendent of Mines.

- (a) subject to the control and directions of the Commissioner, exercise general supervision over all mining and prospecting operations;
- (b) prepare and render such records, reports and returns as may be prescribed by the regulations or as may be required by the Commissioner or the Governor; and
- (c) take into his custody any minerals declared by any court to be forfeited to the Crown, and dispose of such minerals by sale, and after such sale, pay the proceeds to the Treasury.

46. Any mines officer may—

Powers of mines officers.

- (a) by notice in writing, require the holder of a prospecting or mining licence or the lessee under a mining lease or any person employed by such holder or lessee to appear before him at any reasonable time and place and give such information regarding prospecting or mining operations in or about the area the subject of the prospecting or mining licence or mining lease as he may possess, and every such holder or lessee or other person shall comply with such notice and give such information;
- (b) by order in writing, suspend work in the area, or any part thereof, the subject of any prospecting or mining licence or mining lease, until such arrangements have been made as are, in his opinion, necessary to prevent danger to life or property;
- (c) cancel or vary the terms of any such notice or order; and
- (d) exercise all the powers conferred upon inspectors of labour, factories and workshops by the Factories and Workshops Ordinance in so far as they are applicable to prospecting or mining operations. (Cap. 59).

47. A mines officer may—

Power to enter upon land and inspect, etc.

- (a) enter upon any land on which prospecting or mining is being carried out or in respect of which a prospecting or mining licence or a mining lease exists, and inspect such land and any works thereon;

- (b) inspect and take copies of any registers, books, documents and plans connected with such prospecting or mining;
- (c) take samples, make surveys and do any other act or thing necessary for the purpose of discharging his functions under this Ordinance or the regulations.

Public officers may be authorized to discharge functions of mines officer.

48. The Commissioner may, by writing under his hand, authorize any public officer to discharge all or any of the functions of a mines officer under this Ordinance and the regulations, and where the authority is not general, it shall specify the functions which the public officer may discharge.

PART VIII.

INQUIRIES INTO ACCIDENTS, ETC.

Accidents and dangerous occurrences to be reported.

49. (1) If in any mine, or in connexion with mining or prospecting operations, any accident causing loss of life or serious personal injury occurs, or if any dangerous occurrence, as specified in the regulations, takes place, whether any personal injury has been caused or not, the lessee or the holder of the licence shall forthwith report the same to the Commissioner and to the nearest police station.

(2) Any other accident occurring within the area of the lease or licence and resulting in injury to any employee of the lessee or the holder of a licence so as to cause him to be incapable of performing his ordinary work for three days or more shall be reported to the Commissioner by the lessee or the holder of the licence as soon as possible and not later than seven days after the date of such accident.

(3) If any accident causing personal injury is notified under this section and the person disabled subsequently dies as a result of the accident, notice in writing of the death shall be given forthwith to the Commissioner of Mines and to the Commissioner of Police.

Commissioner of Mines to decide if

50. If after receiving a report of the happening of an accident or of any dangerous occurrence and after such investigation, if any, as he may think necessary, the Commissioner is of the opinion

that an inquiry into the cause of the accident or dangerous occurrence should be held, he shall instruct the Superintendent to hold such inquiry.

inquiry by Superintendent shall be held in certain cases.

51. (1) If, upon the holding of any inquiry by the Superintendent, the proceedings are frustrated or delayed owing to the unwillingness of any witness to attend before the Superintendent or to produce books or records or to answer any question, or if such frustration or delay is brought about by any other cause, the Superintendent shall remit the inquiry to the Commissioner, who for the purposes of making further inquiry shall have all the powers of a magistrate to summon witnesses, to call for the production of books and documents and examine witnesses and parties concerned on oath.

Procedure if inquiry conducted by Commissioner.

(2) Any person summoned to attend before the Commissioner or to produce books or documents as aforesaid who fails to do so, or who refuses to answer any question put to him by or with the concurrence of the Commissioner, shall be guilty of an offence and liable to a fine of one thousand dollars:

Provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry, be entitled to the same privileges as those to which he would have been entitled if giving evidence before a court.

52. Any inquiry held by virtue of the provisions of this Part shall not derogate in any way from the powers or jurisdiction exercisable by magistrates under the Magistrates (Coroners Powers) Ordinance. Saving.

PART IX.

OFFENCES AND PENALTIES.

53. Any person who—

- (a) prospects, save under the authority of, and in accordance with the terms and conditions of, a valid prospecting licence;

Unlawful prospecting and mining.

- (b) mines, save under the authority of, and in accordance with the terms and conditions of, a valid mining licence or mining lease;
- (c) prospects or mines on any of the lands mentioned in section 9 without the requisite authority;
- (d) prospects or mines in contravention of a declaration or prohibition by the Governor under section 11 or 12; or
- (e) fails to comply with any order of the Commissioner under section 30,

shall be guilty of an offence and liable to a fine of five thousand dollars and to imprisonment for two years.

Penalty for contraventions of sections 8, 16, 28 and 29.

54. Any person who contravenes the provisions of section 8, 16, 28 or 29 shall be guilty of an offence and liable to a fine of two thousand dollars and to imprisonment for twelve months.

Offences and penalties in relation to possession and purchase of minerals.

55. Any person who contravenes the provisions of section 37, 38, 40, 41 or 42 shall be guilty of an offence and liable to a fine of four thousand dollars and to imprisonment for twelve months.

Fraud by applicant for prospecting licence or mining licence.

56. (1) Any person who falsely represents that he has obtained the grant of a prospecting or mining licence or mining lease, and thereby induces or attempts to induce any person to invest capital in connexion therewith before he has obtained the grant of such prospecting or mining licence or mining lease, shall be liable to forfeit any claim to the grant of such prospecting or mining licence or mining lease.

(2) Nothing in this section shall relieve any person from liability to civil action or criminal prosecution in respect of the said representation.

Wilfully or recklessly giving false information or withholding information.

57. Any person who wilfully or recklessly gives false information, or who withholds information, as to any of the matters in respect of which information is required to be given under this Ordinance or the regulations shall be guilty of an offence and liable to a fine of one thousand dollars and to imprisonment for six months.

58. Any person who—

- (a) interferes with any mining or prospecting operations authorized by or under this Ordinance;
- (b) obstructs any person in the exercise of any right conferred by or under this Ordinance;
- (c) interferes with any machinery, plant, works or property established on, in, under or over any land in exercise of a right conferred by or under this Ordinance,

Interfering with mining, prospecting or the exercise of any right conferred by this Ordinance.

shall be guilty of an offence and liable to a fine of two thousand dollars and to imprisonment for twelve months.

59. Any person who places or deposits, or is an accessory to the placing or depositing of, any metal, ore or mineral in any place with intent to mislead any person as to the nature, quality or quantity of the mineral naturally occurring at such place, or who mingles or causes to be mingled with any sample of metal, mineral or ore, any valuable metal or any substance whatsoever which will increase or decrease the value or in any way change the nature of the said metal, mineral or ore, with intent to defraud any person, shall be guilty of a misdemeanour and liable to a fine of ten thousand dollars and to imprisonment for five years.

Salting.

60. Whenever it is proved to the satisfaction of any court having jurisdiction that an offence against this Ordinance or the regulations has been committed by any employee of the holder of any licence or lease granted under this Ordinance, the employer shall be held to be liable for such offence and to the penalty provided therefor, unless he proves to the satisfaction of such court that the offence was committed without his knowledge or consent and that he had exercised all due diligence to prevent the commission of the offence :

Liability of employer for offences committed by his employees.

Provided that nothing in this section shall be deemed to exempt the employee from the penalties provided for the offence committed by him.

61. (1) It shall be lawful for a magistrate to order to be forfeited to the Crown any minerals with respect to which any offence under this Ordinance or the regulations has been committed, whether any person has been convicted of such offence or

Forfeiture.

not, and upon the making of such order for forfeiture the said minerals shall be deemed to be the property of the Crown free from all rights of any person.

(2) Before making any such order, the magistrate shall give to any person claiming or appearing to the magistrate to be the owner of or otherwise interested in such minerals an opportunity of being heard.

(3) It shall be lawful for the Governor in his absolute discretion to give effect to any claim for relief from such forfeiture where such claim is established to his satisfaction on equitable, moral or other grounds.

PART X

MISCELLANEOUS PROVISIONS.

Service of documents.

62. Save as is otherwise expressly provided, any notice or other document required or authorized to be served under this Ordinance or the regulations may be served either—

- (a) by delivering it to the person on whom it is to be served; or
- (b) by leaving it at the usual or last known place of abode or business of that person; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode or business; or
- (d) in the case of an incorporated company, by delivering it to the secretary of the company at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary of the company at that office.

Right of the Governor to take materials.

63. The grant of any licence or lease under this Ordinance shall not limit the power of the Governor to take from the land the subject of the licence or lease any materials required for the construction of railways, roads, buildings or other public works, and such other materials as are not included in the licence or lease, but so that such taking shall not interfere with or hinder any mining operations carried on under such licence or lease.

64. No person while in the service of the Crown shall, directly or indirectly, acquire or hold for his own benefit any right or interest under any prospecting or mining licence or mining lease, and any licence or lease or other document or transaction purporting to confer any such right or interest on any such person shall be null and void.

Crown servants prohibited from acquiring rights.

65. Notwithstanding the provisions of any other enactment, any mines officer authorized in writing by the Commissioner, either generally or in any particular case, may conduct the prosecution of any offence against this Ordinance or the regulations.

Officers empowered to conduct prosecutions.

66. The lateral limits of the area in respect of which a prospecting or mining licence or mining lease is granted, shall be vertical planes passing through the surface boundaries of such area.

Lateral limits.

67. (1) Whenever the Governor in Council decides that the resumption of any Crown land within the area of a mining lease is required for a public purpose, the Governor may call upon the lessee thereof to surrender his rights and interests in such land under his lease, and the lessee shall, within two months after the date upon which such decision is communicated to him, execute an instrument of surrender thereof in such form as may be approved by the Land Officer.

Resumption of land required for public purposes.

(2) In this section, the expression "resumption for a public purpose" has the meaning ascribed to that expression by section 2 of the Crown Lands Resumption Ordinance, but otherwise the provisions of that Ordinance shall have no application to a resumption under the provisions of subsection (1).

(Cap. 124).

(3) If the lessee fail to execute an instrument of surrender within due time as provided in subsection (1), the Governor may revoke the mining lease, and thereupon the lease and the rights of the parties thereunder shall absolutely determine but without prejudice to the rights and remedies of the parties in respect of any antecedent breach, non-observance or non-performance of the provisions thereof.

(4) Compensation shall be paid by the Government to the lessee for disturbance, and also for the loss of reasonable expectation of profits from proved minerals in, under or upon any land resumed under this section.

(5) Any dispute as to what are proved minerals in, under or upon any land resumed as aforesaid, and any dispute as to whether any compensation is payable or as to the amount of such compensation, shall, in default of agreement, be determined by arbitration in accordance with the provisions of Order XXV of the Code of Civil Procedure.

Power of Governor in Council to make regulations.

68. (1) The Governor in Council may by regulation prescribe or provide for—

- (a) all matters which by this Ordinance are required or permitted to be prescribed;
- (b) the manner in which application for prospecting licences, mining licences and mining leases shall be made, and the forms to be used;
- (c) the rentals, fees, premiums and other payments to be paid for prospecting licences, mining licences and mining leases;
- (d) the rates of royalties to be paid to the Government, the method of calculation of the amount of such royalties and the manner and time of payment thereof;
- (e) the extent of the areas in respect of which prospecting licences, mining licences and mining leases may be granted;
- (f) the manner in which areas and boundaries shall be surveyed and marked, and the fees payable in respect of such survey;
- (g) the working obligations in respect of mining licences and leases;
- (h) the construction and use of roads, tramways and railways;
- (i) the making of pits and shafts, and the construction and erection of houses, machinery and other works to be used for mining purposes;
- (j) the fencing off or rendering secure of any shaft, tunnel, well, trench, drive or other works constructed or made for prospecting or mining purposes;
- (k) the grazing of animals;
- (l) the cutting down and use of timber for the purpose of carrying out prospecting or mining;

- (m) the returns to be rendered and the accounts, registers, books and plans to be kept by the holders of prospecting licences, mining licences and mining leases;
 - (n) the disposal of any poisonous or noxious products resulting from prospecting or mining;
 - (o) the disposal of sludge and tailings and the declaring of watercourses to be sludge channels;
 - (p) the safety, welfare, health and housing conditions of persons employed in mining operations and the carrying on of prospecting or mining operations in a safe, sanitary, proper, economic and effectual manner;
 - (q) the forfeiture of any mineral illegally won, processed, sold, purchased or possessed;
 - (r) the fees to be paid in respect of any matter or thing done under this Ordinance;
 - (s) the procedure on appeal under Part V to the Mining Compensation Board;
 - (t) the imposition of a penalty not exceeding a fine of one thousand dollars and six months' imprisonment for a contravention of any regulation; and
 - (u) the better carrying out of the purposes of this Ordinance.
- (2) Any regulations made under subsection (1) shall be in addition to and not in derogation of the provisions of—

- (a) the Dangerous Goods Ordinance, 1873; (1 of 1873).
- (b) the Steam Boilers Ordinance; (Cap. 56).
- (c) the Factories and Workshops Ordinance; (Cap. 59).
- (d) the New Territories Ordinance; (Cap. 97).
- (e) the Buildings Ordinance, (Cap. 123).

and of the provisions of any regulations made thereunder; but if there is any conflict between any regulations made under subsection (1) and any such provisions as aforesaid, the regulations made under subsection (1) shall prevail.

69. Nothing in this Ordinance shall exempt any person from compliance with the provisions of the Radio-Active Minerals Ordinance. (Cap. 145).

Minor amendments to Cap. 145. First Schedule.

70. The amendments specified in the second column of the First Schedule, being amendments of a minor nature, shall be made in the sections of the Radio-Active Minerals Ordinance specified in the first column of that Schedule.

Repeal and saving. Second Schedule.

71. (1) The enactments mentioned in the Second Schedule are repealed.

(No. 7 of 1906).

(2) Nothing in this section shall invalidate any prospecting licence, mining licence or mining lease granted under the Prospecting and Mining Ordinance, 1906, and in existence at the commencement of this Ordinance; but every such licence and lease shall be subject to the provisions of this Ordinance and of the regulations, in so far as such provisions may be applicable and are not inconsistent with or repugnant to any express provisions of the licence or lease.

FIRST SCHEDULE

[s. 70]

Minor Amendments to the Radio-Active Minerals Ordinance,
(Cap. 145)

<i>First Column.</i>	<i>Second Column.</i>
<i>Sections to be amended.</i>	<i>Amendments</i>
3	<p>In subsection (1), delete the words "Prospecting and Mining Ordinance, 1906," and substitute therefor the following— "Mining Ordinance, 1954,"</p> <p>In subsection (2), delete the words "a licence granted in accordance with section 2 of the Prospecting and Mining Ordinance, 1906," and substitute therefor the following— "a prospecting licence granted under either the Prospecting and Mining Ordinance, 1906, or the Mining Ordinance, 1954,"</p> <p>In subsection (3), delete the words "a licence granted in accordance with section 3 of the Prospecting and Mining Ordinance, 1906," and substitute therefor the following— "a mining licence or mining lease granted under either the Prospecting and Mining Ordinance, 1906, or the Mining Ordinance, 1954,"</p>

<i>First Column.</i>	<i>Second Column.</i>
<i>Sections to be amended.</i>	<i>Amendments</i>
8	<p>In subsection (1), delete paragraph (c), and substitute therefor the following— "(c) being the holder of a prospecting licence, mining licence or mining lease granted under either the Prospecting and Mining Ordinance, 1906, or the Mining Ordinance, 1954, fails to comply with the requirements of subsection (2) of section 3 or subsection (3) of that section, as the case may be; or".</p>
11	<p>Delete the words "Prospecting and Mining Ordinance, 1906," and substitute therefor the following— "Mining Ordinance, 1954,".</p>

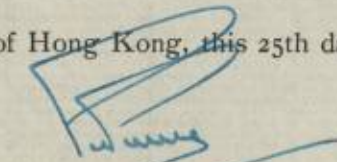
SECOND SCHEDULE

[s. 71]

Enactments repealed.

<i>First Column.</i>	<i>Second Column.</i>
<i>Enactments</i>	<i>References</i>
The Prospecting and Mining Ordinance, 1906, and all subsidiary legislation made thereunder.	No. 7 of 1906.
The Emergency (Control of Minerals) Regulations, 1951.	Government Notification No. A.208. Gazette Supplement No. 2 of 30th November, 1951.
The Emergency (Control of Minerals) Order, 1951.	Government Notification No. A.212. Gazette Supplement No. 2 of 7th December, 1951.

Passed the Legislative Council of Hong Kong, this 25th day of August, 1954.


Deputy Clerk of Councils.

(Secretariat 12/3231/53)

HONG KONG

No. 34 OF 1954.



I assent.

A handwritten signature in black ink, appearing to read 'R. S. S. S.', written over a horizontal line.

*Officer Administering
the Government.*

9th September, 1954.

An Ordinance to provide for the incorporation of the Hoseinee Society of Hong Kong.

[10th September, 1954.]

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

1. This Ordinance may be cited as the Hoseinee Society Short title. of Hong Kong Incorporation Ordinance, 1954.

2. In this Ordinance, unless the context otherwise requires— **Inter-**
pretation.

“committee” means the committee for the time being of the Hoseinee Society of Hong Kong appointed in accordance with the constitution;

First
Schedule.

"constitution" means the constitution of the Hoseinee Society of Hong Kong as set forth in the First Schedule and any amendment or variation thereof which may be made under section 8.

Incorporation.

3. The members of the committee of the Hoseinee Society of Hong Kong and their successors in office as hereinafter defined shall be a body corporate, hereinafter called the corporation, and shall have the name "*The Hoseinee Society of Hong Kong*" and in that name shall have perpetual succession, and shall and may sue and be sued in all courts in the Colony and shall and may have and use a common seal, and may from time to time break, change, alter and make anew the said seal.

Powers of
corporation.

4. (1) The corporation shall have power to acquire, accept, grant leases of, purchase, take, hold and enjoy any lands, buildings, messuages or tenements of what nature or kind soever and wheresoever situated, and also to invest money upon mortgage of any lands, buildings, messuages or tenements or upon the mortgages, debentures, stocks, funds, shares or securities of any government, municipality, corporation or company and also to purchase, acquire and possess vessels and other goods and chattels of what nature and kind soever.

(2) The corporation shall further have power by deed under its seal to grant, sell, convey, assign, surrender, exchange, partition, yield up, mortgage, pledge, demise, reassign, transfer or otherwise dispose of lands, buildings, messuages, tenements, mortgages, debentures, stocks, funds, shares or securities or other goods and chattels whatsoever, which are for the time being vested in or belonging to the corporation upon such terms as to the corporation may seem fit.

Vesting of
property.
Second
Schedule.

5. (1) All those leasehold properties particulars whereof are contained in the Second Schedule with all rights, easements and appurtenances thereunto respectively belonging or usually held, occupied or enjoyed therewith, shall upon registration by the corporation in the Land Office of a memorial of this Ordinance vest in the corporation for the residue now unexpired of the terms created therein by the respective Crown leases thereof subject to the payment of the rent respectively reserved by the said Crown

leases and the observance and performance of the lessee's covenants and the conditions therein contained so far as they are applicable to the aforesaid properties, free from all trusts, but subject to such mortgages, charges, leases, tenancies and other agreements, as may be subsisting upon the commencement of this Ordinance.

(2) All other property, goods and chattels and rights which immediately before the commencement of this Ordinance belonged to or were held in trust for the Hong Kong Hoseinee Society and known as the Hong Kong Hoseinee Fund are hereby transferred to and vested in the corporation, and the corporation shall upon the commencement hereof be liable for all debts and liabilities of the said Hong Kong Hoseinee Fund.

6. All deeds and other instruments requiring the seal of the corporation shall be sealed in the presence of two members of the committee and shall be signed by two members and the secretary and treasurer, and all other documents, instruments and writings requiring the signature of the corporation shall be signed by the secretary or a member of the committee acting as the secretary.

Execution
of docu-
ments.

7. (1) The appointment of members of the committee shall be made in accordance with the constitution.

(2) Within six weeks after the commencement of this Ordinance or within such further period as the Governor may allow, and whenever thereafter any person is appointed to be a new member of the committee within six weeks of such appointment or within such further period as the Governor may allow, the corporation by its secretary shall furnish to the Registrar of Companies evidence of his satisfaction of the due appointment and the names and addresses of the members of the committee, or of such new member, and shall then and within three weeks of any change of secretary or change of address, furnish to such Registrar particulars of such secretary and of his place of residence or other sufficient address within the Colony.

Appoint-
ment of
committee
and regis-
tration of
particulars.

(3) The registration of members of the committee shall be conclusive evidence of their appointment.

(4) There shall be payable to the Registrar of Companies a fee of five dollars in respect of registration of the committee under subsection (2), or of a new member of the committee, and a fee of one dollar shall be payable in respect of each search of the file.

Internal management.

8. (1) All matters for which provision is not herein made and all matters of internal management shall be settled and carried out in accordance with the constitution and with the rules contained in the Third Schedule.

Third Schedule.

(2) The committee may, with the prior approval of the Governor, by resolution amend the constitution.

(3) The committee may by resolution amend the rules contained in the Third Schedule.

(4) Any amendment of the constitution or of the rules contained in the Third Schedule shall be effective upon a copy thereof, certified by the secretary or by a member of the committee acting as secretary, being lodged with the Registrar of Companies.

Saving of rights of the Crown and of certain other rights.

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

FIRST SCHEDULE

[s. 2]

Constitution.

ARTICLE I.

Objects of corporation.

The objects of the corporation are—

- (a) to perpetuate the commemoration of the martyrdom of Imam Hosein a grandson of the Holy Prophet Mahomed by the holding of meetings and giving of dinners during *Moharram Safar* and at other customary times;
- (b) to perpetuate also the memory of the other members of Panjatan in such manner as the committee shall from time to time determine;
- (c) to maintain and assist in such manner as the committee may from time to time determine whether by grants of money or otherwise needy or indigent *Shiahs* in Hong Kong;
- (d) to make donations from the surplus funds of the corporation to such an amount as the committee may from time to time determine for suitable charitable or deserving purposes.

ARTICLE II.

Charities and donations.

(1) None of the funds of the corporation shall be expended by virtue of Article 1 hereof unless the recipient is a *Shiah* in Hong Kong.

(2) The committee shall not spend more than 15% of the net income of the corporation received in any one year in making grants for the relief of needy or indigent persons in accordance with paragraph (c) of Article 1.

(3) The committee shall not be entitled to make any donations for charitable or deserving purposes in accordance with paragraph (d) of Article 1 until the funds of the corporation represented by cash and realizable securities as certified by the auditors exceed in value \$50,000.00. Any surplus over and above this figure shall accumulate until such time as it shall have reached in the opinion of the committee a substantial sum when the whole or any part of such surplus may be donated by the committee subject to the approval of a majority of those present at an annual general meeting or an extraordinary general meeting convened for this purpose for specific religious, benevolent or utilitarian purposes or one or more of them in *Karbela*.

ARTICLE III.

The committee shall have such powers and duties and shall hold such meetings as are specified in the Ordinance, in this constitution, and in the rules in the Third Schedule.

Powers and duties of committee.

ARTICLE IV.

(1) The committee shall be composed of five persons one of whom shall be nominated by each of the following five *Shiah* firms or business houses carrying on business in Hong Kong, namely—

Composition of committee.

- Messrs. ABDOOLALLY EBRAHIM & CO., (HONG KONG) LTD.
- Messrs. H. T. BARMA LTD.
- Messrs. KAYAMALLY LTD.
- Messrs. M. NEMAZEE.
- Messrs. TYEB & CO.

and such other persons not exceeding two in number as the committee shall from time to time co-opt.

(2) No person shall be eligible as a member of the committee unless he was at the time of his nomination a *Shiah*.

(3) In the event of any vacancy occurring from time to time by reason of a nominee dying, resigning or becoming incapable or unwilling to act or being absent from Hong Kong for more than six months, the committee may require the firm in question to nominate another nominee and if such nominee is not nominated within one month the committee shall be entitled to invoke paragraphs (4) and (5) of this Article.

(4) In the event of any of the firms or business houses mentioned in paragraph (1) hereof ceasing to carry on business in the Colony the remaining members of the committee shall be entitled by resolution passed by the majority thereof to elect another *Shiah* firm or business house with power to nominate a member of the committee as provided in paragraph (1).

(5) In the event of there being no other *Shiah* firm or business house available for election as provided in paragraph (1) the remaining members of the committee shall be entitled to co-opt any individual *Shiah* to be a member of the committee in place of the nominee of such firm.

ARTICLE V.

(1) For the purposes of the nomination mentioned in paragraphs (1) and (5) of Article IV a copy of a minute purporting to be signed by the firm making the nomination or in the case of the election of an individual member a copy of a minute signed by the committee that a person has been nominated a member of the committee shall be sufficient for the purposes of registration of appointment.

Evidence of appointment of members of committee.

(2) The certificate of the Registrar of Companies that any person was at the date of the certificate or had been at some previous specified date a member of the committee shall for all purposes be conclusive evidence of that fact.

ARTICLE VI.

No member of the committee or officer of the corporation (other than the auditor) shall be entitled to or be paid any remuneration whatever for his services.

Appointments to be honorary.

SECOND SCHEDULE. [s. 5]

Particulars of Property to be Vested in Corporation.

<i>Property</i>	<i>Present Registered Owners</i>
(1) All that piece or parcel of ground registered in the Land Office as section 1 of section A of Inland Lot No. 72 together with all rights, easements and appurtenances thereto belonging or usually held occupied or enjoyed therewith subject to the payment of the rent and the performance and observance of the covenants and conditions contained in the Crown lease thereof.	DHURUMSEY POONJASHOY, RAMOBHOY HABBIBHOY, KHAN MOHAMED HABBIBHOY, and JAFFERBHOY BUDROODEEN.
(2) All that piece or parcel of ground registered in the Land Office as Inland Lot No. 967 together with all rights, easements and appurtenances thereto belonging or usually held occupied or enjoyed therewith subject to the payment of the rent and the performance and observance of the covenants and conditions contained in the Crown lease thereof.	MOHAMED NEMAZEE.

THIRD SCHEDULE [s. 8]

RULES

Control and Management.

1. The supreme control and management of the corporation and of the premises and property of whatever description of the corporation shall be vested in the committee.

Meetings.

2. Meetings of the committee shall be held at least twice yearly once before and once after *Moharram Safar* on such day at such hour as the committee shall direct. Four members shall constitute a quorum.

3. A general meeting shall be held in the third month of each year and at such meeting a report of all the affairs of the corporation and an account of the receipts expenditure and property of the corporation together with a balance sheet for the preceding year shall be presented by the secretary and treasurer and there shall be elected a chairman who must be a member of the committee, a secretary and treasurer, and

auditors for the ensuing year. The committee shall elect their first chairman who shall function until the first annual general meeting. At such annual general meeting such other business shall be transacted as may be necessary.

4. Seven days' notice of the annual general meeting shall be given to *Shiahs* ordinarily resident in Hong Kong who shall be entitled to attend and vote at such meeting.

5. Special meetings of the committee may be convened at any time on the requisition of the honorary secretary and treasurer or of not less than two members thereof by a notice specifying the object of the meeting and at any special meeting convened on such requisition no business shall be transacted other than that specified in the requisition.

6. The honorary secretary and treasurer shall keep a minute book of such meetings and proper entries shall be made therein of all business transacted at every meeting.

7. Resolutions passed at all meetings shall be decided by show of hands.

AUDITORS.

8. There shall be one or more auditors of the corporation who shall be elected annually at the annual general meeting.

9. The auditor or auditors shall not later than three weeks before the annual general meeting in each year audit and report upon all accounts and books of the corporation and shall at any other time if and when required by the committee audit and report upon any of such books and accounts.

10. All the accounts and books of the corporation shall be open to inspection by the auditor or auditors at all reasonable times.

BANKERS.

11. The bankers of the corporation shall be The Hongkong and Shanghai Banking Corporation or such other bankers as the committee shall from time to time determine.

12. All subscriptions and pecuniary donations and the income of investments and all other monies from time to time forming part of the general funds of the corporation shall on the same being received be paid to the general accounts of the corporation at their bankers.

13. Cheques shall be drawn on the order of the committee and shall be signed by the secretary and treasurer and countersigned by one member of the committee.

INVESTMENTS.

14. All moneys standing to the credit of the corporation shall be invested by the committee in the corporate name of the corporation upon the investments authorized in the Ordinance and any such investments from time to time may be sold and the proceeds thereof invested in other such investments as aforesaid as and when the committee shall direct.

Passed the Legislative Council of Hong Kong, this 8th day of September, 1954.


Deputy Clerk of Councils.

(Secretariat 16/3231/54)

HONG KONG

No. 35 OF 1954.



I assent.

*Officer Administering
the Government.*

23rd September, 1954.

An Ordinance to amend the Pensions Ordinance, Chapter 89.

[24th September, 1954.]

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

1. This Ordinance may be cited as the Pensions (Amendment) (No. 2) Ordinance, 1954.

2. Section 16 of the Pensions Ordinance is repealed and replaced by the following section—

“Gratuity
where
officer dies
in the
service or
after
retirement.

16. (1) (a) Where an officer holding a pensionable office who is not on probation or agreement, or an officer holding a non-pensionable office to which he has been transferred from a pensionable office in which he has been

Repeal and
replace-
ment of
section 16.
(Cap. 89).

confirmed, dies while in the service of the Colony, the Governor in Council may grant to his legal personal representative, or in case the gratuity does not exceed two thousand and five hundred dollars, to such person as the Governor in Council shall name as the recipient, a gratuity of an amount not exceeding either his annual pensionable emoluments, or his commuted pension gratuity, if any, whichever is the greater.

(b) For the purpose of this subsection—

(i) "annual pensionable emoluments" means the emoluments which would be taken for the purpose of computing any pension or gratuity granted to the officer if he had retired at the date of his death in the circumstances described in paragraph (e) of section 6;

(ii) "commuted pension gratuity" means the gratuity, if any, which might have been granted to the officer under regulation 23 of the Pensions Regulations if he had retired at the date of his death in the circumstances described in paragraph (e) of section 6 and had elected to receive a gratuity and reduced pension.

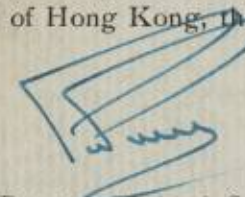
(2) Where any such officer to whom a pension, gratuity or other allowance has been granted under this Ordinance dies after retirement from the service of this Colony, and the sums paid or payable to him at the time of his death on account of any pension, gratuity or other allowance in respect of any public service are less than the amount of the annual pensionable emoluments enjoyed by him at the date of his retirement, the Governor in Council may grant to his legal personal representative, or in case the gratuity does not exceed two thousand and five hundred dollars, to such person as the Governor in Council shall name as the recipient, a gratuity equal to the deficiency.

(Vol. IX,
p. 6).

(3) Such gratuities if granted to the legal personal representative shall form part of the estate of the officer for purposes of distribution but, nevertheless, no estate duty shall be payable in respect thereof and its addition to the principal value of the estate shall not be taken into consideration for the purpose of increasing the rate at which estate duty on the remainder of the estate may be payable.

(4) The provisions of this section shall not apply in the case of the death of any officer where benefits corresponding to the benefits which may be granted under this section are payable under the Colonial Superannuation Scheme, in respect of such death."

Passed the Legislative Council of Hong Kong, this 22nd day of September, 1954.




Deputy Clerk of Councils.

(Secretariat 5/4370/54)

HONG KONG

No. 36 OF 1954.

I assent.



R. S. S. C.

*Officer Administering
the Government.*

23rd September, 1954.

An Ordinance to amend the Inland Revenue Ordinance,
Chapter 112.

[24th September, 1954.]

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

1. This Ordinance may be cited as the Inland Revenue Short title.
(Amendment) Ordinance, 1954.

2. Section 9 of the Inland Revenue Ordinance is amended Amendment
of section 9.
by the addition after subsection (1) of the following new
subsection—

“(1A) (a) Notwithstanding paragraph (a) of subsection
(1), where an employer refunds all or part of the
rent paid by the employee, such refund shall be
deemed not to be income;

- (b) a place of residence in respect of which an employer has refunded all the rent therefor shall be deemed for the purposes of subsection (1) to be provided rent free by the employer;
- (c) a place of residence in respect of which an employer has refunded part of the rent therefor shall be deemed for the purposes of subsection (1) to be provided by the employer for a rent equal to the difference between the rent paid by the employee and the part thereof refunded by the employer."

Commence-
ment.

3. The amendment to section 9 of the Inland Revenue Ordinance made by this Ordinance shall be deemed to have had effect as from the 1st day of April, 1953.

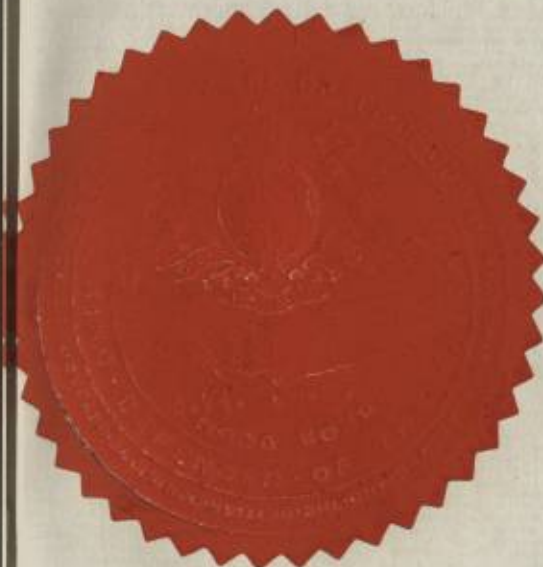
Passed the Legislative Council of Hong Kong, this 22nd day of September, 1954.

Deputy Clerk of Councils.

(Secretariat 17/3231/54)

HONG KONG

No. 37 OF 1954.



I assent.

*Officer Administering
the Government.*

7th October, 1954.

An Ordinance to amend the Gambling Ordinance, Chapter 148.

[8th October, 1954.]

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

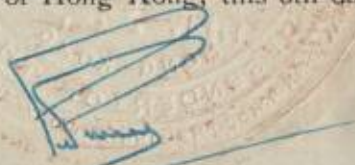
- 1. This Ordinance may be cited as the Gambling (Amendment) Ordinance, 1954. Short title.
- 2. Section 10 of the Gambling Ordinance is amended— Amendment
of section
10.
(Cap. 148).
 - (a) by the deletion of subsection (1) and the substitution therefor of the following subsection—

“(1) Subject to the conditions contained in subsection (2), a lottery promoted as an incident of an entertainment to which this section applies shall be

deemed not to be a lottery within the meaning of this Ordinance if the permission of the Commissioner of Police has been obtained in writing prior to the promotion of such lottery. Such permission may be granted or refused in the sole discretion of the Commissioner of Police, and he may endorse thereon such further conditions as he may think fit.”;

- (b) by the deletion of paragraph (c) of subsection (2);
- (c) by the insertion after the words “subsection (2)” in the first and second lines of subsection (4) of the following—
“, or endorsed on the written permission of the Commissioner of Police,”.

Passed the Legislative Council of Hong Kong, this 6th day of October, 1954.



Deputy Clerk of Councils.

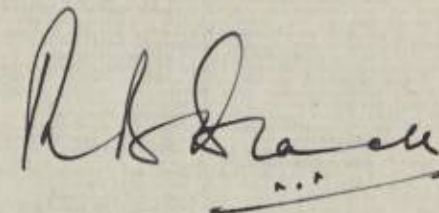
(Secretariat L/M 177/54C)

HONG KONG

No. 38 OF 1954.



I assent.



*Officer Administering
the Government.*

7th October, 1954.

An Ordinance to incorporate a body of trustees capable of holding property for the purposes of the welfare of Her Majesty's forces in the Colony.

[8th October, 1954.]

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

1. This Ordinance may be cited as the Services Welfare Short title. Association Incorporation Ordinance, 1954.

2. (1) Trustees of the Services Welfare Association shall be appointed under the hand of the Commander British Forces or other officer for the time being commanding the British Forces in Hong Kong. ^{Incorporation.}

(2) The trustees so appointed shall be a body corporate, hereinafter called the corporation and shall have the name of "The Trustees of the Services Welfare Association" and by that name shall have perpetual succession and shall and may sue and be sued in all courts and shall and may have and use a common seal and may break, change, alter and make anew the said seal as to the corporation may seem fit.

(3) The trustees, whether the first trustees or appointed in succession, immediate or otherwise, of any of the first trustees shall be deemed to be the trustees and be members of the corporation upon notice of their appointment and of the retirement of the retiring trustees, if any, whom they shall have been appointed to replace, being filed with the Registrar of Companies.

(4) Any such notice shall be signed by the Commander British Forces or other officer for the time being commanding the British Forces in Hong Kong.

Powers of corporation.

3. The corporation shall have full power to acquire, accept leases of, purchase, take, hold and enjoy any lands, buildings, messuages or tenements of what nature or kind soever and where-soever situate in this Colony or elsewhere, and also to invest monies on deposit in any bank, either in this Colony or elsewhere, on such terms as may seem expedient to it, or on mortgage of any lands, buildings, messuages or tenements in this Colony or elsewhere, or on the mortgages or debentures, stocks, funds, shares or securities of any corporation or company carrying on business or having an office in this Colony or elsewhere, and also to purchase and acquire all manner of goods and chattels whatsoever.

The corporation shall further have power by deed under its seal to grant, sell, convey, assign, surrender and yield up mortgage, demise, reassign, transfer or otherwise dispose of or deal with any lands, buildings, messuages, tenements, mortgages, debentures, stocks, funds and securities, goods and chattels vested in the corporation on such terms as to the corporation may seem fit.

Execution of documents.

4. All deeds and other instruments requiring the corporate seal of the corporation shall be sealed with its seal and signed by one of the trustees.

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

Passed the Legislative Council of Hong Kong, this 6th day of October, 1954.




Deputy Clerk of Councils.

(Secretariat 19/3231/54)

HONG KONG

No. 39 OF 1954.

I assent.



R. B. Shaw

*Officer Administering
the Government.*

21st October, 1954.

An Ordinance to amend and consolidate the law touching corporal punishment.

[22nd October, 1954.]

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

1. This Ordinance may be cited as the Corporal Punishment Short title. Ordinance, 1954.

2. For the purposes of this Ordinance, "Court" means the Supreme Court and also the District Court. Interpretation.

3. Where any person is convicted by a Court of any of the offences specified in the First Schedule, the Court may, in addition to any other punishment awarded for such offence, sentence the offender, if a male, to be once whipped. Offences for which whipping may be awarded. First Schedule.

Whipping. 4. (1) Where the punishment of whipping is awarded by a Court, the following provisions shall have effect—

- (a) the sentence shall prescribe the number of strokes to be inflicted;
- (b) in the case of an offender of or above the age of sixteen years, the number of strokes shall not exceed eighteen;
- (c) in the case of an offender below the age of sixteen years, the number of strokes shall not exceed twelve;
- (d) the instrument used shall be a light cane or rattan of a type approved by the Governor;
- (e) the whipping shall be administered in a prison on the breech of the offender as soon as practicable after the final determination of the proceedings in consequence of which the offender was sentenced.

(2) For the purposes of this section, proceedings shall not be deemed to be finally determined until the expiration of the time within which notice of appeal or of an application for leave to appeal may be given or, where notice is so given, until the appeal or application has been determined.

Cumulative sentences. 5. Cumulative sentences of whipping imposed for two or more distinct offences shall not exceed in the aggregate the number of strokes prescribed by paragraph (b) or paragraph (c), as the case may be, of subsection (1) of section 4.

A person not to be whipped more than once for the same offence. 6. No person shall be sentenced to be whipped more than once for the same offence.

Saving. 7. Nothing in this Ordinance shall affect the power of a magistrate to award a sentence of corporal punishment under the provisions of section 92 or 93 of the Magistrates Ordinance; but save as is provided in this Ordinance and in the Magistrates Ordinance, no sentence of corporal punishment shall be awarded by a Court or any magistrate.

Con-sequential amend-ments. Second Schedule. 8. The Ordinances referred to in the first column of the Second Schedule are amended to the extent and in the manner set out in the second column of the said Schedule.

9. The Flogging Ordinance is repealed. Repeal. (Cap. 222).

FIRST SCHEDULE. [s. 3.]

- 1. Any offence contrary to section 4 of the Arms and Ammunition Ordinance. (Cap. 238).
- 2. Any offence contrary to subsection (1) of section 40 of the Larceny Ordinance. (Cap. 210).
- 3. Any offence contrary to section 17, 20, 42 or 43 of the Offences against the Person Ordinance. (Cap. 212).
- 4. Any offence involving the larceny of any chattel, money, or valuable security from the person of any woman or child.
- 5. Piracy.
- 6. Rape or attempted rape of a girl under the age of sixteen years.
- 7. Any offence contrary to section 5 or 6 of the Protection of Women and Juveniles Ordinance, 1951. (1 of 1951).
- 8. Any offence or attempted offence contrary to section 7 of the Protection of Women and Juveniles Ordinance, 1951, where the complainant is under the age of sixteen years.
- 9. During the continuance of any proclamation under the Peace Preservation Ordinance, any offence contrary to any of the enactments following—
 - (1) The Tramway Ordinance, section 52. (Cap. 107).
 - (2) The Criminal Intimidation Ordinance, section 3. (Cap. 205).
 - (3) The Larceny Ordinance, sections 25, 26, 40(2) & (3), 42, 43, 44, 45, 46(1)(a), 48. (Cap. 210).
 - (4) The Malicious Damage Ordinance, sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 19, 21, 22, 23, 28, 30, 31, 32, 36, 37, 40. (Cap. 211).
 - (5) The Offences against the Person Ordinance, sections 5, 10, 11, 12, 13, 14, 15, 17, 19, 21, 22, 23, 28, 29, 30, 31, 32, 36, 39, 54. (Cap. 212).
 - (6) The Suppression of Piracy Ordinance, section 2. (Cap. 215).
 - (7) The Summary Offences Ordinance, section 3(14). (Cap. 223).
 - (8) The Police Force Ordinance, section 58. (Cap. 232).

SECOND SCHEDULE. [s. 8.]

CONSEQUENTIAL AMENDMENTS.

Short Title	Amendment
Gambling Ordinance. (Chapter 148).	Section 21 is repealed.
Larceny Ordinance. (Chapter 210).	(i) Section 4 is amended by the deletion of the words "and the offender, if a male under the age of sixteen years, shall be liable to be once privately whipped in addition to any other punishment to which he may by law be liable".

Short Title	Amendment
	(ii) Section 30(c) is repealed.
	(iii) Section 31 is amended by the deletion of the words “, and in the case of a clerk or servant or person employed for the purpose or in the capacity of a clerk or servant, if a male under the age of sixteen years, to be once privately whipped in addition to any other punishment to which he may by law be liable”.
	(iv) Section 40(1) is amended by the deletion of the words “, and, in addition, if a male, to be once privately whipped”.
	(v) Sections 46(1) and 54 are amended by the deletion, in each, of the words “, and, if a male, under the age of sixteen years, to be once privately whipped in addition to any other punishment to which he may by law be liable”.
	(vi) Sections 52(1)(c) and 62(3) are repealed.
Malicious Damage Ordinance. (Chapter 211).	Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21, 22(1), 25, 28, 29, 30, 31, 32, 33, 34, 36 and 40 are amended by the deletion of the words “, and, if a male under the age of sixteen years, with or without whipping”.
Offences against the Person Ordinance. (Chapter 212).	Sections 15, 28, 29, 30, 32(1), 43(1) and 54 are amended by the deletion of the words “, and, if a male under the age of sixteen years, with or without whipping”.
Peace Preservation Ordinance. (Chapter 244).	Section 12 and the Second Schedule are repealed.
Protection of Women and Juveniles Ordinance. (No. 1 of 1951).	Section 30 is repealed.

Passed the Legislative Council of Hong Kong, this 20th day of October, 1954.



Deputy Clerk of Councils.

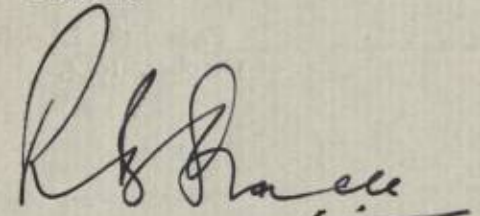
(Secretariat 7/2611/46II)

HONG KONG

No. 40 OF 1954.



I assent.



Officer Administering
the Government.

21st October, 1954.

An Ordinance to amend the Magistrates Ordinance, Chapter 227.

[22nd October, 1954.]

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

1. This Ordinance may be cited as the Magistrates (Amendment) (No. 2) Ordinance, 1954. Short title.

2. Section 92 of the Magistrates Ordinance (hereinafter referred to as the principal Ordinance) is repealed and replaced by the following section— Repeal and replacement of section 92. (Cap. 227).

“92. (1) Whenever any person is convicted by a magistrate of any crime involving the larceny of any chattel, money or valuable security from the person of any woman or child, the magistrate may, in addition to any other punishment awarded for the offence, direct that the offender, if a male, be once whipped.

(2) Any sentence of whipping awarded by a magistrate under this section shall be subject to like provisions as those contained in section 4 of the Corporal Punishment Ordinance, 1954."

Amendment
of
section 93.

3. Section 93 of the principal Ordinance is amended by the deletion of the words "the Peace Preservation Ordinance, or in the Flogging Ordinance" and the substitution therefor of the following—

"the Corporal Punishment Ordinance, 1954".

Passed the Legislative Council of Hong Kong, this 20th day of October, 1954.



Deputy Clerk of Councils.

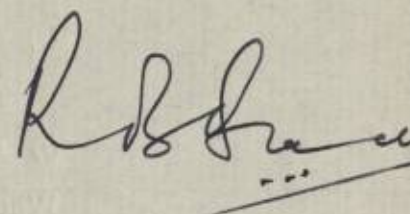
(Secretariat 7/2611/4611)

HONG KONG

No. 41 OF 1954.



I assent.



Officer Administering
the Government.

21st October, 1954.

An Ordinance to amend the Nurses Registration Ordinance,
Chapter 164.

[22nd October, 1954.]

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

1. This Ordinance may be cited as the Nurses Registration Short title. (Amendment) Ordinance, 1954.

2. Subsection (2) of section 3 of the Nurses Registration Ordinance (hereinafter referred to as the principal Ordinance) is repealed and replaced by the following subsection—

Amendment
of
section 3.
(Cap. 164).

"(2) The register shall consist of the following parts—

- (a) a general part containing the names of all—
 - (i) female nurses; and

- (ii) male nurses,
who satisfy the conditions of admission to that part
of the register;
- (b) a supplementary part containing the names of nurses
trained in the nursing and care of persons suffering
from mental diseases;
- (c) a supplementary part containing the names of nurses
trained in the nursing and care of the mentally
defective;
- (d) a supplementary part containing the names of nurses
trained in the nursing of sick children;
- (e) a supplementary part containing the names of nurses
trained in the nursing of persons suffering from
infectious diseases;
- (f) any other prescribed part.

Where any person satisfies the conditions of admission
to any supplementary or prescribed part of the register, his
or her name may be included in that part of the register
notwithstanding that it is also included in the general part."

Amendment
of
section 5.

3. Subsection (1) of section 5 of the principal Ordinance
is amended—

- (a) by the addition in the first line after the word "person"
of the following—
"trained in the United Kingdom or Eire";
- (b) by the deletion from the sixth and seventh lines of the
words "General Nursing Council for Eire" and the
substitution therefor of the following—
"An Bord Altranais";
- (c) by the deletion from the ninth line of the words "for
Eire" and the substitution therefor of the following—
"An Bord Altranais".

Amendment
of
section 6.

4. Section 6 of the principal Ordinance is amended by the
deletion from the last three lines of subsection (1) of the words
"the Governor in Council, and on such appeal the Governor in

Council may give such directions in the matter as he thinks
proper." and the substitution therefor of the following—

"a judge of the Supreme Court in the manner provided by
the rules of the Supreme Court. On such appeal the judge
may confirm, reverse or vary the decision of the Board, and
may exercise any power which the Board might have
exercised."

5. Section 8 of the principal Ordinance is amended by the
addition in the first line after the word "under" of the following—

Amendment
of
section 8.

"subsection (2) of".

Passed the Legislative Council of Hong Kong, this 20th day
of October, 1954.



Deputy Clerk of Councils.

(Secretariat 77/3231/47)

HONG KONG

No. 42 OF 1954.



I assent.

*Officer Administering
the Government.*

4th November, 1954.

An Ordinance to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March, 1954.

[5th November, 1954.]

WHEREAS it has become necessary to make further provision for the public service of the Colony for the financial year ended the 31st day of March, 1954, in addition to the charge upon the revenue of the Colony authorized by the Appropriation (1953-1954) Ordinance, 1953: (7 of 1953).

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

1. This Ordinance may be cited as the Supplementary Short title. Appropriation (1953-54) Ordinance, 1954.

Appropriation.

2. A sum of sixty-four million eight hundred and twenty-one thousand eight hundred and twenty-seven dollars is hereby charged upon the revenue and other funds of the Colony for the service of the financial year ended the 31st day of March, 1954, the appropriation of the sum so charged being approved as specified in the Schedule.

SCHEDULE.

<i>Number of Vote</i>	<i>Title of Vote.</i>	<i>Amount of Vote</i>
		\$
1	His Excellency the Governor	101,171
2	Agriculture, Fisheries and Forestry Department	52,248
3	Audit Department	65,666
4	Civil Aviation Department	37,300
5	Colonial Secretariat and Legislature	260,284
6	Commerce and Industry Department	284,091
7	Cooperatives and Marketing Department	17,587
8	Defence:—	
	<i>F</i> —Registration of Persons	16,017
	<i>G</i> —Miscellaneous Measures	4,598,249
9	Education Department	670,276
11	Inland Revenue Department	333,230
12	Judiciary	251,665
14	Labour Department	45,189
18	Miscellaneous Services	50,131,339
19	New Territories, District Administration	24,764
22	Post Office	3,125,894
26	Public Relations Office:—	
	<i>A</i> —Public Relations Division	55,556
	<i>B</i> —Broadcasting Division	11,108
27	Public Services Commission	1,178
29	Public Works Recurrent	955,634
31	Quartering	753,755
32	Rating and Valuation Department	25,917

<i>Number of Vote</i>	<i>Title of Vote.</i>	<i>Amount of Vote</i>
		\$
33	Registrar General's Department	99,294
36	Secretariat for Chinese Affairs:—	
	<i>A</i> —Secretariat for Chinese Affairs	93,620
	<i>B</i> —Social Welfare Office	203,741
38	Subventions	2,462,471
39	Treasury:—	
	<i>A</i> —Treasury	139,613
	<i>B</i> —Custodian of Property	4,970
	Total	<u>\$64,821,827</u>

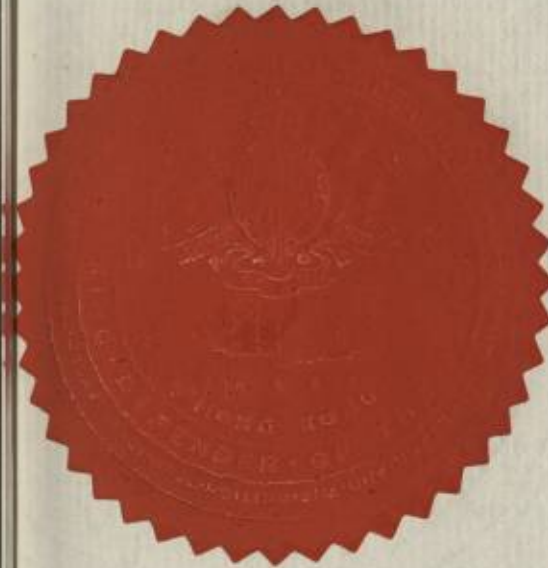
Passed the Legislative Council of Hong Kong, this 3rd day of November, 1954.

Deputy Clerk of Councils.

(Secretariat 4/2311/53)

HONG KONG

No. 43 OF 1954.



I assent.

[Handwritten signature]
Governor.

18th November, 1954.

An Ordinance to enable the Deputy Assistant Director of Army Legal Services, Hong Kong, to practise as a solicitor of the Supreme Court in certain cases and subject to certain conditions.

[19th November, 1954.]

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

1. This Ordinance may be cited as the Army Legal Services Ordinance, 1954.

2. (1) Notwithstanding anything contained in the Legal Practitioners Ordinance, it shall be lawful for the person for the time being holding the office of Deputy Assistant Director of Army Legal

The Deputy
Assistant
Director of
Army Legal

Services authorized to act as solicitor in certain cases. (Cap. 159).

Army Legal Services, Hong Kong, to act as solicitor for any member of Her Majesty's Forces in any criminal proceedings against such member if—

- (a) such person has filed with the Registrar of the Supreme Court a certificate under the hand of the Commander, British Forces, that such person holds the office aforesaid, and an affidavit of identity in such form as may be approved by the Chief Justice; and
 - (b) such person has adduced evidence to the satisfaction of the Chief Justice that he is qualified to practise as a barrister or an attorney, solicitor or proctor in some part of the Commonwealth.
- (2) A certificate purporting to be signed by the Commander, British Forces, may be accepted by the Registrar without proof of the signature.
- (3) Any person who has fulfilled the requirements of subsection (1) shall be entitled to a certificate from the Registrar stating that such person is entitled to practise by virtue of this Ordinance.
- (4) Any person practising as a solicitor by virtue of the authority in that behalf conferred by subsection (1) shall be deemed to have been approved, admitted and enrolled as a solicitor of the Supreme Court and shall be subject to the provisions of the Legal Practitioners Ordinance, but he shall not be liable to pay any of the fees mentioned in the Third and Fourth Schedules of that Ordinance and he shall not be entitled to claim or receive any fee or reward for his services.

Passed the Legislative Council of Hong Kong, this 17th day of November, 1954.

Deputy Clerk of Councils.

(Secretariat 25/3231/54)

HONG KONG

No. 44 OF 1954.



I assent.

Governor.

18th November, 1954.

An Ordinance to amend the Merchant Shipping Ordinance, 1953.
[19th November, 1954.]

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

1. This Ordinance may be cited as the Merchant Shipping (Amendment) Ordinance, 1954. Short title.

2. The Merchant Shipping Ordinance, 1953, (hereinafter referred to as the principal Ordinance) is amended by the addition in Part VIII before section 50 of the following new section— Addition of new section 49A. (14 of 1953).

49A. (1) Where a shipping casualty has occurred a preliminary inquiry may be held respecting the casualty by any person appointed for the purpose by the Director of Marine.

"Preliminary inquiry. Pr. Act, s. 465.

(2) For the purpose of any such inquiry the person holding the same shall have the powers given by the Merchant Shipping Acts to inspectors appointed by the Minister.

(3) After the conclusion of such inquiry the person holding the same shall forward a report thereof to the Governor without delay and, in any event, not later than one month after such conclusion."

Addition of new section 51A.

3. The principal Ordinance is amended by the addition after section 51 of the following new section—

"Penalty for refusing to attend as a witness etc. [cf. pr. Act, s. 729(3)].

51A. Any person who refuses to attend as a witness before any person or court having the powers given by the Merchant Shipping Acts to inspectors appointed by the Minister, after having been required in the exercise of any such power to do so, or refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declarations required by any such person or court in the exercise of any such power, shall be liable for each offence to a fine of two hundred dollars."

Amendment of section 101.

4. Section 101 of the principal Ordinance is amended by the insertion after the words "pleasure boats" and before the bracket in the third line of subsection (1) of the following—

"which are not used for commercial purposes".

Passed the Legislative Council of Hong Kong, this 17th day of November, 1954.

Deputy Clerk of Councils.

(Secretariat 17/3231/54)

HONG KONG

No. 45 OF 1954.



I assent.

Governor.

18th November, 1954.

An Ordinance to amend the Defamation and Libel Ordinance, Chapter 21.

[19th November, 1954.]

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

1. This Ordinance may be cited as the Defamation and Libel (Amendment) Ordinance, 1954. Short title.

2. Section 22 of the Defamation and Libel Ordinance is repealed. Repeal of section 22. (Cap. 21).

Passed the Legislative Council of Hong Kong, this 17th day of November, 1954.

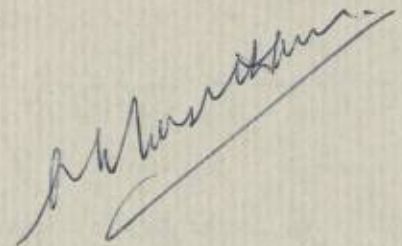
Deputy Clerk of Councils.

(Secretariat 29/3231/54)

HONG KONG

No. 46 OF 1954.

I assent.



Governor.

18th November, 1954.

An Ordinance to amend the Business Regulation Ordinance, 1952.

[19th November, 1954.]

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

1. This Ordinance may be cited as the Business Regulation (Amendment) Ordinance, 1954. Short title.
2. Section 2 of the Business Regulation Ordinance, 1952, (hereinafter referred to as the principal Ordinance) is amended—
 - (a) by the deletion of the definitions of "auctioneer", "hawker", "massage establishment", "public bowling-alley", "public dance-hall" and "public skating rink"; Amendment of section 2. (14 of 1952).

- (b) by the deletion of the definition of "business" and by the substitution therefor of the following—

" "business" means any form of trade, commerce, craftsmanship, profession, calling or other activity carried on for the purpose of gain, but does not include any charitable undertaking :

Provided that a person shall be deemed not to be carrying on a business in respect of an activity from which his sole gain is by way of salary or wages or salary or wages plus commission ;"

- (c) by the addition after the definition of "forgery" of the following definition—

" "hawker" has the same meaning as in the (Cap. 114). Miscellaneous Licences Ordinance ;"

Amendment of section 7.

3. Section 7 of the principal Ordinance is amended—

- (a) by the deletion of subsections (1) and (2) and the substitution therefor of the following—

"(1) As soon as conveniently may be after registration of any business the Director shall by writing under his hand require the applicant on the date therein specified to pay to the Director the fee prescribed in the First Schedule or such lesser fee as the Director in accordance with subsection (5) hereof may direct in respect of the period of twelve months from the date of such registration or from such other date as the Director may determine.

First Schedule.

(2) Upon payment by the applicant of the fee, or if no fee is payable then as soon as conveniently may be after registration, the Director shall issue to the applicant a business registration certificate."

- (b) by the deletion of subsection (4);
- (c) by the deletion from the fourth line of subsection (5) of the words "and the profits therefrom";

- (d) by the deletion of paragraph (c) of subsection (6) and the substitution therefor of the following—

"(c) in the case of expiry of any current business registration certificate, within one month after the date of expiry of the certificate, in which event the remission, if granted, shall apply only to the period of twelve months immediately following such date :

Provided that where application for remission has not been made in accordance with either paragraph (a), (b) or (c) the Director may in his absolute discretion in any particular case extend the time within which an application for remission may be entertained by him."

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

Repeal and replacement of section 8.

"Duty to take out fresh certificate on expiry.

8. (1) A business registration certificate shall be valid for a period of twelve months from the date of commencement specified therein.

(2) If any person to whom a business registration certificate has been issued continues to carry on a business included upon such certificate after the expiry thereof such person shall—

- (a) not later than one month after the date of expiry of such certificate; or
- (b) in the event of an application being made under subsection (5) of section 7, not later than fourteen days after the date on which a direction in answer to such application has been given,

in the manner prescribed pay the appropriate fee, if any, and take out a fresh certificate.

(3) The date of commencement of such certificate shall be the date subsequent to the day on which the former certificate expired."

Amendment
of section
11.

5. Section 11 of the principal Ordinance is amended—
- (a) by the deletion from the third and fourth lines of subsection (1) of the words "or as to the type of business registration certificate to be issued in respect of any business";
 - (b) by the deletion of subsection (8) and the substitution therefor of the following—
 "(8) In this section "the Court" means the District Court."

Repeal and
replacement
of First
Schedule.

6. The First Schedule of the principal Ordinance is repealed and replaced by the following—

"FIRST SCHEDULE.

BUSINESS REGULATION ORDINANCE, 1952.
(Section 7(1)).

Business Registration Fee \$200."

Passed the Legislative Council of Hong Kong, this 17th day of November, 1954.

Deputy Clerk of Councils.

(Secretariat 3/2301/47II)

HONG KONG

No. 47 OF 1954.



I assent.

Governor.

18th November, 1954.

An Ordinance to amend and consolidate the law relating to the registration of trade marks.

[]

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

1. This Ordinance may be cited as the Trade Marks Ordinance, 1954, and shall come into operation on a day to be appointed by the Governor by proclamation in the *Gazette*. Short title and commencement.

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

"assignment" means assignment by act of the parties concerned;

"limitations" means any limitations of the exclusive right to the use of a trade mark given by the registration of a person as proprietor thereof, including limitations of that right as to

mode of use, as to use in relation to goods to be sold, or otherwise traded in, within the Colony, or as to use in relation to goods to be exported to any market outside the Colony;

“mark” includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, or any combination thereof;

“permitted use” has the meaning assigned to it by subsection (1) of section 58;

“prescribed” means, in relation to proceedings before the Court or preliminary thereto or connected therewith, prescribed by this Ordinance or by the rules made thereunder or by rules of court and, in other cases, prescribed by this Ordinance or by the rules made thereunder;

(Cap. 262). “register” means the register of trade marks kept under this Ordinance and any register kept for the purpose of complying with the provisions of the Trade Marks Register (Reconstruction) Ordinance;

“registrable trade mark” means a trade mark which is capable of registration under the provisions of this Ordinance;

“registered trade mark” means a trade mark which is actually upon the register;

“registered user” means a person who is for the time being registered as such under section 58;

(Cap. 100). “Registrar” means such officer as the Governor may appoint to be Registrar General under the provisions of the Registrar General (Establishment) Ordinance;

“seal” means the seal of the Registrar kept in the Trade Marks Registry Hong Kong, having a device and impression of the Royal Arms with a label surrounding the same and the inscription “Registrar of Trade Marks, Hong Kong”, and hitherto used by the Registrar of Trade Marks since the 10th day of December, 1909;

“trade mark” means, except in relation to a defensive or a certification trade mark, a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connexion in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the mark, whether with or without

any indication of the identity of that person, and means, in relation to a defensive trade mark, a mark registered under section 55, and, in relation to a certification trade mark, a mark registered or deemed to have been registered under section 64;

“transmission” means transmission by operation of law, devolution on the personal representative of a deceased person, and any other mode of transfer not being assignment;

“tribunal” means the Court or the Registrar.

(2) References in this Ordinance to the use of a mark shall be construed as references to the use of a printed or other visual representation of the mark, and references therein to the use of a mark in relation to goods shall be construed as references to the use thereof upon, or in physical or other relation to, goods.

Register of Trade Marks.

3. The Registrar shall for the purposes of this Ordinance keep a record called the register of trade marks, wherein shall be entered all registered trade marks, with the dates of their registration, the names, addresses and descriptions of their proprietors, notifications of assignments and transmissions, the names, addresses and descriptions of all registered users, disclaimers, conditions, limitations, and such other matters relating to such registered trade marks as may be prescribed.

Register of trade marks.

4. (1) The register shall be divided into two parts, called Part A and Part B.

Division of register into two parts.

(2) Part A of the register shall comprise all trade marks entered in the register of trade marks at the commencement of this Ordinance and all trade marks which after the commencement of this Ordinance may be registered in that Part under the provisions of this Ordinance.

(3) Part B shall comprise all trade marks registered in that Part under the provisions of this Ordinance.

5. There shall not be entered in the register any notice of any trust express, implied or constructive, nor shall any such notice be receivable by the Registrar.

Trust not to be entered in register.

Inspection
of register.

6. The register shall at all convenient times be open to the inspection of the public, subject to such rules as may be prescribed.

Extracts
from
register .

7. Certified copies, sealed with the seal of the Registrar, of any entry in the register shall be given to any person requiring the same on payment of the prescribed fee.

Registrable Trade Marks.

Trade
mark must
be for
particular
goods.

8. (1) A trade mark must be registered in respect of particular goods or classes of goods.

(2) Any question arising as to the class within which any goods fall shall be determined by the Registrar, whose decision shall be final.

Trade
marks
registrable
in Part A.

9. (1) A trade mark (other than a certification trade mark) to be registrable in Part A of the register shall contain or consist of at least one of the following essential particulars—

- (a) the name of a company, individual, or firm, represented in a special or particular manner;
- (b) the signature (in other than Chinese characters) of the applicant for registration or of some predecessor in his business;
- (c) an invented word or invented words;
- (d) a word or words having no direct reference to the character or quality of the goods, and not being according to its ordinary signification a geographical name or a surname;
- (e) any other distinctive mark, but a name, signature, or word or words, other than such as fall within the descriptions in paragraphs (a), (b), (c) and (d), shall not be registrable under the provisions of this paragraph except upon evidence of its distinctiveness.

(2) For the purposes of this section "distinctive" means adapted, in relation to the goods in respect of which a trade mark is registered or proposed to be registered, to distinguish goods

with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connexion subsists, either generally or, where the trade mark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(3) In determining whether a trade mark is adapted to distinguish as aforesaid the tribunal may have regard to the extent to which—

- (a) the trade mark is inherently adapted to distinguish as aforesaid; and
- (b) by reason of the use of the trade mark or of any other circumstances, the trade mark is in fact adapted to distinguish as aforesaid.

10. (1) Where any mark has for not less than two years been *bona fide* used in the Colony upon or in connexion with any goods (whether for sale in the Colony or exportation abroad), for the purpose of indicating that they are goods of the proprietor of the mark by virtue of manufacture, selection, certification, dealing with or offering for sale, the person claiming to be the proprietor of the mark may apply in writing to the Registrar in the prescribed manner to have the mark entered as his registered trade mark in Part B of the register in respect of such goods.

Trade
marks
registrable
in Part B.

(2) The Registrar shall consider every such application for registration of a trade mark in Part B of the register, and if it appears to him, after such search, if any, as he may deem necessary, that the application is inconsistent with the provisions of subsection (1) of section 12 or section 20, or if he is not satisfied that the mark has been so used as aforesaid, or that it is capable of distinguishing the goods of the applicant, he may refuse the application, or may accept it subject to the conditions, amendments, or modifications as to the goods or classes of goods in respect of which the mark is to be registered, or to such limitations, if any, as to mode or place of user or otherwise as he may think right to impose, and in any other case he shall accept the application.

(3) Every such application shall be accompanied by a statutory declaration verifying the user, including the date of first user, and such date shall be entered on the register :

Provided that where the date of first user is not known with certainty it shall be sufficient to state the earliest date on which the mark was known to have been used and such date shall be entered in the register as the date of first user.

(4) Any such refusal or conditional acceptance shall be subject to appeal in the prescribed manner to the Court, and, if the ground for refusal is insufficiency of evidence as to user, such refusal shall be without prejudice to any application for registration of the trade mark in Part A of the register.

(5) A mark may be registered in Part B notwithstanding any registration in Part A by the same proprietor of the same mark or any part or parts thereof.

(6) The provisions of sections 64, 65, 66, 67, 68, 70 and 71 shall not apply in respect of trade marks to which this section applies.

Coloured trade marks.

11. (1) A trade mark may be limited in whole or in part to one or more specified colours, and in any such case the fact that it is so limited shall be taken into consideration by any tribunal having to decide on the distinctive character of the trade mark.

(2) If and so far as a trade mark is registered without limitation of colour, it shall be deemed to be registered for all colours.

Restriction on registration.

12. (1) It shall not be lawful to register as a trade mark or part of a trade mark any matter the use of which would be likely to deceive or would be disentitled to protection in a court of justice or would be contrary to law or morality, or any scandalous design.

(2) No word which is the commonly used and accepted name of any single chemical element or single chemical compound, as distinguished from a mixture, shall be registered as a trade mark in respect of a chemical substance or preparation, and any such registration in force at the commencement of this Ordinance or thereafter shall, notwithstanding anything in section 30, be deemed for the purposes of section 48 to be an entry made in the register without sufficient cause, or an entry wrongly remaining on the register, as the circumstances may require :

Provided that the foregoing provisions of this subsection shall not have effect in relation to a word which is used to denote only a brand or make of the element or compound as made by the proprietor or a registered user of the trade mark, as distinguished from the element or compound as made by others, and in association with a suitable name or description open to the public use.

Registration of Trade Marks.

13. (1) Any person claiming to be entitled to be registered as the proprietor of a trade mark used or proposed to be used by him who is desirous of registering it must apply in writing to the Registrar in the prescribed manner for registration either in Part A or Part B of the register.

Application for registration.

(2) Subject to the provisions of this Ordinance, the Registrar may refuse the application, or accept it absolutely or subject to such conditions, amendments, modifications, or limitations, if any, as he may think right.

(3) In the case of an application for registration of a trade mark (other than a certification trade mark) in Part A of the register, the Registrar may, if the applicant is willing, instead of refusing the application, treat it as an application for registration in Part B and deal with the application accordingly.

(4) In the case of a refusal or conditional acceptance, the Registrar shall, if required by the applicant, state in writing the grounds of his decision and the materials used by him in arriving thereat, and the decision shall be subject to appeal to the Court.

(5) An appeal under this section shall be made in the prescribed manner, and on such appeal the Court shall, if required, hear the applicant and the Registrar, and shall make an order determining whether, and subject to what amendments, modifications, conditions or limitations, if any, the application is to be accepted.

(6) Appeals under this section shall be heard on the materials stated as aforesaid by the Registrar to have been used by him in arriving at his decision, and no further grounds of objection to the acceptance of the application shall be allowed to be taken by the Registrar, other than those so stated as aforesaid by him,