

the Director offer a sum (inclusive or exclusive of costs) which he is willing to accept in full and final settlement of his claim or any rejected part thereof.

(2) Where an offer made by the Director pursuant to section 21(6)(a) or by the Director or the claimant pursuant to subsection (1) is not accepted by the other party no part of the contents thereof which relates to any part of a claim before the Lands Tribunal shall be disclosed to that Tribunal until the amount of compensation for that part is assessed by it but a copy of the offer enclosed in a sealed envelope may be lodged with the registrar of the Lands Tribunal and opened by it after it has made its assessment.

(3) Where the Director has made any offer pursuant to section 21(6)(a) which is refused by the claimant or either party has made any offer pursuant to subsection (1) which is refused by the other and the compensation including costs (if any) assessed by the Lands Tribunal does not exceed the amount of compensation including costs (if any) comprised in the offer, the Lands Tribunal shall, unless for special reasons it thinks it proper not to do so, order the party who refused the offer to bear his own costs and to pay the costs of the other party in so far as the costs of either party are incurred after the making of the offer.

PART V

ASSESSMENT AND AWARD OF COMPENSATION

Jurisdiction
of Lands
Tribunal.

24. (1) The Lands Tribunal shall have jurisdiction to hear and determine in accordance with this Ordinance—

- (a) all claims for compensation which the Director or the claimant may refer to it under section 21(6) or (7); and
- (b) applications provided for by sections 8(2), 19(2) and 33.

(2) The Lands Tribunal shall also have jurisdiction to award compensation or any part thereof to a claimant if at the time of the award it has no notice or intimation of any dispute as to his entitlement but the making of any such award shall not affect the entitlement to receive compensation under this Ordinance of any other person who may thereafter be held by a court of competent jurisdiction to have a better title to the compensation or any part thereof than the person to whom it was awarded.

(3) An award of compensation under subsection (2) shall not in any way affect the entitlement of a mortgagee to be paid compensation in accordance with section 25.

25. (1) Subject to subsection (2) a mortgagee of land which reverts to the Crown or vests in The Colonial Treasurer Incorporated under this Ordinance shall, in so far as he has priority as against any other mortgagee, be entitled to be paid so much of any compensation as is required to discharge his mortgage debt including any interest thereon. Payment to mortgagees.

(2) If compensation is payable under this Ordinance otherwise than for land resumed or if the land to which compensation relates is part only of the mortgage security a mortgagee shall, in so far as he has priority as against any other mortgagee, be entitled to be paid so much of the compensation as is necessary to reduce his mortgage debt to an amount which is adequately secured by the land or the remaining land as the case may be.

(3) The payment of compensation, as required by subsections (1) and (2), shall be made in accordance with the written agreement of the claimant and every mortgagee of the land or failing such agreement in accordance with an order of the Supreme Court under subsection (4).

(4) The claimant or any mortgagee may apply to the Supreme Court for an order as to the payment of unpaid compensation and on any such application the Court may make such order as it thinks just and equitable having regard to the requirements of subsections (1) and (2).

26. The Lands Tribunal may direct that interest be paid on compensation (but not on costs) from such date and for such period as it thinks fit, at the rate paid from time to time by members of the Exchange Banks Association on deposits at 7 days' call or at such other rate as may be determined by resolution of the Legislative Council. Interest on compensation.

27. All compensation (including interest thereon) and all costs— Compensation payable out of general revenue.

- (a) agreed to be paid to the claimant by the Director; or
- (b) awarded by the Lands Tribunal against the Crown,

shall be paid out of the general revenue of the Colony within 3 months of the agreement or award, unless there is a dispute as to the person entitled to such compensation.

Surrender of title documents.

28. The Director may require any claimant to whom compensation is payable for land resumed under this Ordinance to surrender his documents of title to the Director as a condition of payment being made.

PART VI MISCELLANEOUS

Delegation by the Director of Public Works.

29. (1) Subject to subsection (2), the Director of Public Works may in writing authorize any public officer either generally or in any particular case to exercise or perform any of the powers, functions and duties conferred or imposed upon him by this Ordinance where the power, function or duty is expressed as being conferred or imposed on the Director but not where it is expressed as being conferred or imposed on the Director of Public Works.

Second Schedule.

(2) For the purposes of any provision of this Ordinance appearing in the first column of the Second Schedule, the Director of Public Works shall not under subsection (1) authorize a public officer below the rank specified opposite thereto in the second column.

Service of documents.

30. Without prejudice to any other provision of this Ordinance, any notice or other document required or authorized to be given to or served on any person for the purposes of this Ordinance or any proceedings thereunder before the Lands Tribunal may be personally given to or served on that person or may be sent to him by registered post.

Certain statements to be conclusive evidence.

31. Where it is stated—

- (a) in any order under section 4(1), 6(1) or 10(1) respectively that—
- (i) the resumption of land;
 - (ii) the creation of an easement; or
 - (iii) the closure, alteration or work,

is ordered or authorized for the purposes of or incidental to the railway or the construction, operation, maintenance or improvement thereof; or

- (b) in a notice under section 12, 13, or 14 that the entry or the work therein described or required to be carried out is, in the opinion of the Director, necessary or required for the construction, operation, maintenance or improvement of the railway,

then such statement shall be accepted by all courts, tribunals and persons as conclusive evidence of the truth of the fact so stated.

32. Any land resumed or easement created under this Ordinance and any land which becomes vested in The Colonial Treasurer Incorporated may be used in such manner as the Crown or The Colonial Treasurer Incorporated thinks fit and may be disposed of to any person by any means and on any terms whatsoever.

Disposal of lands and easements.

33. The Lands Tribunal may, on the application of any person, certify the amount of any settlement of compensation agreed between that person and the Director under this Ordinance or the amount of the price of land being sold by that person to the Crown for the purposes of or incidental to the railway and any amount so certified by the Lands Tribunal shall be deemed to be the best settlement or sale price (as the case may be) which could reasonably be obtained.

Certificates of values.

34. (1) Except to the extent that provision is otherwise made in Part I of the First Schedule—

- (a) the Crown Lands Resumption Ordinance shall not apply to the resumption of any land ordered under section 4 nor to any claim for or determination, award or payment of compensation for such resumption; and
- (b) the Streets (Alteration) Ordinance and the Public Reclamations and Works Ordinance shall not apply to an order made under section 10(1) nor to the implementation or effects thereof.

Certain Ordinances not to apply.

(Cap. 124.)

(Cap. 130.)

(Cap. 113.)

(2) The Railways Ordinance shall not apply to the construction, operation, maintenance or improvement of the railway.

(Cap. 99.)

FIRST SCHEDULE

[s. 18.]

PART I

<i>Losses for which compensation may be claimed</i>	<i>Basis on which compensation is to be assessed</i>	<i>Persons who may claim compensation for their respective losses</i>	<i>Period within which the claim must be served on the Director</i>
1. The loss of land resumed under section 4.	As if the claim were made under the Crown Lands Resumption Ordinance for land resumed under that Ordinance.	Any person who would be entitled to claim compensation for land resumed under the Crown Lands Resumption Ordinance if the land had been resumed thereunder.	Before the expiration of 1 year from the date of resumption.

<i>Losses for which compensation may be claimed</i>	<i>Basis on which compensation is to be assessed</i>	<i>Persons who may claim compensation for their respective losses</i>	<i>Period within which the claim must be served on the Director</i>
2. The loss— (a) of value of land caused by the creation of an easement in, under or over that land pursuant to section 6. (b) due to disturbance resulting from the creation of an easement under section 6.	(a) The amount by which the open market value of the land is reduced on the date on which the easement is created under section 6(4). (b) A disturbance payment.	(a) Any person owning a compensatable interest in the land on the date on which the easement is created under section 6(4). (b) Same as in item 2(a).	(a) Before the expiration of 1 year from the date on which the easement is created under section 6(4). (b) Same as in item 2(a).
3. The loss of value of land, no part of which is resumed, due to the extinction of any right or easement upon the resumption of adjacent or contiguous land.	On the basis provided for by the Crown Lands Resumption Ordinance for the extinction of any right or easement caused by resumption under that Ordinance.	Any person who would be entitled to claim compensation under the Crown Lands Resumption Ordinance for the extinction of any right or easement caused by resumption under that Ordinance if the adjacent or contiguous land had been resumed thereunder.	Before the expiration of 1 year from the date of adjunction of the adjacent or contiguous land.
4. The pecuniary loss or damage caused or likely to be caused by the closure or substantial alteration of a street under section 10.	As if the claim were made under the Streets (Alteration) Ordinance for pecuniary loss or damage within the meaning in section 4(2) or 11(3) of that Ordinance.	Any person who would be entitled to claim compensation under section 4(2) or 11(3) of the Streets (Alteration) Ordinance if the closure or substantial alteration were one to which that Ordinance applied.	Before the expiration of 1 year from the closure of the street or from the completion the substantial alteration which is alleged to have caused the pecuniary loss or damage.
5. Loss sustained by the extinguishment, modification or restriction of any private right over Crown foreshore or seabed under section 10.	The amount which might fairly and reasonably be assessed as the pecuniary loss of the claimant.	Any person in whom the private right was vested at the date of extinguishment, modification or restriction provided for under section 10(1)(d).	Before the expiration of 1 year from the date of extinguishment, modification or restriction provided for under section 10(1)(d).
6. (a) Structural damage to any building resulting from the construction or operation of the railway. (b) The amount by which the open market value of the land is, or would be, reduced as a result of the manner in which it is necessary to repair the damage.	(a) (i) The amount which is, or might be, fairly and reasonably incurred in repairing the damage. (ii) The amount by which the open market value of the land is, or would be, reduced as a result of the manner in which it is necessary to repair the damage.	(a) Any person owning a compensatable interest in the damaged building.	(a) Before the expiration of 6 years from the date of the opening for public traffic of that portion of the railway from which the damage is alleged to have resulted.

<i>Losses for which compensation may be claimed</i>	<i>Basis on which compensation is to be assessed</i>	<i>Persons who may claim compensation for their respective losses</i>	<i>Period within which the claim must be served on the Director</i>
(b) The loss due to disturbance resulting from structural damage mentioned in item 6(a).	(b) A disturbance payment.	(b) Same as in item 6(a).	(b) Same as in item 6(a).
7. (a) Damage to any land or building resulting from the exercise of any power contained in section 12. (b) The loss due to disturbance resulting from the exercise of any power contained in section 12.	(a) (i) The amount which is, or might be, fairly and reasonably incurred in repairing the damage. (ii) The amount by which the open market value of the land is, or would be, reduced as a result of the manner in which it is necessary to repair the damage. (b) A disturbance payment.	(a) Any person owning a compensatable interest in the damaged building. (b) Same as in item 7(a).	(a) Before the expiration of 1 year from the date of completion of the work carried out under section 12 from which the damage or loss is alleged to have resulted. (b) Same as in item 7(a).
8. The cost of altering the course or position of any apparatus and of repairing any street surface pursuant to a notice served by the Director under section 13.	The cost which is fairly and reasonably incurred in effecting such alteration and repair.	The person on whom the notice under section 13 is served.	Before the expiration of 1 year from the completion of the alteration and repair.
9. (a) The loss of value of a building caused by the removal, under section 14, of any object or structure which was erected and maintained without the contravention of any Ordinance.	(a) The amount by which the open market value of the land is reduced.	(a) Any person owning a compensatable interest in the building on the date of removal of the object or structure.	(a) Before the expiration of 1 year from the date of removal.

<i>Losses for which compensation may be claimed</i>	<i>Basis on which compensation is to be assessed</i>	<i>Persons who may claim compensation for their respective losses</i>	<i>Period within which the claim must be served on the Director</i>
(b) The cost of a removal referred to in item 9(a).	(b) The cost incurred in moving the object or structure and making good that part of the building from which it is removed.	(b) Any person who incurs the cost.	(b) Same as in item 9(a).
(c) The cost of reinstating an object or structure described in item (a) above or of replacing the same with a similar object or structure.	(c) The cost incurred in so doing.	(c) Any person who incurs the cost.	(c) Before the expiration of 1 year from the date of reinstatement or replacement.
(d) The loss sustained by the forfeiture under section 14(5) of an object or structure which was erected and maintained without the contravention of any Ordinance and is not to be reinstated or replaced with a similar object or structure at the expense of the Crown under item (c) above.	(d) The amount which might fairly and reasonably be estimated as the loss of the claimant.	(d) Any person owning a share or interest in the object or structure on the date on which it is removed under section 14(4).	(d) Before the expiration of 1 year from the date of removal.
10. The loss sustained on account of the withdrawal of any approval or consent by the Building Authority under section 15.	The amount which might fairly and reasonably be estimated as the loss of the claimant in respect of— (a) the reduction of the open market value of land; (b) materials, plant and equipment; (c) professional fees and expenses actually paid or legally payable. on account of the withdrawal of approval or consent.	The owner of the land affected by the withdrawal of approval or consent.	Before the expiration of 1 year from the date of withdrawal.

<i>Losses for which compensation may be claimed</i>	<i>Basis on which compensation is to be assessed</i>	<i>Persons who may claim compensation for their respective losses</i>	<i>Period within which the claim must be served on the Director</i>
11. The loss sustained on account of the refusal by the Building Authority under section 15(1)(a) to consent to the commencement of building works, because the Building Authority is of the opinion that the building works would be incompatible with works or proposed or likely works for the construction of stages 1 to 4 of the railway.	The amount by which the open market value of the land is reduced on account of the refusal.	The owner of the land.	Before the expiration of 1 year from the date of the refusal.
12. The cost of complying with a plan amended, or a condition imposed, under section 15(1)(c), in a case where the plan shows piling works, excavation works or foundation works, to avoid incompatibility of such works with works or proposed or likely works for the construction of stages 1 to 4 of the railway.	Any additional cost incurred in carrying out building works which is attributable solely to compliance with the amendment required, or condition imposed, under section 15(1)(c).	The owner of the land on which the building works are carried out.	Before the expiration of 1 year from the completion of the building.

PART II

1. The provisions in this Part shall, where applicable, have effect for the purpose of assessing compensation under Part I of this Schedule and shall—
- (a) be in addition to such of the provisions of the Crown Lands Resumption Ordinance and the Streets (Alteration) Ordinance as apply, by virtue of Part I, to the assessment of compensation; and
- (b) prevail over any provision referred to in sub-paragraph (a) which is inconsistent or in conflict with a provision in this Part.
2. In Part I—
- "compensatable interest" means the estate or interest of—
- (a) a person having an unexpired term in land (including any further term which could be obtained as of right) of not less than one month or a tenancy or sub-tenancy terminable (where by virtue of an Ordinance or otherwise) by either party by not less than one month's notice;

General effect of this Part.

(Cap. 124.)
(Cap. 130.)

Definitions applicable to Part I.

- (b) a mortgagee in possession;
- (c) the holder of a valid and subsisting option to purchase an interest referred to in (a) or (d);
- (d) a purchaser under an agreement for sale and purchase to whom the benefit of an interest referred to in (a) or (c) has already passed;

"date of resumption" means the day on which land reverts to the Crown or vests in The Colonial Treasurer Incorporated under section 4(3);

"disturbance" means the displacement of a person from land and the interruption of or interference with trade or business, whether such displacement, interruption or interference is temporary or permanent;

"disturbance payment" means a sum equal to—

- (a) the financial loss naturally and reasonably resulting from the displacement of a person from land; and
- (b) in the case of disturbance of a trade or business on any land, the financial loss naturally and reasonably resulting from the disturbance of that trade or business;

"open market value" means the amount which the land if sold in the open market by a willing seller might reasonably be expected to realize.

3. In the assessment of compensation no account shall be taken of any increase or decrease in the value of land to which, or to the building works on which, the compensation relates which is attributable to—

- (a) the delineation thereof under section 3 as part of the railway area; or
- (b) the construction or operation of the railway, including any damage for which compensation would have been payable but for the operation of section 20(2).

4. No compensation shall be payable under item 4 of Part I of this Schedule in respect of pecuniary loss or damage caused by the temporary closure or temporary substantial alteration of a street authorized under section 10(1)(b) unless such closure or alteration would if authorized under the Streets (Alteration) Ordinance give rise to a claim under section 11(3) of that Ordinance.

5. Compensation may be refused or reduced in respect of any building or part thereof which has been constructed or modified or on which building works have been carried out so as to amount to a contravention of the Buildings Ordinance being a contravention within the meaning of that Ordinance.

6. The compensation assessed under item 6 or 7 of Part I of this Schedule shall be reduced to such extent as the Lands Tribunal thinks just and equitable having regard to the share in the responsibility for the loss or damage not attributable to and connected with the railway.

No account of increase or decrease in value attributable to the railway.

Temporary closure or alteration of a street.

(Cap. 130.)

Refusal or reduction where Buildings Ordinance contravened. (Cap. 123.)

Compensation where damage results only partly from the railway.

7. Where a sign advertising any business, product, service or activity is removed under section 14(4), nothing in item 9(d) of Part I of this Schedule shall be construed as conferring upon any person a right to compensation for the loss of any benefit which might have accrued to him from the advertising of that business, product, service or activity if the sign had not been removed.

No compensation under item 9(d) for loss of advertising.

8. If compensation under item 2, 3, 4, 5, 6, 7, 9, 10 or 11 of Part I of this Schedule has been paid in respect of the reduction of value of land and such land or part thereof is subsequently resumed by the Crown under this Ordinance or any other enabling power, then notwithstanding paragraph 3 of this Part of this Schedule or any other provision of law to the same or similar effect, the amount of that reduction in value shall be taken into account to reduce the compensation for the resumption of that land to the extent that it was taken into account in the assessment of compensation for the reduction in value thereof.

Set off where compensation paid for loss of value and land later resumed.

9. Where under this Ordinance a claim for compensation may be made by a mortgagee in possession—

Claim by a mortgagee in possession.

- (a) such claim may include compensation in respect of the whole interest which comprises the mortgage security; and
- (b) compensation received by a mortgagee in possession shall be applied by him as if it were proceeds of sale of the mortgage security.

10. For the avoidance of doubt it is declared that where an interest in land has been resumed under section 4, the assessment of compensation under items 1 and 3 of Part I of this Schedule shall not be affected by the fact that power to resume that interest is not conferred by the Crown Lands Resumption Ordinance.

Avoidance of doubt.

(Cap. 124.)

11. Compensation shall be payable under item 12 of Part I of this Schedule only to the extent that the carrying out of building works in accordance with a plan amended, or condition imposed, under section 15(1)(c) does not increase the open market value of the land on which the building works are carried out.

12. Where land is resumed following a notice given by the owner under section 15(3), no account shall be taken, in the assessment of compensation therefor, of the refusal of approval of a plan which led to the giving of such notice.

SECOND SCHEDULE

[s. 29.]

AUTHORIZATION OF PUBLIC OFFICERS

Section

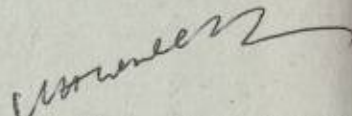
Public officer

- 6(5)
- 12(2)
- 12(5)
- 12(6)

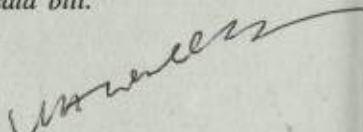
} Chief Building Surveyor.

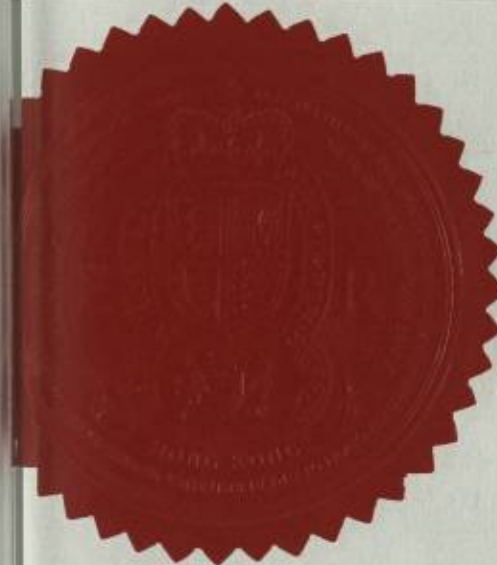
<i>Section</i>	<i>Public officer</i>
13(1)	} Government Mass Transit Engineer.
14(1)	
14(4)	} Chief Building Surveyor.
14(5)	
21(3)	} Chief Estate Surveyor.
21(4)	
21(5)	
21(6)	
21(7)	
28	Chief Estate Surveyor or an Assistant Registrar General.

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

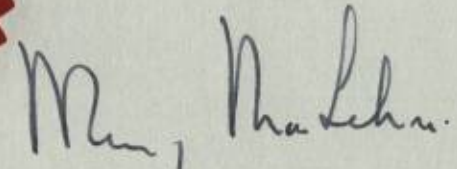

Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



I assent.


Governor

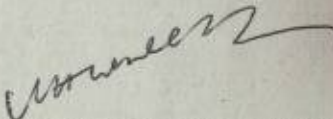
21st August, 1974.

An Ordinance to amend the Employment Ordinance.

21st August 1974

13(1)	}	Government Mass Transit Engineer.
14(1)		
14(4)	}	Chief Building Surveyor.
14(5)		
21(3)	}	Chief Estate Surveyor.
21(4)		
21(5)		
21(6)		
21(7)		
28		Chief Estate Surveyor or an Assistant Registrar General.

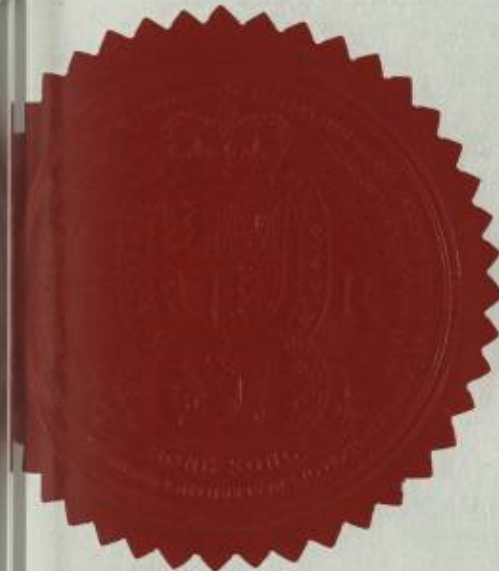
Passed by the Hong Kong Legislative Council this 14th day of August, 1974.


Clerk to the Legislative Council.

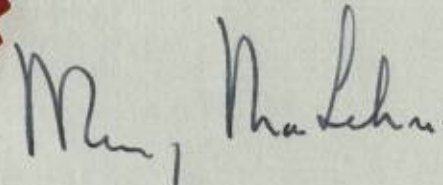
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.

HONG KONG

No. 67 OF 1974



I assent.


Governor

21st August, 1974.

An Ordinance to amend the Employment Ordinance.

[23rd August, 1974]

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

1. This Ordinance may be cited as the Employment (Amendment) (No. 3) Ordinance 1974. Short title.
2. Section 4(2)(a) of the principal Ordinance is amended by inserting after "(a)" the following— Amendment of section 4. (Cap. 57.)
"subject to subsection (2) of section 31G."
3. Section 11(3) of the principal Ordinance is amended by deleting the proviso and substituting the following— Amendment of section 11.
"Provided that the period of lay-off shall in no case exceed a total of twelve normal working days in any period of four consecutive weeks."
4. Section 25(1) of the principal Ordinance is amended by deleting "Where" and substituting the following— Amendment of section 25.
"Subject to section 31O, where".

Addition of
new Part
VA.

5. The principal Ordinance is amended by adding, after Part V, the following new Part—

"PART VA

SEVERANCE PAYMENTS

Interpreta-
tion.

31A. In this Part and the Third Schedule, unless the context otherwise requires—

[cf. 1965 c. 62,
s. 25(1).]

"business" includes a trade or profession and any activity carried on by a person;

[cf. 1965 c. 62,
s. 25(3).]

"cease" means cease either permanently or temporarily and from whatsoever cause, and "diminish" has a corresponding meaning;

"domestic servant" includes a garden servant, chauffeur and boat-boy and any other personal servant of a like nature;

(Cap. 25.)

"Labour Tribunal" means the Labour Tribunal established under section 3 of the Labour Tribunal Ordinance;

(Cap. 332.)

"lock-out" has the meaning assigned to it by section 2 of the Trade Unions Ordinance;

"outworker" means a person to whom for reward articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired, or adapted for sale, in his own home or on other premises not under the control or management of the person who gave out the materials or articles;

"relevant date", in relation to the dismissal of an employee, means—

(a) where the employee's contract of employment is terminated by notice given by his employer in accordance with section 6, the date on which that notice expires;

(b) where the employee's contract of employment is terminated by the employer by payment in lieu of notice in accordance with section 7, the date up to which such wages are calculated;

(c) where the employee's contract of employment is terminated other than in accordance with the provisions of this Ordinance, the date of termination;

(d) where the employee terminates his contract of employment without notice or payment in lieu in accordance with section 10, the date on which termination takes effect; and

(e) where the employee is employed under a contract for a fixed term and that term expires, the date on which that term expires;

[cf. 1965 c. 62,
s. 56(1).]

"renewal" includes extension, and any reference to renewing a contract shall be construed accordingly;

"severance payment" means the severance payment payable by an employer to an employee under section 31B(1);

(Cap. 332.)

"strike" has the meaning assigned to it by section 2 of the Trade Unions Ordinance;

"week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

General
provisions
as to right
to severance
payment.
[cf. 1965 c. 62,
ss. 1 & 19(1).]

31B. (1) Where, on or after a day to be appointed by the Governor by notice in the *Gazette*, an employee who has been employed under a continuous contract for a period of not less than twenty-four months ending with the relevant date—

(a) is dismissed by his employer by reason of redundancy; or

(b) is laid off within the meaning of section 31E, the employer shall, subject to this Part, be liable to pay to the employee a severance payment calculated in accordance with section 31G.

(2) For the purposes of this Part an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to the fact that—

(a) his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him;

(b) his employer has moved, or intends to move, the place in which the employee was or is so employed—

(i) from the island of Hong Kong to Kowloon or the New Territories; or

(ii) from Kowloon or the New Territories to the island of Hong Kong; or

(c) the requirements of that business for employees to carry out work of a particular kind in the place where the employee was so employed have ceased or diminished or are expected to cease or diminish.

[*cf.* 1965 c. 62, s. 19(1).]

(3) For the purposes of the application of this Part to an employee who is employed as a domestic servant in, or in connexion with, a private household, this Part (except section 31J) shall apply as if the household were a business and the maintenance of the household were the carrying on of that business by the employer.

General exclusions from right to severance payment by reason of dismissal.
[*cf.* 1965 c. 62, s. 2.]

31C. (1) Except as provided by section 31H, an employee shall not be entitled to a severance payment by reason of dismissal where his employer, being so entitled by reason of the employee's conduct, terminates his contract of employment without notice or payment in lieu in accordance with section 9.

(2) An employee shall not be entitled to a severance payment by reason of dismissal if, not less than seven days before the relevant date, the employer has offered to renew his contract of employment, or to re-engage him under a new contract, so that—

- (a) the provisions of the contract as renewed, or of the new contract, as the case may be, as to the capacity and place in which he would be employed, and as to the other terms and conditions of his employment, would not differ from the corresponding provisions of the contract as in force immediately before his dismissal; and
- (b) the renewal or re-engagement would take effect on or before the relevant date,

and the employee has unreasonably refused that offer.

(3) An employee shall not be entitled to a severance payment by reason of dismissal if, not less than seven days before the relevant date, the employer has made to him an offer in writing to renew his contract of employment, or to re-engage him under

a new contract, so that in accordance with the particulars specified in the offer the provisions of the contract as renewed, or of the new contract, as the case may be, as to the capacity and place in which he would be employed, and as to the other terms and conditions of his employment, would differ (wholly or in part) from the corresponding provisions of the contract as in force immediately before his dismissal, but—

- (a) the offer constitutes an offer of suitable employment in relation to the employee;
- (b) the offer constitutes an offer of employment no less favourable to the employee than hitherto; and
- (c) the renewal or re-engagement would take effect on or before the relevant date,

and the employee has unreasonably refused that offer.

(4) Where the relevant date falls on a rest day or holiday, the references in paragraph (a) of subsection (2) and paragraph (c) of subsection (3) to the relevant date shall be construed as references to the next day after that rest day or holiday.

(5) An employee shall not be entitled to a severance payment by reason of dismissal where he leaves the service of his employer—

- (a) before the expiration of notice given to him by the employer in accordance with section 6 without the prior consent of the employer; or
- (b) without having made a payment in lieu to the employer in accordance with section 7.

Dismissal by employer.
[*cf.* 1965 c. 62, s. 3.]

31D. (1) For the purposes of and subject to this Part, an employee shall be taken to be dismissed by his employer if, but only if—

- (a) the contract under which he is employed is terminated by the employer with or without notice or payment in lieu thereof other than in accordance with section 9;
- (b) where under that contract he is employed for a fixed term, that term expires without being renewed under the same contract; or

- (c) the employee, being so entitled by reason of the employer's conduct, terminates that contract without notice or payment in lieu in accordance with section 10.
- (2) An employee shall not be taken for the purposes of this Part to be dismissed by his employer if—
- (a) his contract of employment is renewed, or he is re-engaged by the same employer under a new contract of employment; and
- (b) the renewal or re-engagement takes effect immediately on the ending of his employment under the previous contract.
- (3) For the purposes of the application of subsection (2) to a contract under which the employment ends on a rest day or holiday, the renewal or re-engagement shall be treated as taking effect immediately on the ending of the employment under the previous contract if it takes effect on or before the next day after that rest day or holiday.

Lay-off.
[cf. 1965 c. 62,
s. 5(1).]

31E. (1) Where an employee is employed under a contract on such terms and conditions that his remuneration thereunder depends on his being provided by the employer with work of the kind he is employed to do, he shall for the purposes of section 31B(1) be taken to be laid off where the employer does not provide such work for him on at least a total of twelve normal working days in any period of four consecutive weeks and whereby he is not entitled to any remuneration under the contract for such period:

Provided that any period during which an employee is not provided with work because of a lock-out by his employer, or as a result of a rest day or holiday, shall not be taken into account in determining whether an employee has been laid off.

(2) The continuity of a contract of employment of an employee shall not be treated as broken by any lay-off as a result of which no severance payment has been made.

(3) For the purposes of this Part the "relevant date" in respect of the right of an employee to a

severance payment arising by reason of lay-off means any day on which the period of four consecutive weeks referred to in subsection (1) has expired.

Excluded
classes of
employees.
[cf. 1965 c. 62,
s. 16.]

(Cap. 89.)

31F. Section 31B shall not apply—

- (a) where the employer is the husband or wife of the employee;
- (b) to any outworker;
- (c) to any person in respect of any employment which renders him eligible for any pension, gratuity or annual allowance under the Pensions Ordinance;
- (d) to any person, employed by a government other than the Hong Kong Government, who is a subject or citizen of the state under whose government he is employed; or
- (e) without prejudice to paragraph (a), to any person in respect of employment as a domestic servant in, or in connexion with, a private household, where the employer is the father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister of the employee.

Amount of
severance
payment.

31G. (1) Subject to the provisions of this Part, the amount of a severance payment to which an employee is entitled in any case shall be calculated by allowing—

- (a) in the case of a monthly rated employee, one-third of his last full month's wages;
- (b) in any other case, ten days' wages based on any ten full working days chosen by the employee and occurring during his last month of employment,

for every year (and *pro rata* as respects an incomplete year) of employment under a continuous contract by that employer subject in all cases to a maximum payment not exceeding the total amount of wages earned during the period of twelve months immediately preceding the relevant date:

Provided that the employee may elect to have his wages averaged over the period of twelve months immediately preceding the relevant date.

(2) Where an employee, who is employed otherwise than by way of manual labour, is dismissed by reason of redundancy or is laid off and at the time of such dismissal or lay-off earned wages exceeding \$2,000 per month but within a year prior thereto earned wages for any period not exceeding \$2,000 per month, he shall be entitled to a severance payment in respect of the whole of the period of employment during which his wages did not exceed \$2,000 per month.

(3) For the purposes of this section, the period of employment under a continuous contract shall not include any such employment occurring more than five years prior to the day appointed by the Governor pursuant to section 31B(1).

(4) In this section, "wages" shall not include any payments in respect of overtime.

31H. Where an employee, who has been given notice by his employer to terminate his contract of employment, takes part in a strike before the expiry of that notice in such circumstances that the employer is entitled by reason of his taking part in the strike to treat the contract as terminable without notice, and the employer for that reason terminates the contract as mentioned in section 31C(1), that subsection shall not apply to that termination of the contract.

31I. (1) Subject to subsection (2), where an employee is entitled—

- (a) by virtue of this Part, to a severance payment; and
- (b) by virtue of—
 - (i) the terms of his contract of employment, to a gratuity based upon length of service; or
 - (ii) a provident fund scheme or arrangement, to a payment thereunder,

Special provision as to termination of contract in case of strike.
[cf. 1965 c. 62, s. 10.]

Set-off of gratuity or provident fund payment against severance payment.

the severance payment shall be reduced by the amount of the gratuity or provident fund payment (as the case may be) paid to that employee.

(2) For the purposes of subsection (1), a provident fund payment shall not include that part (if any) of the payment which represents a return of an employee's own contributions, including any sum payable in respect of interest thereon.

Change of ownership of business.
1965 c. 62, s. 13.

31J. (1) This section shall have effect where—

- (a) a change occurs (whether by virtue of a sale or other disposition or by operation of law) in the ownership of a business for the purposes of which a person is employed, or of a part of such a business; and
- (b) in connexion with that change the person by whom the employee is employed immediately before the change occurs (in this section referred to as "the previous owner") terminates the employee's contract in accordance with section 6 or 7.

(2) If, by agreement with the employee, the person who immediately after the change occurs is the owner of the business or of the part of the business in question, as the case may be (in this section referred to as "the new owner") renews the employee's contract of employment (with the substitution of the new owner for the previous owner) or re-engages him under a new contract of employment, section 31D(2) shall have effect as if the renewal or re-engagement had been a renewal or re-engagement by the previous owner (without any substitution of the new owner for the previous owner).

(3) If the new owner offers to renew the employee's contract of employment (with the substitution of the new owner for the previous owner) or to re-engage him under a new contract of employment, but the employee refuses the offer, subsection (2) or (3) of section 31C (as the case may be) shall have effect, subject to subsection (4), in relation to that offer and refusal as it would have had effect in relation to the like offer made by the previous owner and a refusal of that offer by the employee.

(4) For the purposes of the operation, in accordance with subsection (3), of subsection (2) or (3) of section 31C in relation to an offer made by the new owner—

- (a) the offer shall not be treated as one whereby the provisions of the contract as renewed, or of the new contract, as the case may be, would differ from the corresponding provisions of the contract as in force immediately before the dismissal by reason only that the new owner would be substituted for the previous owner as the employer; and
- (b) no account shall be taken of that substitution in determining whether the refusal of the offer was unreasonable.

(5) This section shall have effect (subject to the necessary modifications) in relation to a case where—

- (a) the person by whom a business, or part of a business, is owned immediately before a change is one of the persons by whom (whether as partners, trustees or otherwise) it is owned immediately after the change; or
- (b) the persons by whom a business, or part of a business, is owned immediately before a change (whether as partners, trustees or otherwise) include the person or one or more of the persons by whom it is owned immediately after the change,

as this section has effect where the previous owner and the new owner are wholly different persons.

(6) Nothing in this section shall be construed as requiring any variation of a contract of employment by agreement between the parties to be treated as constituting a termination of the contract.

31K. (1) Where the employer is a company, any reference in this Part to re-engagement by the employer shall be construed as a reference to re-engagement by that company or by any associated company, and any reference in this Part to an offer made by the employer shall be construed as including a reference to an offer made by an associated company.

Associated
companies.
1965 c. 62,
s. 48.

(2) Subsection (1) shall not affect the operation of section 31J in a case where the previous owner and the new owner (as defined by that section) are associated companies; and where that section applies, subsection (1) shall not apply.

(3) Where an employee is dismissed by his employer, and the employer is a company (in this subsection referred to as "the employing company") which has one or more associated companies, then if—

- (a) none of the conditions specified in section 31B(2) is fulfilled;
- (b) one or other of those conditions would be fulfilled if the business of the employing company and the business of the associated company (or, if more than one, each of the associated companies) were treated as together constituting one business,

that condition shall for the purposes of this Part be taken to be fulfilled in relation to the dismissal of the employee.

(4) Where an employee of a company is taken into the employment of another company which, at the time when he is taken into its employment, is an associated company of the first-mentioned company, his period of employment at that time shall count as a period of employment with the associated company, and the change of employer shall not break the continuity of the period of employment.

(5) For the purposes of this section two companies shall be taken to be associated companies if one is a subsidiary of the other, or both are subsidiaries of a third company, and "associated company" shall be construed accordingly.

(6) In this section "company" and "subsidiary" have the meanings respectively assigned thereto by sections 2 and 126 of the Companies Ordinance.

(Cap. 32.)

Implied or
constructive
termination
of contract.
1965 c. 62,
s. 22.

31L. (1) Where in accordance with any enactment or rule of law—

- (a) any act on the part of the employer; or
- (b) any event affecting an employer (including, in the case of an individual, his death),

operates so as to terminate a contract under which an employee is employed by him, that act or event shall for the purposes of this Part be treated as a termination of the contract by the employer, if apart from this subsection it would not constitute a termination of the contract by him.

(2) Where subsection (1) applies, and the employee's contract of employment is not renewed, and he is not re-engaged under a new contract, as mentioned in section 31D(2), he shall for the purposes of this Part be taken to be dismissed by reason of redundancy if the circumstances in which the contract is not renewed and he is not re-engaged as mentioned in section 31D(2), are wholly or mainly attributable to one or other of the facts specified in section 31B(2).

(3) For the purposes of subsection (2), paragraph (a) of section 31B(2), in so far as it relates to the employer ceasing or intending to cease to carry on the business, shall be construed as if the reference to the employer included a reference to any person to whom, in consequence of the act or event in question, power to dispose of the business has passed.

(4) In this section any reference to section 31D(2) includes a reference to section 31D(2) as applied by section 31J(2).

31M. Part I of the Third Schedule shall have effect in relation to the death of an employer; and Part II of that Schedule shall have effect in relation to the death of an employee.

31N. Notwithstanding anything in this Part, an employee shall not be entitled to a severance payment unless, before the end of the period of one month beginning with the relevant date, or within such extended period as the Commissioner may agree—

- (a) the payment has been agreed and paid;
- (b) the employee has made a claim for payment by notice in writing given to the employer; or
- (c) a question as to the right of the employee to the payment, or as to the amount of the

Death of employer or of employee. Third Schedule. 1965 c. 62, s. 23.

Claims for severance payments. [cf. 1965 c. 62, s. 21.]

payment, has been made the subject of a claim filed with the Registrar of the Labour Tribunal in accordance with Part IV of the Labour Tribunal Ordinance.

(Cap. 25.)

Making of severance payment.

31O. (1) Where an employee is entitled to a severance payment under this Part, his employer shall make the severance payment to him not later than two months from the receipt of a notice in accordance with paragraph (b) of section 31N unless either the employer or the employee has, before the expiration of that period, made the severance payment the subject of a claim filed with the Registrar of the Labour Tribunal in accordance with paragraph (c) of section 31N.

(2) A severance payment shall be made in legal tender except that, where the employee so consents, payment may be made—

- (a) by cheque, money order or postal order;
- (b) into an account in his name with any bank licensed under the Banking Ordinance; or
- (c) to his duly appointed agent.

(Cap. 155.)

(3) Any employer who without reasonable excuse fails to comply with subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

31P. (1) On making any severance payment, otherwise than in pursuance of a decision of the Labour Tribunal which specifies the amount of the payment to be made, the employer shall give to the employee a written statement indicating how the amount of the payment has been calculated.

Written particulars of severance payment. [cf. 1965 c. 62, s. 18.]

(2) Any employer who—

- (a) without reasonable excuse fails to comply with subsection (1); or
- (b) in a statement under that subsection includes anything which to his knowledge is false in a material particular, or recklessly includes anything which is false in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine of \$1,000.

(3) Without prejudice to any proceedings for an offence under paragraph (a) of subsection (2), if an employer fails to comply with the requirements of subsection (1), the employee may by notice in writing to the employer require the employer to give to the employee a written statement complying with those requirements within such period (not being less than one week beginning with the day on which the notice was given) as may be specified in the notice.

(4) If, without reasonable excuse, an employer fails to comply with a notice under subsection (3) he shall be guilty of an offence and shall be liable—

(a) in the case of a first conviction to a fine of \$2,000; or

(b) in the case of a second or subsequent conviction, to a fine of \$3,000.

Presump-
tion.
[cf. 1965 c. 62,
s. 9(2).]

31Q. For the purposes of this Part an employee who has been dismissed by his employer shall, unless the contrary is proved, be presumed to have been so dismissed by reason of redundancy.”

6. The principal Ordinance is amended by adding, after the Second Schedule, the following new Schedule—

“THIRD SCHEDULE [s. 31M.]

DEATH OF EMPLOYER OR OF EMPLOYEE

PART I

Death of Employer

1. This Part shall have effect in relation to an employee where his employer (in this Part referred to as “the deceased employer”) dies.

2. Section 31J shall not apply to any change whereby the ownership of the business, for the purposes of which the employee was employed by the deceased employer, passes to a personal representative of the deceased employer.

3. Where, by virtue of section 31L(1), the death of the deceased employer is to be treated for the purposes of Part VA of this Ordinance as a termination by him of the contract of employment, the employee shall nevertheless not be treated for these purposes as having been dismissed by the deceased employer if—

- (a) his contract of employment is renewed by a personal representative of the deceased employer, or he is re-engaged under a new contract of employment by such a personal representative; and
- (b) the renewal or re-engagement takes effect not later than four weeks after the death of the deceased employer.

4. Where, by reason of the death of the deceased employer, the employee is treated for the purposes of Part VA of this Ordinance as having been dismissed by him, he shall not be entitled to a severance payment in respect of that dismissal if a personal representative of the deceased employer has made to him an offer in writing to renew his contract of employment, or to re-engage him under a new contract, so that in accordance with the particulars specified in the offer the renewal or re-engagement would take effect not later than four weeks after the death of the deceased employer and either—

- (a) the provisions of the contract as renewed, or of the new contract, as the case may be, as to the capacity and place in which he would be employed, and as to the other terms and conditions of his employment, would not differ from the corresponding provisions of the contract as in force immediately before the death; or
- (b) if, in accordance with the particulars specified in the offer, those provisions would differ (wholly or in part) from the corresponding provisions of the contract as in force immediately before the death, the offer constitutes an offer of suitable employment in relation to that employee,

and (in either case) the employee has unreasonably refused that offer.

5. For the purposes of paragraph 4—

- (a) an offer shall not be treated as one whereby the provisions of the contract as renewed, or of the new contract, as the case may be, would differ from the corresponding provisions of the contract as in force immediately before the death of the deceased employer by reason only that the personal representative would be substituted as the employer for the deceased employer; and
- (b) no account shall be taken of that substitution in determining whether the refusal of the offer was unreasonable.

6. Where by virtue of section 31L(1) the death of the deceased employer is to be treated as a termination by him of the contract of employment, any reference in subsection (2) of that section to section 31D(2) shall be construed as including a reference to paragraph 3.

7. Where by virtue of paragraph 3 the employee is treated as not having been dismissed by reason of a renewal or re-engagement taking effect after the death of the deceased employer, then—

- (a) in determining, for the purposes of section 31B(1), whether he has been employed under a continuous contract for the requisite period, the interval between the death and the date on which the renewal or re-engagement takes effect shall count as a period of employment with the personal representative of the deceased employer, if apart from this paragraph it would not count for that purpose as such a period of employment; and

(b) in computing the period specified in section 31B(1), the continuity of the employee's period of employment shall be treated as not being broken by any week which falls within that interval.

8. For the purposes of the application, in accordance with section 31B(3), of Part VA of this Ordinance in relation to an employee who was employed as a domestic servant in, or in connexion with, a private household, any reference to a personal representative in this Part of this Schedule shall be construed as including a reference to any person to whom, otherwise than in pursuance of a sale or other disposition for valuable consideration, the management of the household has passed in consequence of the death of the deceased employer.

9. Subject to this Part of this Schedule, in relation to an employer who has died—

(a) any reference in Part VA of this Ordinance to the doing of anything by, or in relation to, an employer shall be construed as including a reference to the doing of that thing by, or in relation to, any personal representative of the deceased employer; and

(b) any reference in Part VA of this Ordinance to a thing required or authorized to be done by, or in relation to, an employer shall be construed as including a reference to anything which, in accordance with any provision of Part VA of this Ordinance as modified by this Part of this Schedule (including sub-paragraph (a)), is required or authorized to be done by, or in relation to, any personal representative of his.

10. Where by virtue of Part VA of this Ordinance, as modified by this Part of this Schedule, a personal representative of the deceased employer is liable to pay a severance payment, or part of a severance payment, and that liability had not accrued before the death of the deceased employer, it shall be treated for all purposes as if it were a liability of the deceased employer which had accrued immediately before his death.

PART II

Death of Employee

11. Where an employer has given notice to an employee to terminate his contract of employment, and before that notice expires the employee dies, Part VA of this Ordinance shall apply as if the contract had been duly terminated by the employer by notice expiring on the date of the employee's death.

12. Where an employer has given notice to an employee to terminate his contract of employment, and has offered to renew his contract of employment, or to re-engage him under a new contract, and—

(a) the employee dies without having either accepted or refused the offer; and

(b) the offer has not been withdrawn before his death,

subsection (2) or (as the case may be) subsection (3) of section 31C shall apply as if, for the words "the employee has unreasonably refused",

there were substituted the words "it would have been unreasonable on the part of the employee to refuse".

13. In relation to the making of a claim by a personal representative of a deceased employee who dies before the end of the period of one month beginning with the relevant date, section 31N shall apply with the substitution, for the words "one month", of the words "six months".

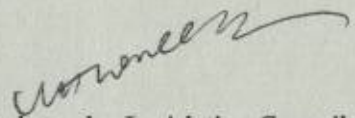
14. Subject to this Part of this Schedule, in relation to an employee who has died, any reference in Part VA of this Ordinance to—

(a) the doing of anything by, or in relation to, an employee shall be construed as including a reference to the doing of that thing by, or in relation to, any personal representative of the deceased employee; and

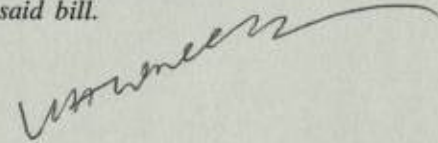
(b) a thing required or authorized to be done by, or in relation to, an employee shall be construed as including a reference to anything which, in accordance with Part VA of this Ordinance as modified by this Part of this Schedule (including sub-paragraph (a)), is required or authorized to be done by, or in relation to, any personal representative of his.

15. Any right of a personal representative of a deceased employee to a severance payment, where that right had not accrued before the employee's death, shall devolve as if it had accrued before his death."

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

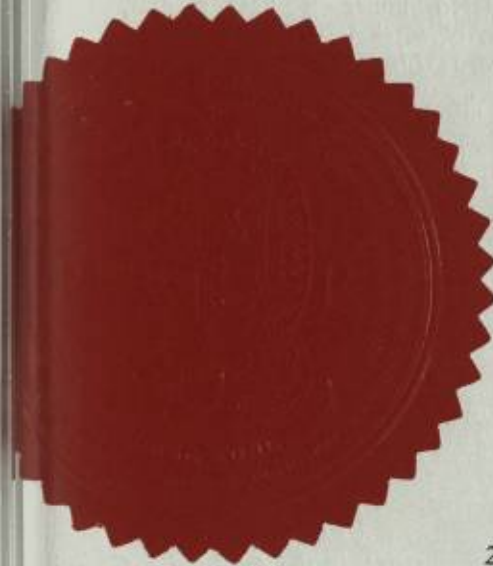

Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

HONG KONG

No. 68 OF 1974



I assent.

Murray S. Newbould
Governor.

28th November, 1974.

An Ordinance to amend further the Companies Ordinance.

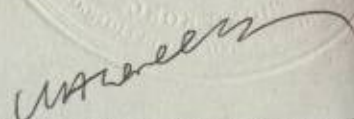
[29th November, 1974]

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

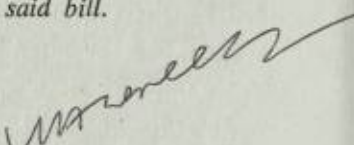
1. This Ordinance may be cited as the Companies (Amendment) (No. 3) Ordinance 1974. Short title.
2. Section 20 of the principal Ordinance is amended— Amendment of section 20. (Cap. 32.)
 - (a) in subsection (1), by deleting paragraphs (b) and (c) and substituting the following—
 - “(b) is identical with that of a company incorporated outside the Colony which has complied with Part XI of the Ordinance, or so nearly resembles that name as to be calculated to deceive; or

- (c) is identical with that of a body corporate incorporated or established under an Ordinance, or so nearly resembles that name as to be calculated to deceive; or
 - (d) contains the words "*Chamber of Commerce*", unless the company is a company which is to be registered under a licence granted in pursuance of section 21 without the addition of the word "*Limited*" to its name; or
 - (e) contains the words "*Building Society*".; and
- (b) in subsection (2)—
- (i) by deleting the full stop at the end of paragraph (h) and substituting the following—
" ; or " ; and
 - (ii) by inserting after paragraph (h) the following—
"(i) contains the word "*Kaifong*".

Passed by the Hong Kong Legislative Council this 27th day of November, 1974.

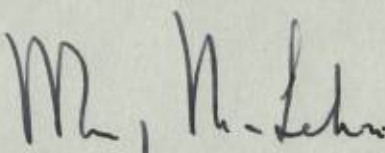

Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



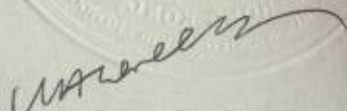
I assent.


Governor.

calculated to deceive; or

- (d) contains the words "*Chamber of Commerce*", unless the company is a company which is to be registered under a licence granted in pursuance of section 21 without the addition of the word "*Limited*" to its name; or
- (e) contains the words "*Building Society*"; and
- (b) in subsection (2)—
- (i) by deleting the full stop at the end of paragraph (h) and substituting the following—
“ ; or ” ; and
- (ii) by inserting after paragraph (h) the following—
“(i) contains the word "*Kaifong*".

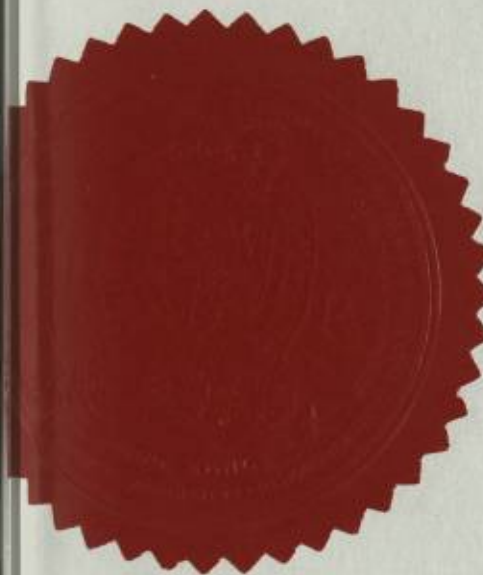
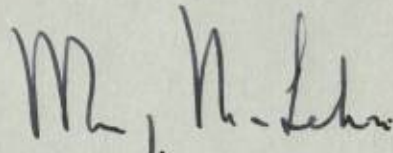
Passed by the Hong Kong Legislative Council this 27th day of November, 1974.


Clerk to the Legislative Council.

HONG KONG

No. 69 OF 1974

I assent.



Governor

28th November, 1974.

An Ordinance to amend the Cross-Harbour Tunnel Ordinance.

[29th November, 1974]

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

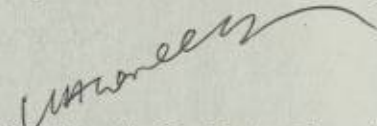
1. This Ordinance may be cited as the Cross-Harbour Short title. Tunnel (Amendment) Ordinance 1974.

2. Section 62 of the principal Ordinance is amended by inserting, after subsection (1), the following new subsection—

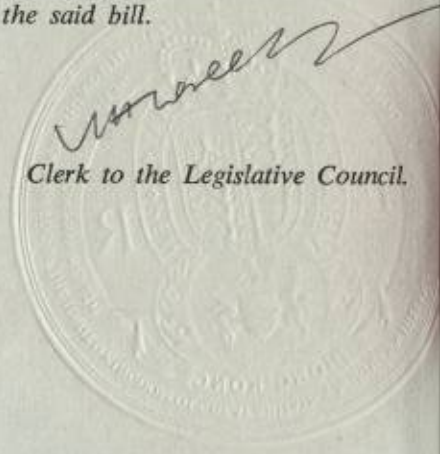
“(1A) Where a by-law made under subsection (1) provides for the issue of a permit for any purpose, the by-law may prescribe a fee to be paid in respect of such permit.”.

Amendment
of section
62.
(Cap. 203.)

Passed by the Hong Kong Legislative Council this 27th day of November, 1974.


Clerk to the Legislative Council.

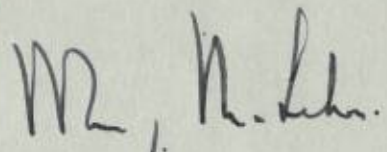
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.


Clerk to the Legislative Council.

HONG KONG

No. 70 OF 1974

I assent.


Governor.

28th November, 1974.

An Ordinance to amend the Fire and Marine Insurance Companies Deposit Ordinance.

[29th November, 1974]

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

1. This Ordinance may be cited as the Fire and Marine Insurance Companies Deposit (Amendment) Ordinance 1974. Short title.

2. Section 5 of the principal Ordinance is amended by deleting subsection (2) and substituting the following— Amendment of section 5. (Cap. 34.)

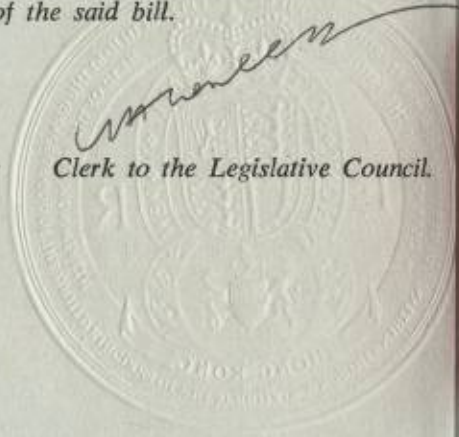
“(2) A deposit of securities shall consist of any of the investments specified in the Second Schedule to the Trustee Ordinance except those specified in items 7, 14, 15, 17 and 19 of that Schedule.” (Cap. 29.)

Passed by the Hong Kong Legislative Council this 27th day
of November, 1974.

W. M. M. M.

Clerk to the Legislative Council.

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



Clerk to the Legislative Council.



I assent.

Mr. N. L. L.

HONG KONG

No. 71 OF 1974

W. H. Wong
Clerk to the Legislative Council.

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

W. H. Wong
Clerk to the Legislative Council.

I assent.

M. N. S. Lee
Governor.

28th November, 1974.

An Ordinance to amend the Life Insurance Companies Ordinance.

[29th November, 1974]

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

1. This Ordinance may be cited as the Life Insurance Short title.
Companies (Amendment) Ordinance 1974.

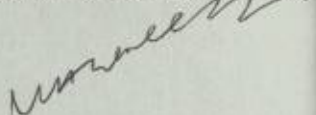
2. Section 3 of the principal Ordinance is amended by
deleting subsection (3) and substituting the following—

“(3) A deposit of securities shall consist of any of
the investments specified in the Second Schedule to the
Trustee Ordinance except those specified in items 7, 14,
15, 17 and 19 of that Schedule.”

Amendment
of section 3.
(Cap. 36.)

(Cap. 29.)

Passed by the Hong Kong Legislative Council this 27th day
of November, 1974.

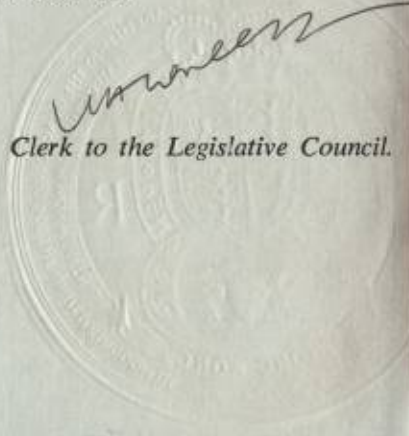


Clerk to the Legislative Council.

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



Clerk to the Legislative Council.

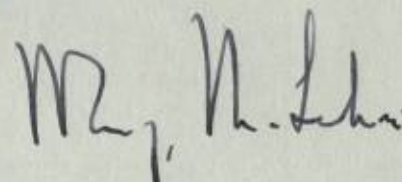


HONG KONG

No. 72 OF 1974



I assent.



Governor.

28th November, 1974.

An Ordinance to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March 1974.

[29th November, 1974]

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 1974, in addition to the charge upon the revenue and other funds of the Colony authorized by the Appropriation Ordinance 1973: Preamble.

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 (1973-74) Ordinance 1974.

Appropriation from general revenue and other funds.

Schedule.

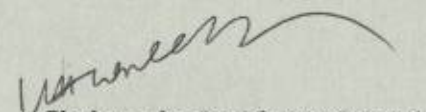
2. A sum of eight hundred and thirty-three million, two hundred and seventy-five thousand three hundred and sixty-eight dollars is hereby charged upon the revenue and other funds of the Colony for the service of the financial year ended the 31st day of March 1974, the appropriation of the sum so charged being approved as specified in the Schedule.

SCHEDULE

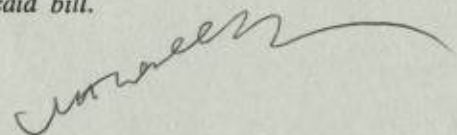
<i>Number of Vote</i>	<i>Head of Expenditure</i>	<i>Amount of Vote</i>
		\$
21.	His Excellency The Governor's Establishment	223,322
22.	Agriculture and Fisheries Department	1,797,035
23.	Audit Department	314,245
24.	Census and Statistics Department	936,909
25.	Civil Aviation Department	4,308,312
26.	Colonial Secretariat	3,222,890
28.	Commerce and Industry Department	2,228,446
33.	Defence: Auxiliary Medical Service	212,062
34.	Defence: Civil Aid Services	287,525
36.	Education Department	15,667,601
37.	Fire Services Department	2,006,197
38.	Government Supplies Department	10,676,806
40.	Immigration Department	2,152,028
42.	Judiciary	2,838,492
44.	Labour Department: Labour Division	758,303
46.	Legal Department	457,677
49.	Medical and Health Department	30,138,964
50.	Miscellaneous Services	279,769,924
51.	New Territories Administration	5,078,293
52.	Office of Unofficial Members of Executive and Legislative Councils	99,402
53.	Pensions	16,897,563
54.	Police: Royal Hong Kong Police Force	41,894,639
55.	Police: Royal Hong Kong Auxiliary Police Force	4,287,201
57.	Printing Department	1,148,040
58.	Prisons Department	10,969,565
60.	Public Services Commission	56,721
61.	Public Works Department	17,731,081
62.	Public Works Recurrent	17,013,201
63.	Public Works Non-recurrent: Headquarters	50,457,265
65.	Public Works Non-recurrent: Engineering	45,489,785
66.	Public Works Non-recurrent: Waterworks	30,224,708

<i>Number of Vote</i>	<i>Head of Expenditure</i>	<i>Amount of Vote</i>
		\$
67.	Rating and Valuation Department	469,017
68.	Registrar General's Department	1,165,523
69.	Registration of Persons Department	619,349
70.	Registry of Trade Unions	7,792
72.	Secretariat for Home Affairs	712,298
73.	Secretariat for Information	5,374,292
74.	Social Welfare Department	43,494,848
75.	Subventions: Education	104,737,023
78.	Subventions: Miscellaneous	2,681,667
79.	Transport Department	654,502
80.	Treasury	835,155
81.	Universities and Polytechnic	52,878,072
82.	Urban Services Department (for Urban Council)	14,909,784
83.	Urban Services Department: New Territories Division	5,386,724
84.	World Refugee Year Schemes	5,120
	TOTAL	\$833,275,368

Passed by the Hong Kong Legislative Council this 27th day of November, 1974.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



I assent.

M. N. L.
Governor.

HONG KONG

No. 73 of 1974



I assent.

M. N. Lehn
Governor.

28th November, 1974.

An Ordinance to amend the Merchant Shipping Ordinance.

[]

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

1. (1) This Ordinance may be cited as the Merchant Shipping (Amendment) Ordinance 1974.

Short title and commencement.

(2) The Governor may, by notice in the *Gazette*, appoint a day on which this Ordinance, or any provision of this Ordinance, shall come into operation and may, at different times, appoint different days for different provisions.

2. Section 6 of the principal Ordinance is amended by deleting subsections (1), (2) and (3) and substituting the following—

Amendment of section 6. (Cap. 281.)

“(1) The Director shall cause examinations to be conducted in respect of persons in the mercantile marine who

wish to obtain certificates of competency as officers or seamen of the prescribed classes, and shall appoint examiners for that purpose. Every such appointment shall be notified in the *Gazette*.

(2) The Director of Marine may make rules prescribing or providing for—

- (a) classes of officers and seamen for the purposes of subsection (1);
- (b) the standards of competency to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the rules) by candidates for any examination conducted under subsection (1);
- (c) the procedure for and the method of conducting any such examinations;
- (d) the subjects to be taken at any such examination or the manner in which those subjects are to be specified;
- (e) fees and forms in relation to any such examination; and
- (f) the method of granting certificates of competency and copies of such certificates.

(3) The Director may publish any rules made under subsection (2) in such manner as he thinks fit, and shall, on payment of the appropriate charge, provide a copy of the rules to any person who applies to him in that behalf.”

Repeal and replacement of section 68.

3. Section 68 of the principal Ordinance is repealed and replaced by the following—

“Fairway to be kept clear.

68. (1) A master or other person in charge of a vessel, including a ship of war, shall not—

- (a) anchor or permit the anchoring of the vessel within any fairway set apart by the Director for the passage of vessels; or
- (b) cause the vessel to obstruct any such fairway.

(2) Any master or other person in charge of a vessel who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.”

4. Section 94 of the principal Ordinance is amended in subsection (1) by deleting paragraph (d) and substituting the following—

Amendment of section 94.

“(d) the maintaining of a register of trawling masters and trawling engineers;”.

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

Addition of new sections 94A and 94B.

“Certificates of competency for trawling masters, etc.

94A. (1) The Director shall cause examinations to be held in respect of persons who wish to obtain certificates of competency as trawling masters or trawling engineers, and shall appoint examiners for that purpose. Every such appointment shall be notified in the *Gazette*.

(2) The Director of Marine may make rules prescribing or providing for—

- (a) the standards of competency to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the rules) by candidates for any examination conducted under subsection (1);
- (b) the procedure for and the method of conducting any such examination;
- (c) the subjects to be taken at any such examination or the manner in which those subjects are to be specified;
- (d) fees and forms in relation to any such examination; and
- (e) the method of granting certificates of competency and copies of such certificates.

(3) The Director may publish any rules made under subsection (2) in such manner as he thinks fit, and shall, on payment of the appropriate charge, provide a copy of the rules to any person who applies to him in that behalf.”

6. Section 97 of the principal Ordinance is amended in subsection (1) by deleting paragraph (d).

Amendment of section 97.

7. The principal Ordinance is amended by adding, after section 97, the following new section—

Addition of new section 97A.

"Certificates of competency for masters and engineers of ferries, etc.

97A. (1) The Director shall cause examinations to be conducted in respect of persons who wish to obtain certificates of competency as masters or engineers of vessels to which this Part applies, and shall appoint examiners for that purpose. Every such appointment shall be notified in the *Gazette*.

(2) The Director of Marine may make rules prescribing or providing for—

- (a) the standards of competency to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the rules) by candidates for any examination conducted under subsection (1);
- (b) the procedure for and the method of conducting any such examination;
- (c) the subjects to be taken at any such examination, or the manner in which those subjects are to be specified;
- (d) fees and forms in relation to any such examination;
- (e) the issue of certificates of competency to successful candidates at any such examination and the issue of copies of such certificates.

(3) The Director may publish any rules made under subsection (2) in such manner as he thinks fit, and shall, on payment of the appropriate charge, provide a copy of the rules to any person who applies to him in that behalf."

Amendment of section 100.

8. Section 100 of the principal Ordinance is amended by deleting subsections (3), (4) and (5) and substituting the following—

"(3) The Director may cancel, or suspend for any period, any certificate of competency issued pursuant to rules made under section 97A, if it is proved to his satisfaction after due inquiry that the holder of the certificate has been guilty of incompetence or negligence in the performance of his duties as master or engineer, as the case may be.

(4) A person aggrieved by a decision of the Director under subsection (3) may, within 14 days after being informed of the decision, by notice in writing delivered to the Registrar of the Supreme Court, appeal to such judge, District Judge,

or magistrate as the Chief Justice may nominate; and on hearing the appeal the judge, District Judge, or magistrate may make such order confirming, varying, or setting aside the decision of the Director as he considers just.

(5) A copy of the notice of appeal delivered under subsection (4) shall be served on the Director who shall be entitled to be heard as respondent at the hearing of the appeal.

(6) If, on the cancellation or suspension of any such certificate, the holder of the certificate, or any person in possession of it, fails to deliver it to the Director on being required by him to do so, he shall be guilty of an offence and shall be liable on conviction to a fine of \$4,000."

9. Section 105 of the principal Ordinance is amended by deleting paragraph (i).

Amendment of section 105.

10. The principal Ordinance is amended by adding, after section 105A, the following new section—

Addition of new section 105B.

"Certificates of competency for masters and engineers of small craft.

105B. (1) The Director shall cause examinations to be conducted in respect of persons who wish to obtain certificates of competency as masters or engineers of vessels to which this Part applies, and shall appoint examiners for that purpose. Every such appointment shall be notified in the *Gazette*.

(2) The Director of Marine may make rules prescribing or providing for—

- (a) the standards of competency to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the rules) by candidates for any examination conducted under subsection (1);
- (b) the procedure for, and the method of, conducting any such examination;
- (c) the subjects to be taken at any such examination, or the manner in which those subjects are to be specified;
- (d) fees and forms in relation to any such examination;
- (e) the issue of certificates of competency to successful candidates at any such examination and the issue of copies of such certificates.

(3) The Director may publish any rules made under subsection (2) in such manner as he thinks fit, and shall, on payment of the appropriate charge, provide a copy of the rules to any person who applies to him in that behalf."

Amendment
of section
107A.

11. Section 107A of the principal Ordinance is amended by inserting, after subsection (2), the following new subsections—

"(3) A copy of the notice of appeal delivered under subsection (2) shall be served on the Director who shall be entitled to be heard as respondent at the hearing of the appeal.

(4) If, on the cancellation or suspension of any such certificate, the holder of the certificate, or any person in possession of it, fails to deliver it to the Director on being required by him to do so, he shall be guilty of an offence and shall be liable on conviction to a fine of \$4,000."

Schedule of
amendments.

12. The sections of the principal Ordinance specified in the first column of the Schedule are amended to the extent and in the manner set out in second column of that Schedule.

SCHEDULE [s. 12.]
AMENDMENTS

Section

Amendment

5. (1) In subsection (4) by deleting "liable to a fine of four thousand dollars" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years".
- (2) In subsection (5) by deleting "liable to a fine of ten thousand dollars and to imprisonment for six months" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years".
- (3) In subsection (6) by deleting "liable to a fine of two thousand dollars" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$20,000 and to imprisonment for 12 months".
7. By deleting "liable to a fine of twenty thousand dollars and to imprisonment for three years" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years".
10. In subsection (2) by deleting "liable to a fine of two thousand dollars" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months".

Section

Amendment

12. (1) In subsection (1) by deleting "liable to a fine of one thousand dollars" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months".
- (2) In subsection (2) by deleting "liable to a fine of one thousand dollars and to imprisonment for three months" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$5,000 and to imprisonment for 3 months".
- (3) In subsection (5) by deleting "liable to a fine of two thousand dollars and to imprisonment for six months" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months".
- (4) By inserting, after subsection (5), the following new subsection—
- "(6) Where a master or other person is convicted of an offence against subsection (5), the court may, in addition to any penalty it may impose in respect of the offence, order the offender to pay any costs incurred by the Hong Kong Government in transporting the seaman or apprentice in respect of whom the offence was committed to any place outside Hong Kong; and the amount so ordered to be paid may be recovered in the same manner as a fine."
15. (1) In subsection (2) by deleting "liable to a fine of one thousand dollars" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months".
- (2) In subsection (4) by deleting "liable to a fine of two thousand dollars and to imprisonment for six months" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months".
- (3) In subsection (5) by deleting "Any master of a ship who refuses or unnecessarily delays to comply with such requisition shall be liable to a fine of two thousand dollars, and any master of a ship who makes any such statutory declaration containing any false statement shall be guilty of a misdemeanor."
- (4) By inserting, after subsection (5), the following new subsections—
- "(6) Any master of a ship who refuses to comply, or unnecessarily delays compliance, with any requirement made under subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months.
- (7) Any master of a ship who makes a statutory declaration under subsection (5) containing a statement which to his knowledge is false or misleading as to a material particular, shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years."

Section

Amendment

16. By deleting subsection (1) and substituting the following—

“(1) Subject to subsection (1B), any seaman or apprentice lawfully engaged on a ship who, in Hong Kong—

- (a) deserts his ship;
- (b) neglects, or refuses without reasonable cause, to join the ship or to proceed to sea on the ship, or is absent without leave from the ship at any time within 24 hours before the ship is due to sail from Hong Kong, either at the commencement or during the course of a voyage;
- (c) is absent at any time without leave and without sufficient reason from the ship or from his duties in connexion with the ship;
- (d) quits the ship without leave after the ship's arrival in Hong Kong and before the ship has taken up a safe berth;
- (e) wilfully disobeys any lawful command of a superior officer of the ship;
- (f) wilfully continues to disobey the lawful commands of a superior officer of the ship or to neglect to perform his duties in connexion with the ship;
- (g) assaults the master, or any mate or certificated engineer, of the ship;
- (h) combines with any of the crew of the ship to—
 - (i) disobey the lawful commands of any of the ship's superior officers;
 - (ii) neglect his duties in connexion with the ship; or
 - (iii) impede the navigation of the ship or the progress of the voyage of the ship;
- (i) wilfully damages the ship; or
- (j) embezzles or wilfully damages any of the ship's stores or cargo,

shall be guilty of an offence.

(1A) A person who commits an offence against subsection (1) shall be liable on conviction—

- (a) in the case of an offence against subsection (1)(a)—
 - (i) to imprisonment for 3 months;
 - (ii) to forfeit all or any part of the effects which he has left on board the ship and the wages (if any) which are due to him at the time of his desertion; and
 - (iii) to make good any excess of wages which have been properly paid by the owner or master of the ship to any substitute engaged in his place at a rate higher than that stipulated to be paid to him under his contract of service;

Section

Amendment

(b) in the case of an offence against subsection (1)(b) or (c) (not being an offence which is also an offence against subsection (1)(a))—

(i) to imprisonment for 10 weeks; and

(ii) to forfeit out of his wages a sum not exceeding 2 days' pay and, in addition for every 24 hours' absence, either a sum not exceeding 6 days' pay or the expenses properly incurred in employing a substitute, whichever is the smaller amount;

(c) in the case of an offence against subsection (1)(d), to forfeit out of his wages 1 month's pay;

(d) in the case of an offence against subsection (1)(e)—

(i) to imprisonment for 1 month; and

(ii) to forfeit out of his wages 2 days' pay;

(e) in the case of an offence against subsection (1)(f)—

(i) imprisonment for 3 months; and

(ii) to forfeit, for every 24 hours continuance of the disobedience or neglect, either a sum not exceeding 6 days' pay or the expenses properly incurred in employing a substitute, whichever is the smaller amount;

(f) in the case of an offence against subsection (1)(g), (h), (i) or (j), to imprisonment for 3 months.

(1B) For the purposes of this section—

(a) paragraphs (a), (b), (c), (d) and (j) of subsection (1) do not apply to seamen or apprentices from any foreign ship; and

(b) if a seaman or apprentice from a foreign ship is charged with any other offence against that subsection and there is resident in Hong Kong a consular officer of the country or territory to which the ship belongs, the magistrate shall only deal with the case if—

(i) he is requested in writing by the consular officer to do so; and

(ii) the consular officer undertakes in writing that the seaman or apprentice will not become a charge on the finances of Hong Kong in consequence of being so dealt with.”.

17. In subsection (2) by deleting “liable to a fine of two thousand dollars”, and substituting “guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months”.

19. By deleting “liable to a fine of four thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$20,000 and to imprisonment for 12 months”.

Section

Amendment

21. (1) By being renumbered as subsection (1) thereof.
- (2) In subsection (1) by deleting “, and in default shall be liable to a fine of one thousand dollars for every death or desertion which he may neglect to report”.
- (3) By inserting, after subsection (1), the following new subsection—
- “(2) Any master of a ship who fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.”.
26. In subsection (2) by deleting “liable to a fine of five hundred dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months”.
28. (1) In subsection (5) by deleting “In default such owner, agent or master shall be liable to a fine of two thousand dollars.”.
- (2) By inserting, after subsection (5), the following—
- “(6) If subsection (5) is not complied with, the owner, agent and master concerned shall, unless he has a reasonable excuse, be guilty of an offence and shall be liable on conviction to a fine of \$5,000.
- (7) For the purposes of subsection (6)—
- (a) compliance by the owner, agent or master shall be deemed to be compliance by all of them; and
- (b) an owner, agent or master does not have a reasonable excuse by reason only that he has delegated his responsibility to his agent.”.
31. In subsection (2) by deleting “such requirement shall be liable to a fine of one thousand dollars” and substituting “any such requirement shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000”.
33. (1) In subsection (1) by deleting “such information or assistance shall be liable to a fine of five hundred dollars” and substituting “the required information or assistance shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000”.
- (2) By deleting subsection (2) and substituting the following new subsections—
- “(2) Every structural alteration made to a passenger ship shall be notified in writing to the Director not later than 24 hours after it has been made or as soon after the expiry of that period as is practicable.
- (3) The owner and master, and the charterer and agent (if any), shall be severally responsible for ensuring compliance with subsection (2), but compliance by one of those persons shall be deemed to be compliance by all of them.

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- (4) Where subsection (2) has not been complied with, each of the persons mentioned in subsection (3) shall, unless he has a reasonable excuse, be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months.”.
34. In subsection (1) by deleting “liable to a fine of two thousand dollars, and to an additional fine of five hundred dollars for every excess passenger, or if the fare of any passenger on board exceeds five hundred dollars, a fine of double the amount of the fares of all excess passengers reckoned at the highest rate of fare payable by any passenger on board, and shall in any case be liable to imprisonment for six months” and substituting “guilty of an offence and shall be liable on conviction to imprisonment for 6 months and to a fine of \$10,000 and an additional fine of \$5,000 for each passenger in excess of the number allowed by the passenger certificate”.
35. (1) In subsection (1) by deleting “that person shall in respect of each offence be guilty of a misdemeanor” and substituting “he shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years”.
- (2) In subsection (2) by deleting “liable to a fine of four thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 12 months”.
36. (1) In subsection (2)—
- (a) by deleting “liable to a fine of four thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years”; and
- (b) by deleting “liable to a fine of two thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$20,000 and to imprisonment for 6 months”.
- (2) In subsection (4) by deleting “liable to a fine of four thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years”.
37. (1) In subsection (1) by deleting “Any master who wilfully misrepresents the number of passengers so about to be carried, or leaves or attempts to leave any port of the Colony without a clearance, shall be liable to a fine of ten thousand dollars and to imprisonment for six months.”.
- (2) By inserting, after subsection (1), the following new subsection—
- “(1A) Any master of a ship who—
- (a) in an application under subsection (1) for a port clearance, intentionally misrepresents the number of passengers proposed to be carried; or

Section

Amendment

- (b) leaves or attempts to leave any port in Hong Kong without a clearance,
shall be guilty of an offence and shall be liable on conviction to a fine of \$20,000 and to imprisonment for 6 months.”.
- (3) In subsection (2) by deleting “liable to a fine of two thousand dollars, in addition to a fine of one hundred dollars for every such passenger in excess of the number permitted to be carried by the clearance” and substituting “guilty of an offence and shall be liable on conviction to imprisonment for 6 months and to a fine of \$10,000 and an additional fine of \$5,000 in respect of each passenger in excess of the number permitted by the clearance”.
- (4) By deleting subsection (3) and substituting the following—
“(3) Whenever the master of a ship is guilty of an offence against subsection (2), the owner, and the agent and the charterer (if any), of the ship shall each be guilty of the same offence and shall each be liable on conviction to the same penalty as is prescribed for that offence, unless he proves that—
(a) the passengers involved in the offence were shipped without his knowledge or consent; and
(b) he derived no profit, benefit or advantage from the shipping of the passengers.”.
39. (1) By—
(a) deleting “for each offence be liable to a fine of eight thousand dollars” and substituting “be guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years”; and
(b) deleting “for each offence be liable to a fine of four thousand dollars” and substituting “be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months”.
41. In subsection (3) by deleting “liable to a fine of one thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$5,000”.
44. (1) In subsection (1) by deleting “a misdemeanor” and substituting “an offence”.
(2) In subsection (2) by deleting “a misdemeanor” and substituting “an offence”.
(3) By deleting subsection (3) and substituting the following—
“(3) Any person who commits an offence against subsection (1) or subsection (2) shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years.
(4) A prosecution under this section may only be commenced by or with the consent of the Attorney General.”.

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54. By deleting “liable for each offence to a fine of two hundred dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$5,000”.
55. In subsection (3) by deleting “liable to a fine of one thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$5,000”.
59. By deleting “liable to a fine of one thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$5,000”.
63. By deleting “liable to a fine of one thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months”.
64. (1) In subsection (1) by deleting “liable to a fine of one thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months”.
(2) In subsection (2) by deleting “liable to a fine of two hundred dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$1,000”.
65. (1) By being renumbered as subsection (1) thereof.
(2) By deleting “Any master who offends against the provisions of this section shall be liable to a fine of two thousand dollars.”.
(3) By inserting the following new subsection—
“(2) Any master who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000.”.
66. (1) In subsection (1) by deleting “Any master who wilfully disobeys or neglects or fails to comply with the provisions of this subsection shall be liable to a fine of two thousand dollars.”.
(2) By inserting, after subsection (1), the following new subsection—
“(1A) Any master who—
(a) without reasonable excuse, fails to comply with subsection (1); or
(b) wilfully disobeys any direction given by the Director under subsection (1),
shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000.”.
67. By deleting subsection (2) and substituting the following—
“(2) Any master who—
(a) without reasonable excuse, fails to comply with any provision of subsection (1);

Section

Amendment

- (b) supplies information to the Director for the purposes of subsection (1) which to his knowledge is false or misleading as to a material particular; or
- (c) puts to sea without having obtained a port clearance, shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months."
69. (1) In subsection (1) by deleting "For every omission to comply with the requirements of this subsection, the master, or other person for the time being in charge shall be liable to a fine of one thousand dollars."
- (2) By inserting, after subsection (1), the following new subsection—
- "(1A) If any junk fails to comply with subsection (1), the master or other person in charge of the junk shall be guilty of an offence and shall be liable on conviction to a fine of "\$4,000."
- (3) In subsection (2) by deleting ", and in default the owner or master shall be liable to a fine of one thousand dollars".
- (4) By inserting, after subsection (2), the following new subsection—
- "(2A) If any ship, hulk, junk or other vessel to which subsection (2) applies fails to comply with subsection (2), the master and the owner thereof shall each be guilty of an offence and shall each be liable on conviction to a fine of \$4,000."
71. (1) In subsection (1) by deleting "liable to a fine of four thousand dollars and to imprisonment for six months" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$4,000 and to imprisonment for 6 months".
- (2) In subsection (7) by deleting ", under a penalty not exceeding two thousand dollars".
- (3) By inserting, after subsection (7), the following new subsection—
- "(7A) In the event of a cannon, gun or firearm being discharged from any ship, junk or boat in contravention of subsection (7)—
- (a) the master or other person in charge of the ship, junk or boat from which the cannon, gun or firearm was discharged; and
- (b) the person who discharged the cannon, gun or firearm,
- shall each be guilty of an offence and shall each be liable on conviction to a fine of \$2,000."
- (4) In subsection (8) by deleting "liable to a fine of four thousand dollars and imprisonment for six months" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years".

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- 71A. In subsection (3) by deleting "twenty thousand dollars and to imprisonment for six months" and substituting "\$20,000 and to imprisonment for 6 months".
- 71B. In subsection (3) by deleting "four thousand dollars" and substituting "4,000".
- 71D. (1) In subsection (1) by deleting "twenty thousand dollars and to imprisonment for six months" and substituting "\$20,000 and to imprisonment for 6 months".
- (2) In subsection (2) by deleting "twenty thousand dollars and to imprisonment for six months" and substituting "\$20,000 and to imprisonment for 6 months".
74. (1) In subsection (2)(a) by deleting "liable to a fine of twelve thousand dollars and to imprisonment for six months" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$12,000 and to imprisonment for 6 months".
- (2) In subsection (2)(b) by deleting "liable to a fine of twelve thousand dollars, and also to an additional fine of one hundred dollars" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$12,000 and an additional fine of \$100".
76. (1) In subsection (4) by deleting "The master of any ship using any such moorings and buoys without such consent or direction shall be liable to a penalty of three hundred dollars for every day or part of a day during which he so uses such moorings and buoys after he has been requested to remove therefrom."
- (2) By inserting, after subsection (4), the following new subsection—
- "(4A) If any ship uses any moorings or buoys in contravention of subsection (4), the master of the ship shall be guilty of an offence and shall be liable on conviction to a fine of \$300 for each day or part of a day during which the moorings or buoys are so used."
78. (1) In subsection (1) by deleting "any felonies or misdemeanors" and substituting "offences".
- (2) In subsection (2)—
- (a) by deleting "any felony or misdemeanor" and substituting "any arrestable offence"; and
- (b) by deleting "such felony or misdemeanor" and substituting "the offence".
- (3) In subsection (3) by deleting "Any master or person in charge who refuses or wilfully neglects to comply with such requirement shall be liable to a fine of four thousand dollars."

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- (4) By inserting, after subsection (3), the following new subsection—
- “(3A) Any master or other person in charge of a ship, boat, junk or other vessel who, without reasonable excuse, fails to comply with a requirement imposed under subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine of \$4,000.”.
81. In subsection (7) by deleting “liable to a fine of four thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$4,000”.
82. In subsection (1) by deleting “liable to a fine of two thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$2,000”.
83. (1) In subsection (1) by deleting “Any owner or person who fails to comply with such notice shall be deemed guilty of a common nuisance, and, in addition to any other penalties or liabilities of any kind thereby incurred, shall be liable to a fine of two thousand dollars and to imprisonment for six months.”.
- (2) In subsection (2) by deleting “such notice as aforesaid” and substituting “a notice served on him under subsection (1)”.
- (3) By inserting, after subsection (2), the following new subsection—
- “(3) Any owner or person who fails to comply with a notice served on him under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000 and to imprisonment for 6 months.”.
88. By deleting “two thousand dollars and to imprisonment for six months” and substituting “\$10,000 and to imprisonment for 6 months”.
90. (1) In subsection (1)—
- (a) by deleting “liable to a fine of twenty thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$20,000”; and
- (b) by deleting “four thousand dollars” and substituting “\$4,000”.
- (2) In subsection (2) by deleting “liable to a fine of twenty thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$20,000”.
93. (1) In subsection (1) by deleting “liable to a fine of four thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years”.
- (2) In subsection (2) by deleting “a fine of four thousand dollars” and substituting “a fine of \$20,000 and to imprisonment for 12 months”.

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98. (1) In subsection (1) by deleting “be liable to a fine of two thousand dollars, and also to an additional fine of four hundred dollars for every person above the number so allowed, and to imprisonment for six months” and substituting “each be guilty of an offence and shall each be liable on conviction to imprisonment for 6 months and to a fine of \$10,000 and an additional fine of \$1,000 in respect of each person carried in excess of the number that may lawfully be carried under the regulations or the conditions of the licence, as the case may be”.
- (2) In subsection (2) by deleting “liable to a fine of two thousand dollars and to imprisonment for six months” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years”.
- (3) In subsection (3) by deleting “liable to a fine of two thousand dollars and to imprisonment for six months” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years”.
- (4) In subsection (4) by deleting “liable to a fine of eight thousand dollars and to imprisonment for six months” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years”.
- (5) In subsection (5) by deleting “liable to a fine of four thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months”.
99. By deleting “liable to a fine of two thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months”.
101. By deleting “liable to a fine of four thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months”.
105. By deleting “section” and substituting “Part”.
- 105A. By deleting “liable to a fine of two thousand dollars” and substituting “guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months”.
107. (1) In subsection (1) by deleting “liable to a fine of two thousand dollars and an additional fine of two hundred dollars for every passenger above the number so allowed, and to imprisonment for six months” and substituting “guilty of an offence and shall be liable on conviction to imprisonment for 2 years and to a fine of \$20,000 and an additional fine of \$2,000 in respect of each passenger in excess of the number allowed by his licence”.
- (2) In subsection (2) by deleting “liable to a fine of four thousand dollars and an additional fine of four hundred dollars for every passenger so carried, and to imprisonment for six

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months" and substituting "guilty of an offence and shall be liable on conviction to imprisonment for 2 years and to a fine of \$50,000 and an additional fine of \$5,000 in respect of each passenger so carried".

109. (1) In subsection (1) by deleting "liable to a fine of twenty thousand dollars" and substituting "guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years".

(2) By deleting subsection (2) and substituting the following—

"(2) Where a ship proceeds to sea in contravention of subsection (1) whilst having on board a public officer who is acting in the execution of his duty, the master and owner of the ship—

(a) in addition to any penalty to which he may be liable under subsection (1), shall each be guilty of an offence against this subsection and shall each be liable on conviction to imprisonment for 6 months and to a fine of \$20,000 and an additional fine of \$1,000 for each day during the period from the date on which the ship proceeded to sea until the date on which the officer is returned to Hong Kong or, if he does not return directly to Hong Kong, would have returned if he had travelled by the quickest practicable route; and

(b) shall be jointly and severally liable to pay all expenses incidental to the taking of the officer to sea and to securing his return to Hong Kong,

and all such expenses may be recovered in the same manner as a fine."

113. By deleting subsection (2) and substituting the following—

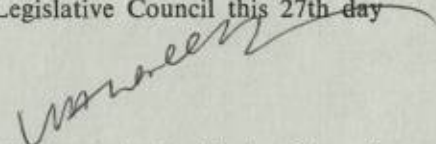
"(2) Any person who obstructs the service under this Ordinance of a document on the master of a ship shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

(3) Any owner, agent or master of a ship who is party or privy to an offence against subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years."

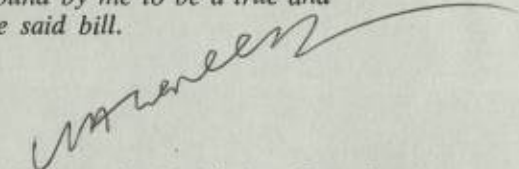
114. By deleting subsection (2) and substituting the following—

"(2) Any regulations made under this Ordinance may prescribe offences in respect of contraventions of those regulations, and may provide for the imposition in respect of any such offence of a fine not exceeding \$50,000 and of imprisonment for a period not exceeding 2 years."

Passed by the Hong Kong Legislative Council this 27th day of November, 1974.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

I assent.

May, N. Lehr.

Governor.

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HONG KONG

No. 74 OF 1974



I assent.

Mary N. Lehn
Governor.

28th November, 1974.

An Ordinance to repeal the Charities (Land Acquisition) Ordinance and to make consequential amendments to other Ordinances.

[29th November, 1974]

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

1. This Ordinance may be cited as the Charities (Land Acquisition) (Repeal) Ordinance 1974.

2. The Charities (Land Acquisition) Ordinance is repealed.

Repeal of
Charities
(Land
Acquisition)
Ordinance.
(Cap. 305.)

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

Consequen-
tial amend-
ments.
Schedule.

SCHEDULE

[s. 3.]

CONSEQUENTIAL AMENDMENTS

(Cap. 32.) Companies Ordinance. Section 17 is amended by deleting subsection (1) and substituting the following—

“(1) Every company incorporated under this Ordinance shall have power to acquire, hold and dispose of land.”.

(Cap. 283.) Housing Ordinance. Section 6 is amended by deleting “without licence under the Charities (Land Acquisition) Ordinance”.

(Cap. 306.) Registered Trustees Incorporation Ordinance. 1. Section 2(1) is amended—

(a) in the definition of “body of persons” by deleting “within the meaning of section 2 of the Charities (Land Acquisition) Ordinance”;

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

““charitable purpose” includes—

- (a) the relief of poverty;
- (b) the advancement of art, education, learning, literature, science or research;
- (c) the making of provision for—
 - (i) the cure, alleviation or prevention of; or
 - (ii) the care of persons suffering from or subjected to, any disease, infirmity or disability affecting human beings (including the care of women before, during and after child birth);
- (d) the advancement of religion;
- (e) any ecclesiastical purpose;
- (f) the promotion of the moral, social and physical well-being of the community; and
- (g) any other purpose beneficial to the community not specified in paragraphs (a) to (f);” and

(c) in the definition of “charity” by deleting “within the meaning of section 2 of the Charities (Land Acquisition) Ordinance”.

2. Section 4(3) is amended by deleting “and to the provisions of the Charities (Land Acquisition) Ordinance”.

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

“Vesting of land.

7. Where—

- (a) any land belongs to or is held in trust for a body of persons or charity; and
- (b) trustees of that body or charity have been incorporated under this Ordinance,

the person whose name appears in the Land Office register as the owner of the land shall, on being required to do so by the corporation, cause the land to be assigned to the corporation; and on the land being so assigned, it shall vest in the corporation in trust for the body of persons or charity, as the case may be.”.

The Hong Kong Anti-Tuberculosis and Thoracic Diseases Association Incorporation Ordinance. Section 5(a) is amended by deleting “subject to the Charities (Land Acquisition) Ordinance”. (Cap. 1024.)

Hop Yat Church of The Church of Christ in China Incorporation Ordinance. Section 4(c) is amended by deleting “subject to the provisions of the Charities (Land Acquisition) Ordinance.”. (Cap. 1027.)

Union Church Incorporation Ordinance. Section 4 is amended by deleting subsection (2). (Cap. 1052.)

University of Hong Kong Ordinance. Section 4 is amended by deleting “, subject to the Charities (Land Acquisition) Ordinance,”. (Cap. 1053.)

Hong Kong Society for the Protection of Children Incorporation Ordinance. Section 4(a) is amended by deleting “subject to the Charities (Land Acquisition) Ordinance,”. (Cap. 1058.)

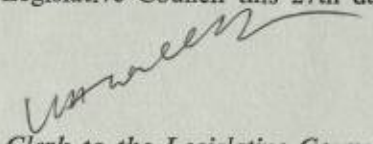
Hong Kong Polytechnic Ordinance. Section 6(a) is amended by deleting “subject to the Charities (Acquisition of Lands) Ordinance,”. (Cap. 1075.)

Hong Kong Council of the Church of Christ in China Incorporation Ordinance. Section 4 is amended by deleting subsection (2). (Cap. 1095.)

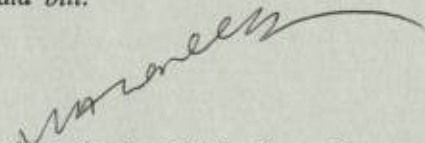
- (Cap. 1102.) St. Paul's College Council Incorporation Ordinance. Section 4 is amended by deleting subsection (2).
- (Cap. 1106.) Yan Chai Hospital Ordinance. Section 6(1) is amended by deleting "Subject to the Charities (Land Acquisition) Ordinance, the" and substituting "The".
- (Cap. 1108.) Hong Kong Conference of Youth Organizations Incorporation Ordinance. Section 4(a) is amended by deleting "subject to the Charities (Land Acquisition) Ordinance,".
- (Cap. 1111.) School Medical Service Board Incorporation Ordinance. Section 7 is amended by deleting subsection (3).
- (Cap. 1112.) Chinese Permanent Cemeteries Ordinance. Section 7(1)(a) is amended by deleting "subject to the provisions of the Charities (Land Acquisition) Ordinance,".
- (Cap. 1113.) Director of the Universities Service Centre Incorporation Ordinance. Section 3(1) is amended by deleting "Subject to the provisions of the Charities (Land Acquisition) Ordinance, the" and substituting "The".
- (Cap. 1117.) The English Schools Foundation Ordinance. Section 4(1) is amended by deleting "Subject to the provisions of the Charities (Land Acquisition) Ordinance the" and substituting "The".
- (Cap. 1118.) New Asia College Incorporation Ordinance. Section 9(2)(a) is amended by deleting "subject to the Charities (Land Acquisition) Ordinance,".
- (Cap. 1121.) The St. Stephen's Girls' College Council Incorporation Ordinance. Section 4(b) is amended by deleting "subject to the provisions of the Charities (Land Acquisition) Ordinance,".
- (Cap. 1122.) Community Chest of Hong Kong Ordinance. Section 8(b) is amended by deleting "subject to the provisions of the Charities (Land Acquisition) Ordinance,".
- (Cap. 1123.) Diocesan Boys' School Committee Incorporation Ordinance. Section 4(b) is amended by deleting "subject to the provisions of the Charities (Land Acquisition) Ordinance,".

- Council of the Diocesan Girls' School Incorporation Ordinance. Section 4(b) is amended by deleting "subject to the provisions of the Charities (Land Acquisition) Ordinance,". (Cap. 1124.)
- Diocesan Preparatory School Council Incorporation Ordinance. Section 4(b) is amended by deleting "subject to the provisions of the Charities (Land Acquisition) Ordinance,". (Cap. 1125.)
- Hong Kong Baptist College Board of Governors Incorporation Ordinance. Section 6(a) is amended by deleting "the provisions of the Charities (Land Acquisition) Ordinance and to". (Cap. 1126.)

Passed by the Hong Kong Legislative Council this 27th day of November, 1974.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

HONG KONG

No. 75 OF 1974



I assent.

M. J. M. Lehn.
Governor.

28th November, 1974.

An Ordinance to amend the Clean Air Ordinance.

[29th November, 1974]

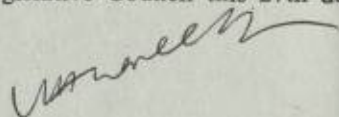
Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Clean Air (Amendment) Ordinance 1974. Short title.

2. Section 15(1) of the principal Ordinance is amended by inserting, after paragraph (d), the following new paragraph— Amendment of section 15. (Cap. 311.)

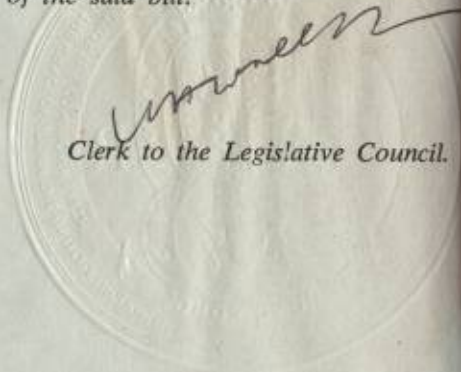
“(da) the court to make orders prohibiting the use of furnaces, ovens or chimneys installed, altered or modified in contravention of this Ordinance or requiring any such furnaces, ovens or chimneys to be dismantled;”.

Passed by the Hong Kong Legislative Council this 27th day
of November, 1974.



Clerk to the Legislative Council.

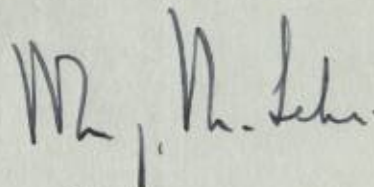
*This printed impression has been carefully compared
by me with the bill, and is found by me to be a true and
correctly printed copy of the said bill.*



Clerk to the Legislative Council.



I assent.

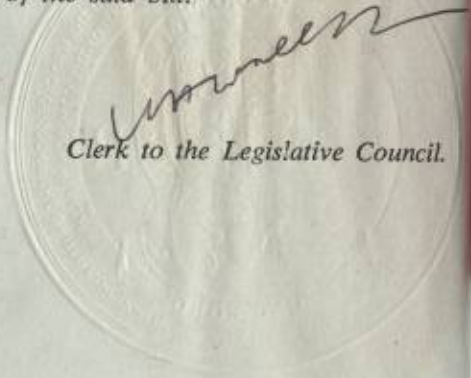


Governor.

[Handwritten signature]

Clerk to the Legislative Council.

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



Clerk to the Legislative Council.

HONG KONG

No. 76 OF 1974



I assent.

[Handwritten signature]

Governor.

28th November, 1974.

An Ordinance to amend the Lion Rock Tunnel Ordinance.

[29th November, 1974]

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

1. This Ordinance may be cited as the Lion Rock Tunnel Short title. (Amendment) Ordinance 1974.

2. Section 2 of the principal Ordinance is amended by inserting, in the appropriate place in the alphabetical order having regard to the initial letter of each of them, the following definitions—

Amendment of section 2. (Cap. 140.)

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

(Cap. 220.) "driving licence" means a licence issued in accordance with regulations made under section 5 of the Road Traffic Ordinance;

"owner" includes the person in whose name a vehicle is registered under the Road Traffic Ordinance and the person by whom the vehicle is kept and used and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement;

3. Section 10 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 10.
"Obligation to give information relating to the driving of vehicles."
(Cap. 220.)

10. (1) Without prejudice to section 29 of the Road Traffic Ordinance, where the driver of a vehicle is suspected of having committed an offence against this Ordinance or the Road Traffic Ordinance in the tunnel, any person (including both the registered owner of the vehicle and the person suspected of being the driver of the vehicle at the time of the alleged offence) shall, on demand made within three months after the date of the alleged offence, give to a police officer or an authorized officer in the manner prescribed in this section the name, address and driving licence number of the person driving the vehicle at the time of the alleged offence and his relationship (if any) to the driver.

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

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

(a) if he was the driver of the vehicle at the time of the alleged offence—

(i) give immediately his name and address; and

(ii) give the number of his driving licence to a specified police officer or specified authorized officer within twenty-one days after the date of the demand; and

(b) if he was not the driver of the vehicle at the time of the alleged offence, give the informa-

tion required under subsection (1) to a specified police officer or specified authorized officer either orally or in writing within twenty-one days after the date of the demand.

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

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

(b) to sign the said statement.

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

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

(7) The powers conferred on an authorized officer by this section, other than the power to make a demand by serving a notice under subsection (2), may be exercised only within the tunnel."

4. The principal Ordinance is amended by adding, after section 10, the following new section—

Addition of new section 10A.

"Proof in summary proceedings of identity of driver.

10A. If, in any summary proceedings for an offence under this Ordinance, there is produced to the court a statement which—

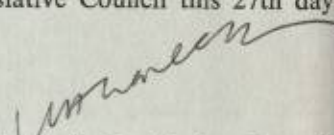
(a) purports to have been signed by the accused person;

(b) was furnished in accordance with a notice served on him under section 10(2); and

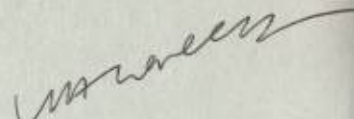
(c) states that the accused person was the driver of the vehicle at the time of the offence,

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

Passed by the Hong Kong Legislative Council this 27th day of November, 1974.


Clerk to the Legislative Council.


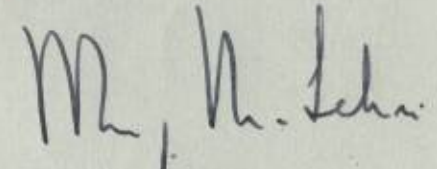
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.


Clerk to the Legislative Council.

HONG KONG

No. 77 OF 1974

I assent.



Governor.

28th November, 1974.

An Ordinance to amend the Temporary Restriction of Building Development (Pok Fu Lam and Mid-levels) Ordinance.

[1st January, 1975]

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

1. This Ordinance may be cited as the Temporary Restriction of Building Development (Pok Fu Lam and Mid-levels) (Amendment) (No. 2) Ordinance 1974, and shall come into operation on the 1st January 1975.

Short title and commencement.

2. The long title of the principal Ordinance is amended by deleting "Pok Fu Lam and".

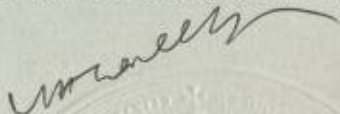
Amendment of long title.
(Cap. 351.)

3. Section 1 of the principal Ordinance is amended by deleting "Pok Fu Lam and".


Amendment of section 1.

Amendment of Schedule. 4. The Schedule to the principal Ordinance is amended by deleting item 1.

Passed by the Hong Kong Legislative Council this 27th day of November, 1974.

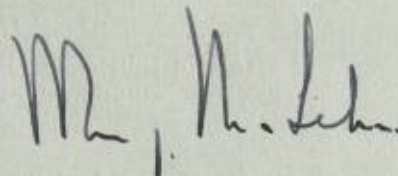

Clerk to the Legislative Council.

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

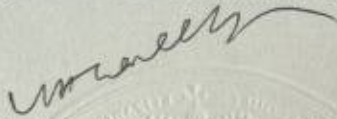

Clerk to the Legislative Council.




I assent.


Governor.

Passed by the Hong Kong Legislative Council this 27th day of November, 1974.


Clerk to the Legislative Council.

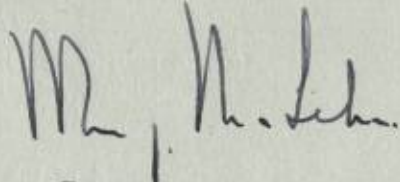
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.


Clerk to the Legislative Council.

HONG KONG

No. 78 OF 1974

I assent.


Governor.

28th November, 1974.

An Ordinance to amend the Helena May Institute for Women Ordinance.

[29th November, 1974]

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

1. This Ordinance may be cited as the Helena May Institute Short title. for Women (Amendment) Ordinance 1974.

2. The long title to the principal Ordinance is amended by deleting "*the Council of the Helena May Institute for Women and for vesting in the corporation the property and rights of the Association known as the Helena May Institute for Women*" and substituting the following—

Amendment
of long title.
(Cap. 1021.)

"The Helena May".

Amendment of section 1. 3. Section 1 of the principal Ordinance is amended by deleting "the Helena May Institute for Women Ordinance" and substituting the following—

"The Helena May Incorporation Ordinance".

Amendment of section 2. 4. Section 2 of the principal Ordinance is amended by deleting "the Helena May Institute for Women" in both places where they occur, and substituting the following—

"The Helena May".

Amendment of section 3. 5. Section 3 of the principal Ordinance is amended—

(a) in subsection (1)—

(i) by deleting "the Helena May Institute for Women" and substituting the following—

"The Helena May"; and

(ii) by deleting "*The Council of the Helena May Institute for Women*" and substituting the following—

"*The Helena May*";

(b) in subsection (3), by deleting "Colonial Secretary" and substituting the following—

"Registrar of Companies".

Amendment of section 4. 6. Section 4 of the principal Ordinance is amended—

(a) in subsection (2), by inserting after "corporation" in the second place where it occurs, the following—

"and to borrow money, give receipts, guarantees and indemnities"; and

(b) in subsection (3), by deleting "by this Ordinance".

Replacement of Schedule. 7. The principal Ordinance is amended by deleting the Schedule and substituting the following—

"SCHEDULE [s. 2.]
CONSTITUTION
OF
THE HELENA MAY
GENERAL POLICY

1. This constitution may be cited as the Constitution of The Helena May.

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

(Cap. 1021.) "Ordinance" means The Helena May Incorporation Ordinance;

"secretary" means the secretary for the time being of the corporation.

3. The object of the corporation shall be to provide for the welfare of women and girls in Hong Kong and for that purpose to—

(a) furnish and maintain the premises from time to time belonging to the corporation;

(b) provide therein board and lodging and the amenities of a club; and

(c) conduct or carry on therein or in connexion therewith all such lawful, social, educational, religious or other activities as may be incidental or conducive to the attainment of the object of the corporation.

4. The corporation shall not engage in any political activities or permit its name or premises to be used in connexion therewith.

5. The corporation may permit its premises to be used upon such terms as may be agreed upon for the delivery and holding of lectures, exhibitions, public meetings, conferences and gatherings of a like nature approved by the corporation.

6. Save as aforesaid the income and property of the corporation, whencesoever derived, shall be used and applied solely towards the promotion of the object of the corporation.

MEMBERSHIP

7. There shall be two categories of members of the association conducted by the corporation, namely—

(a) residential members, that is to say members living in the premises owned or managed by the corporation (hereinafter called the premises); and

(b) subscriber members, that is to say members not living in the premises but to whom the club amenities are available.

8. (1) An applicant for admission as a residential member may, in the absolute discretion of the council, be admitted as such either on the affirmative votes of a majority of the members of the council present at any meeting of the council or on the affirmative votes of a majority of the members for the time being of the council notified by such members in writing to the secretary.

(2) Every applicant for subscriber membership shall be proposed by one subscriber member and seconded by another subscriber member, both being able from personal knowledge to vouch for her fitness for membership. The application shall be sent to the secretary who shall forthwith enter the name, address and occupation of the applicant and the names of the proposer and seconder in a book to be kept for that purpose, and shall post a notice of the application giving the like particulars in a prominent place at or near the entrance of the premises.

(3) It shall be competent for the council to establish itself as a balloting committee or to delegate the balloting for new members to a balloting sub-committee (and in the case of any such delegation any decision of the

balloting sub-committee shall be final and not subject to ratification notwithstanding the provisions of paragraph 26). In the event that the council shall so decide the balloting committee or sub-committee shall be governed by paragraphs 9 and 10.

9. (1) The balloting committee or sub-committee shall be deemed to be lawfully constituted notwithstanding any vacancies therein arising through any vacancy or any other cause.

(2) The balloting committee shall choose its own chairman from among the members of that committee.

(3) No member of the balloting committee shall on any occasion vote by proxy.

10. (1) After the expiration of not less than seven days after the posting of the notice referred to in paragraph 8(2) the ballot shall be open between the hours of 10 a.m. and 7 p.m. for five days, exclusive of Sundays.

(2) The ballot box shall then be opened in the presence of two members of the balloting committee or sub-committee.

(3) In the event of less than five members having balloted affirmatively within the said period of five days, the chairman or any three members of the balloting committee may direct that the ballot shall remain open for a further period of five days immediately succeeding the original period of the ballot.

(4) Should five members not have recorded their votes affirmatively before the conclusion of the ballot the applicant shall be deemed not to have been elected.

(5) Not less than five affirmative votes shall constitute a ballot and one negative vote in five shall exclude.

(6) The number of votes shall not be disclosed.

11. (1) On the election of a member she shall be notified in writing and shall forthwith sign the roll of members and shall thereupon be deemed to have agreed to be bound by the terms of the constitution and by the rules for the time being in force.

(2) If at any time after an applicant has been accepted as a residential or subscriber member the council shall ascertain that she has been elected under any misrepresentation, then the council shall, after inquiry and notice to the person so elected, have power to erase her name from the roll of residential or subscriber members (as the case may be) and she shall forthwith cease to be a member.

(3) No applicant proposed and not elected shall be proposed again until after the expiration of three months. The secretary shall give notice in writing to the proposer and seconder of any applicant who fails to gain membership.

(4) The council may in its discretion permit any person who has been duly proposed and seconded as a residential or subscriber member to enjoy the rights and privileges of a member pending election on such terms as it shall think fit.

(5) The council may from time to time fill any casual vacancies in the balloting sub-committee that may occur.

12. (1) A residential member shall pay to the corporation all such charges as the council shall prescribe for board, lodging and incidentals. Every residential member shall throughout her period of residence have and enjoy all the obligations and privileges of a subscriber member other than the election of council members under paragraphs 20 and 32.

(2) A subscriber member shall pay to the corporation as from the beginning of the month during which she is admitted to membership such monthly or other subscription and other charges as the council may specify.

(3) All members shall comply with the by-laws.

13. (1) If any member shall fail to pay any moneys due from her to the corporation as and when payment thereof shall be required, the council may strike her name off the roll of residential or subscriber members as the case may be.

(2) If any member shall in the opinion of three-fourths of those members of the council present at a meeting duly convened for the consideration of the matter have behaved, either in the premises or elsewhere, in a manner calculated unduly to inconvenience the other members or likely to be injurious to the reputation or interests of the corporation or the association conducted by the corporation, the council may call upon her to resign forthwith and if she shall fail to resign may strike her name off the roll of members or, if the council so thinks fit, may suspend her membership for a period not exceeding six months. The decision of the council shall for all purposes be final and conclusive.

(3) A member whose name is struck off the roll of members and a member whose membership is suspended shall forthwith forfeit, or, as the case may be, shall forthwith forfeit for the duration of the suspension, all right to the use of the premises and any claim upon any property of the corporation, but the council may, for cause shown, reinstate any such member.

14. A residential member who ceases to reside in the premises shall be deemed, subject to the payment of the appropriate subscription and other moneys due (if any), to become a subscriber member, unless she ceases to reside in the premises as a result of action taken by the council under paragraph 11(2) or paragraph 13(1) or (2) or unless she informs the secretary in writing that she does not wish to become a subscriber member.

15. (1) A subscriber member who may be leaving the Colony for three or more months at a time shall give notice to the secretary that she desires her name to be placed on the list of absent members and thereupon shall not be liable to pay the subscriber member's subscription for those complete months during which she shall be absent from the Colony, but shall pay the full monthly subscription for any parts of months during which she is resident in the Colony.

(2) A subscriber member whose name has not been placed on the absent members list and who shall be absent from the Colony for more than eight months at a time without paying her subscription and an absent member who shall be absent from the Colony for more than two years at a time shall be deemed to have resigned.

16. No member whose subscription is in arrear or who shall have failed to pay any moneys due from her to the corporation shall be competent to propose or second any applicant for membership or bring a visitor to the premises or to vote on any occasion whatsoever.

17. A subscriber member may relinquish her membership by giving notice to the secretary but will be held liable for the subscription for the month in which notice is given.

MANAGEMENT

18. The management of the affairs of the corporation shall be vested in the council.

19. Subject to the provisions of the Ordinance, the council shall consist of not more than twenty and not less than ten members of whom—

- (a) not more than fifteen nor less than eight shall be subscriber members resident in the Colony at the time of their appointment;
- (b) not more than five nor less than two shall be residential members at the time of their appointment.

20. (1) Any two subscriber members shall be at liberty to nominate a subscriber member to serve upon the council (having first obtained her consent) and such nomination shall be lodged with the secretary and posted on the notice board in the premises not less than two clear days before the date of the annual general meeting.

(2) If the number of subscriber members so nominated does not exceed the maximum number mentioned in sub-paragraph (a) of paragraph 19, the persons nominated in respect of that class may be elected *en bloc* by resolution of the subscriber members at the annual general meeting.

(3) If the number does exceed the maximum number specified in sub-paragraph (a) of paragraph 19, then balloting lists of the names of the persons so nominated of that class shall be circulated and each subscriber member present at the annual general meeting shall hand in her list with the number of names unerased not exceeding the maximum number specified in the said sub-paragraph (a). The persons gaining in the respective classes the greatest number of votes shall be deemed to be elected.

(4) A subscriber member whose name is placed on the absent members list or who is absent from the Colony for more than three months at a time or who resigns, shall forthwith cease to be a member of the council.

21. (1) Not less than fourteen days before the date fixed for the annual general meeting, the secretary shall give notice convening a meeting of the residential members to be held not less than seven days before the annual general meeting for the purpose of electing members of the council from among their number in accordance with paragraph 19(b).

(2) Any two residential members shall be at liberty to nominate residential members to serve upon the council (having first obtained their consent).

(3) Nominations shall be lodged with the secretary not less than two clear days before the date for which the meeting is convened and the names of those nominated shall be posted on the notice board in the premises.

(4) If the number of persons nominated does not exceed the maximum number mentioned in sub-paragraph (b) of paragraph 19, the members nominated may be elected *en bloc* by resolution at the meeting of residential members.

(5) If the number nominated does exceed the maximum number mentioned in sub-paragraph (b) of paragraph 19 then balloting lists giving the names of those nominated shall be distributed to the residential members present at the meeting and they shall hand in their lists with the number of names unerased the maximum number specified in the said sub-paragraph (b), and the persons nominated and securing the greatest number of votes shall be deemed to be elected.

(6) A residential member of the council who ceases to reside in the premises shall forthwith cease to be a member of the council.

22. Members of the council shall hold office from the date of the annual meeting at which the subscriber members are elected until the newly elected members come into office at or after the next annual general meeting. Members of the council shall be eligible for re-election.

23. (1) Whenever the seat of any member of the council shall become vacant from any cause whatsoever or it shall be considered expedient for any reason to increase the number of council members holding office for the time being (due regard being given always that the numbers shall not exceed those specified by paragraph 19) the remaining members of the council may appoint some person to be a member of the council in the place of the member whose seat has become vacant, due regard being had to the proportion of members of different categories specified by paragraph 19.

(2) Such person shall hold her place in the council until the next annual general meeting.

24. (1) The council shall choose its own chairman and vice-chairman from among its members.

(2) Five members of the council personally present shall be a quorum for a meeting of the council.

25. The council may appoint an honorary secretary or an honorary treasurer and such other officers and servants (whether honorary or paid including a paid secretary or treasurer) as it may deem necessary and at such remuneration as it shall think fit.

26. The council may form such sub-committees as it may think fit for the management of the affairs of the corporation or the association and may delegate to such sub-committees such powers as the council may deem expedient but the decisions of such sub-committees shall be referred to the council for ratification.

27. (1) The council may make all necessary rules for the regulation and management of the affairs of the corporation and in particular (but without prejudice to the generality of the foregoing) may make rules for all or any of the following matters—

- (a) the conduct of the business at meetings;
- (b) the forms to be used for application for membership;
- (c) the number of persons to be admitted to membership;
- (d) the conduct of ballots for membership;
- (e) the amount and time for payment of subscriptions and other charges;
- (f) the admission of and privileges to be extended to visitors; and
- (g) the regulation of the conduct of residential and subscriber members,

and may from time to time amend, vary, rescind, or suspend any rules made and make or issue new rules.

(2) All rules made by the council and any amendment, variation, rescission or suspension thereof shall be entered in a book to be kept by the secretary for that purpose, and such book shall be open at all reasonable times to the inspection of all members and visitors.

MEETINGS

28. The annual general meeting of the residential and subscriber members shall be held in the month of October in each year or as soon thereafter as may be possible, at the premises on a date and at a time to be fixed by the council.

29. (1) The council may whenever it considers it necessary or advisable so to do and shall on the requisition in writing signed by any twenty members forthwith proceed to convene an extraordinary general meeting of the whole of the members or of the residential members or the subscriber members according to the nature of the business to be transacted.

(2) A requisition under this paragraph shall state the nature of the business for which the meeting is to be convened and a copy thereof shall be posted in a prominent place in the premises together with a copy of the notice convening the meeting.

30. A notice of the convening of the annual general meeting and of every extraordinary general meeting shall be sent to every member concerned, other than absent members, at her last known address in the Colony not less than ten days before the date of such meeting, but the accidental omission to send such notice to any of the members shall not invalidate any resolution passed or any proceedings at such meeting.

31. Any member desiring to bring any proposal before an annual or extraordinary general meeting shall give notice thereof in writing to the secretary not less than three days before such meeting.

32. All decisions of the annual general meeting or of an extraordinary general meeting shall be arrived at by a majority of the votes of the members present at such meeting but no residential member shall be competent to vote on the election of members of the council other than that for the residential members of the council as provided in paragraph 21.

33. Ten members whether residential or subscriber personally present shall be a quorum for an annual or extraordinary general meeting and no voting by proxy shall be allowed.

AMENDMENT OF THE CONSTITUTION

34. (1) No proposal for the alteration, amendment or rescission of the constitution shall be entertained unless notice thereof in writing shall have been given to the secretary not less than seven days before the date fixed for holding the annual general meeting. Alternatively if the council shall consider that it is expedient to put forward a proposal for alteration, amendment or rescission of the constitution at any other time, the council may require the secretary to and the secretary shall therefor convene an extraordinary meeting of members of which at least fourteen days notice shall be given to all members together with the substance of the proposed alteration or rescission.

(2) The notice given to the secretary shall state the substance of the proposed alteration, amendment or rescission, and a copy of the notice shall be posted in a prominent place in the premises not less than three clear days before the annual general meeting.

(3) On the consideration of a proposal for the alteration, amendment or rescission of the constitution it shall be competent for the meeting to consider and decide upon any amendment which may be put to such proposal.

35. No alteration, amendment or rescission shall be made in this constitution unless the same shall have been carried by a majority consisting of at least two-thirds of the members present at an annual or extraordinary general meeting of the members and voting thereon.

36. No alteration, amendment or rescission of the constitution shall come into operation until the same shall have been approved by the Governor.

ACCOUNTS

37. The council shall cause true accounts to be kept of the moneys received and expended and of the assets, credits and liabilities of the corporation.

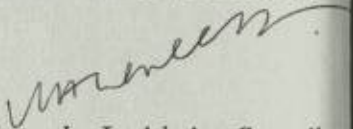
38. The accounts shall be made up to the thirty-first day of August in each year and the council shall cause a balance sheet containing a summary of the property and liabilities of the corporation to be prepared and audited.

39. Not less than ten days before each annual general meeting a printed copy of the balance sheet, profit and loss account and report by the council shall be sent to every member except members whose names are on the absent members list.

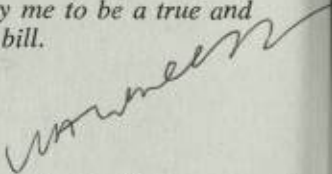
INDEMNITY

40. Every member of the council and every officer or servant of the corporation shall be indemnified by the corporation against, and it shall be the duty of the corporation out of the funds of the corporation to pay, all costs, losses and expenses which any such member, officer or servant may incur or become liable to by reason of any contract entered into or act or deed done as such member, officer or servant or in any way in the discharge of his or her duties and in connexion with which such member, officer, or servant has not been guilty of any negligence, default, breach of trust or breach of duty whatsoever."

Passed by the Hong Kong Legislative Council this 27th day of November, 1974.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



I assent.

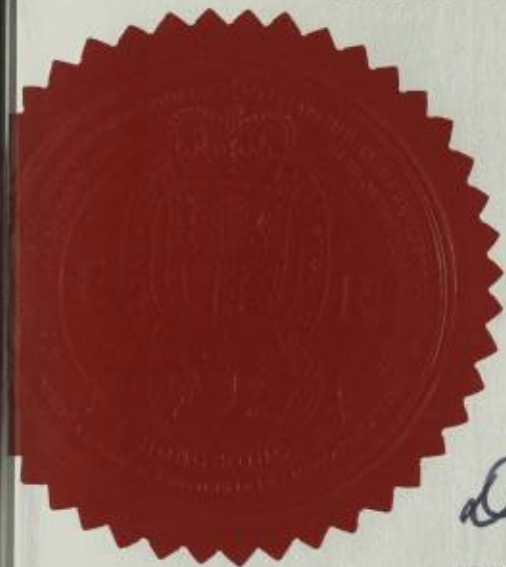
Dempster Roberts

Acting Governor.

19th December, 1974.

HONG KONG

No. 79 OF 1974



I assent.

Dempster Roberts

Acting Governor.

19th December, 1974.

An Ordinance to amend the Public Revenue Protection Ordinance.

[20th December, 1974]

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

1. This Ordinance may be cited as the Public Revenue Protection (Amendment) Ordinance 1974. Short title.

2. Section 2 of the principal Ordinance is repealed and replaced by the following— Repeal and replacement of section 2. (Cap. 120.)

"Provisional amendment of revenue legislation.

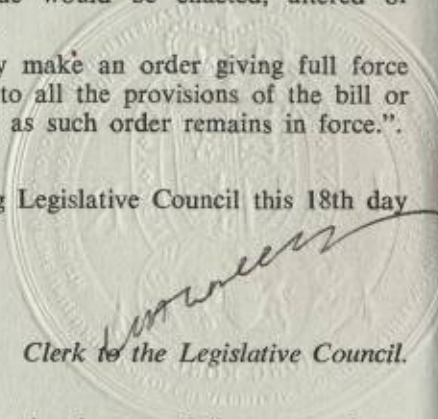
2. If the Governor approves of the introduction into the Legislative Council of a bill or resolution whereby, if such bill or resolution were to become law—

- (a) any duty, tax, fee, rate or other item of revenue would be imposed, removed or altered; or

- (b) any allowance in respect of a duty, tax, fee, rate or other item of revenue would be granted, altered or removed; or
- (c) any administrative or general provision in relation to a duty, tax, fee, rate or other item of revenue would be enacted, altered or removed,

the Governor may make an order giving full force and effect of law to all the provisions of the bill or resolution so long as such order remains in force.”

Passed by the Hong Kong Legislative Council this 18th day of December, 1974.


[Signature]
Clerk to the Legislative Council.

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

[Signature]
Clerk to the Legislative Council.



I assent.

[Signature: Henry Roberts]
Acting Governor.

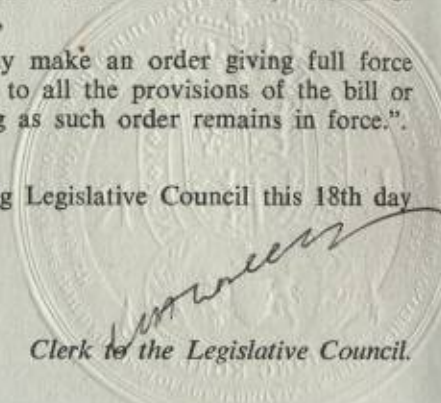
19th December, 1974.

An Ordinance to amend the Companies Ordinance.

- (c) any administrative or general provision in relation to a duty, tax, fee, rate or other item of revenue would be enacted, altered or removed,

the Governor may make an order giving full force and effect of law to all the provisions of the bill or resolution so long as such order remains in force.”.

Passed by the Hong Kong Legislative Council this 18th day of December, 1974.



[Signature]
Clerk to the Legislative Council.

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

[Signature]

HONG KONG

No. 80 of 1974


I assent.

[Signature: Denis Roberts]
Acting Governor.

19th December, 1974.

An Ordinance to amend the Companies Ordinance.

[1st October, 1975]

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

1. This Ordinance may be cited as the Companies (Amendment) (No. 4) Ordinance 1974 and shall come into operation on 1st October 1975. Short title and commencement.
2. Section 2 of the principal Ordinance is amended— Amendment of section 2. (Cap. 32.)
- (a) in subsection (1) by inserting in their appropriate alphabetical positions the following new definitions—
- “accounts” includes a company’s group accounts, whether prepared in the form of accounts or not;
- “financial year”, in relation to any body corporate, means the period in respect of which any profit and loss account of the body corporate laid before it in general meeting is made up, whether that period is a year or not;

“group accounts” has the meaning assigned to it by subsection (1) of section 124;

“officer”, in relation to a body corporate, includes a director, manager or secretary;” and

- (b) by inserting after subsection (2) the following new subsections—

“(3) References in this Ordinance to a body corporate or to a corporation shall be construed as not including a corporation sole but as including a company incorporated outside Hong Kong.

(4) For the purposes of this Ordinance, a company shall, subject to the provisions of subsection (6), be deemed to be a subsidiary of another company, if—

- (a) that other company—
- (i) controls the composition of the board of directors of the first-mentioned company;
 - (ii) controls more than half of the voting power of the first-mentioned company; or
 - (iii) holds more than half of the issued share capital of the first-mentioned company (excluding any part of it which carries no right to participate beyond a specified amount in a distribution of either profits or capital); or
- (b) the first-mentioned company is a subsidiary of any company which is that other company’s subsidiary.

(5) For the purposes of subsection (4), the composition of a company’s board of directors shall be deemed to be controlled by another company if that other company by the exercise of some power exercisable by it, without the consent or concurrence of any other person, can appoint or remove all or a majority of the directors, and, for the purposes of this provision, that other company shall be deemed to have power to make such an appointment if—

- (a) a person cannot be appointed as a director without the exercise in his favour by that other company of such a power; or
- (b) a person’s appointment as a director follows necessarily from his being a director or other officer of that other company.

(6) In determining whether one company is a subsidiary of another company—

(a) any shares held or power exercisable by that other company in a fiduciary capacity shall be treated as not held or exercisable by it;

(b) subject to paragraphs (c) and (d), any shares held or power exercisable—

(i) by any person as a nominee for that other company (except where that other company is concerned only in a fiduciary capacity); or

(ii) by, or by a nominee for, a subsidiary of that other company, not being a subsidiary which is concerned only in a fiduciary capacity, shall be treated as held or exercisable by that other company;

(c) any shares held or power exercisable by any person by virtue of the provisions of any debentures of the first-mentioned company or of a trust deed for securing any issue of such debentures shall be disregarded; and

(d) any shares held or power exercisable by, or by a nominee for, that other company or its subsidiary (not being held or exercisable as mentioned in paragraph (c)) shall be treated as not held or exercisable by that other company if the ordinary business of that other company or its subsidiary, as the case may be, includes the lending of money and the shares are held or power is exercisable as aforesaid by way of security only for the purposes of a transaction entered into in the ordinary course of that business.

(7) A reference in this Ordinance to the holding company of a company shall be read as a reference to a company of which that last-mentioned company is a subsidiary.”

3. Section 47 of the principal Ordinance is repealed.

Repeal of section 47.

4. Section 48 of the principal Ordinance is amended by deleting subsection (2).

Amendment of section 48.

Amendment
of heading
before
section 49.

5. The heading "*Issue of Redeemable Preference Shares and Shares at Discount.*" before section 49 of the principal Ordinance is repealed and the following heading substituted therefor—

"Issue of Shares at Premium, Redeemable Preference Shares, and Shares at Discount."

Addition of
new section
48B.

6. The principal Ordinance is amended by adding, after the heading "*Issue of Shares at Premium, Redeemable Preference Shares, and Shares at Discount.*" and before section 49, the following new section—

"Application
of premiums
received on
issue of
shares.
1948 c. 38,
s. 56.

48B. (1) Where a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those shares shall be transferred to an account, to be called "the share premium account", and the provisions of this Ordinance relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the share premium account were paid-up share capital of the company.

(2) Where shares are issued for a consideration other than cash and the value of the consideration, as estimated by the directors having regard to all relevant information, is in excess of the amount credited as paid up on the shares so issued, the shares shall be deemed to have been issued at a premium equal to the difference between the value so estimated and the amount credited as paid up on the shares so issued.

(3) The share premium account may, notwithstanding anything in subsection (1), be applied by the company—

- (a) in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares;
- (b) in writing off—
 - (i) the preliminary expenses of the company; or
 - (ii) the expenses of, or the commission paid or discount allowed on, any issue of shares of the company; or
- (c) in providing for the premium payable on redemption of any redeemable preference shares of the company.

Eighth
Schedule.

(4) For the purposes of subsection (3), the expenses of the issue of any shares shall be deemed to include such portion of the *ad valorem* fee paid under the Eighth Schedule by the company upon its registration or upon any increase thereafter in its nominal share capital as is attributable to the nominal amount of the shares issued.

(5) Where a company has before the commencement of the Companies (Amendment) (No. 4) Ordinance 1974 issued any shares at a premium, this section shall apply as if the shares had been issued after the commencement of that Ordinance:

Provided that any part of the premiums which has been so applied that it does not at the commencement of that Ordinance form an identifiable part of the company's reserves within the meaning of the Tenth Schedule shall be disregarded in determining the sum to be included in the share premium account."

Tenth
Schedule.

7. Section 49 of the principal Ordinance is repealed and the following new section substituted therefor—

"Power to
issue
redeemable
preference
shares.
1948 c. 38,
s. 58.

49. (1) Subject to the provisions of this section, a company limited by shares may, if so authorized by its articles, issue preference shares which are, or at the option of the company are to be liable, to be redeemed:

Repeal and
replacement
of section
49.

Provided that—

- (a) no such shares shall be redeemed except out of profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of the redemption;
- (b) no such shares shall be redeemed unless they are fully paid;
- (c) the premium, if any, payable on redemption, must have been provided for out of the profits of the company or out of the company's share premium account before the shares are redeemed;
- (d) where any such shares are redeemed otherwise than out of the proceeds of a fresh

issue, there shall out of profits which would otherwise have been available for dividend be transferred to a reserve fund, to be called the capital redemption reserve fund, a sum equal to the nominal amount of the shares redeemed, and the provisions of this Ordinance relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the capital redemption reserve fund were paid-up share capital of the company.

(2) Subject to the provisions of this section, the redemption of preference shares thereunder may be effected on such terms and in such manner as may be provided by the articles of the company.

(3) The redemption of preference shares under this section by a company shall not be taken as reducing the amount of the company's authorized share capital.

(4) Where in pursuance of this section a company has redeemed or is about to redeem any preference shares, it shall have power to issue shares up to the nominal amount of the shares redeemed or to be redeemed as if those shares had never been issued, and accordingly the share capital of the company shall not for the purposes of the Eighth Schedule be deemed to be increased by the issue of shares in pursuance of this subsection:

Provided that, where new shares are issued before the redemption of the old shares, the new shares shall not, so far as relates to the Eighth Schedule, be deemed to have been issued in pursuance of this subsection unless the old shares are redeemed within one month after the issue of the new shares.

(5) The capital redemption reserve fund may, notwithstanding anything in this section, be applied by the company in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.”.

Amendment of section 50. **8.** Section 50 of the principal Ordinance is amended in subsection (3)—

Eighth
Schedule.

- (a) by deleting “and every balance sheet issued by the company subsequently to the issue of the shares”;
- (b) by deleting “document in question” and substituting the following—
“prospectus”.

9. Section 57 of the principal Ordinance is amended— Amendment of section 57.

- (a) in subsection (1) by deleting paragraph (g);
- (b) by deleting subsection (2).

10. Section 77 of the principal Ordinance is amended by deleting subsection (3). Amendment of section 77.

11. Section 109 of the principal Ordinance is amended by deleting subsection (3) and substituting the following new subsections— Amendment of section 109.

“(3) Except where the company is a private company, the annual return shall include—

- (a) a copy, certified by a director or the manager or the secretary of the company to be a true copy, of every balance sheet laid before the company in general meeting during the period to which the return relates (including every document required by law to be annexed to the balance sheet); and
- (b) a copy, certified as aforesaid, of the report of the auditors on, and of the report of the directors accompanying, each such balance sheet;

and where any such balance sheet, document or report is not in the English language, there shall be annexed to that balance sheet a translation in English of the balance sheet, document or report, certified in the prescribed manner to be a correct translation.

(3A) If any such balance sheet as aforesaid or document required by law to be annexed thereto did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets or documents aforesaid, as the case may be, there shall be made such additions to and corrections in the copy as would have been required to be made in the balance sheet or document in order to make it comply with the said requirements, and the fact that the copy has been so amended shall be stated thereon.”.

Repeal of sections 121 to 129 and substitution of new sections 121 to 129G.

12. Sections 121 to 129 of the principal Ordinance are repealed and the following new sections substituted therefor—

"Keeping of books of account.
1948 c. 38,
s. 147.

121. (1) Every company shall cause to be kept proper books of account with respect to—

- (a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
- (b) all sales and purchases of goods by the company;
- (c) the assets and liabilities of the company.

(2) For the purposes of subsection (1), proper books of account shall not be deemed to be kept with respect to the matters aforesaid if there are not kept such books as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.

(3) The books of account shall be kept at the registered office of the company or at such other place as the directors think fit, and shall at all times be open to inspection by the directors:

Provided that if books of account are kept at a place outside Hong Kong there shall be sent to, and kept at a place in, Hong Kong and be at all times open to inspection by the directors such accounts and returns with respect to the business dealt with in the books of account so kept as will disclose with reasonable accuracy the financial position of that business at intervals not exceeding six months and will enable to be prepared in accordance with this Ordinance the company's balance sheet, its profit and loss account or income and expenditure account, and any document annexed to any of those documents giving information which is required by this Ordinance and is thereby allowed to be so given.

(4) If any person being a director of a company fails to take all reasonable steps to secure compliance by the company with the requirements of this section, or has by his own wilful act been the cause of any default by the company thereunder, he shall, in respect of each offence, be liable on summary conviction to imprisonment for six months and to a fine of ten thousand dollars:

Provided that—

- (a) in any proceedings against a person in respect of an offence under this section consisting of a failure to take reasonable steps to secure compliance by the company with the requirements of this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that those requirements were complied with and was in a position to discharge that duty; and
- (b) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

Profit and loss account and balance sheet.
1948 c. 38,
s. 148.

122. (1) The directors of every company shall at some date not later than eighteen months after the incorporation of the company and subsequently once at least in every calendar year lay before the company in general meeting a profit and loss account or, in the case of a company not trading for profit, an income and expenditure account for the period, in the case of the first account, since the incorporation of the company, and, in any other case, since the preceding account, made up to a date not earlier than the date of the meeting by more than nine months, or, in the case of a company carrying on business or having interests abroad, by more than twelve months:

Provided that the court, if for any special reason it thinks fit so to do, may, in the case of any company, extend the period of eighteen months aforesaid, and in the case of any company and with respect to any year extend the periods of nine and twelve months aforesaid.

(2) The directors shall cause to be made out in every calendar year, and to be laid before the company in general meeting, a balance sheet as at the date to which the profit and loss account, or the income and expenditure account, as the case may be, is made up.

(3) If any person being a director of a company fails to take all reasonable steps to comply with the provisions of this section he shall, in respect of each

offence, be liable on summary conviction to imprisonment for six months and to a fine of ten thousand dollars:

Provided that—

- (a) in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the provisions of this section were complied with and was in a position to discharge that duty; and
- (b) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

General provisions as to contents and form of accounts. 1948 c. 38, s. 149.

Tenth Schedule.

123. (1) Every balance sheet of a company shall give a true and fair view of the state of affairs of the company as at the end of its financial year, and every profit and loss account of a company shall give a true and fair view of the profit or loss of the company for the financial year.

(2) A company's balance sheet and profit and loss account shall comply with the requirements of the Tenth Schedule, so far as applicable thereto.

(3) Save as expressly provided in the following provisions of this section or in Part III of the Tenth Schedule, the requirements of subsection (2) and the said Schedule shall be without prejudice either to the general requirements of subsection (1) or to any other requirements of this Ordinance.

(4) The Financial Secretary may, on the application or with the consent of a company's directors, modify in relation to that company any of the requirements of this Ordinance as to the matters to be stated in a company's balance sheet or profit and loss account (except the requirements of subsection (1)) for the purpose of adapting them to the circumstances of the company.

(5) Subsections (1) and (2) shall not apply to a company's profit and loss account if—

- (a) the company has subsidiaries; and

- (b) the profit and loss account is framed as a consolidated profit and loss account dealing with all or any of the company's subsidiaries as well as the company and—

- (i) complies with the requirements of this Ordinance relating to consolidated profit and loss accounts; and

- (ii) shows how much of the consolidated profit or loss for the financial year is dealt with in the accounts of the company.

(6) If any person being a director of a company fails to take all reasonable steps to secure compliance as respects any accounts laid before the company in general meeting with the provisions of this section and with the other requirements of this Ordinance as to the matters to be stated in accounts, he shall, in respect of each offence, be liable on summary conviction to imprisonment for six months and to a fine of ten thousand dollars:

Provided that—

- (a) in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the said provisions or the said other requirements, as the case may be, were complied with and was in a position to discharge that duty; and
- (b) a person shall not be sentenced to imprisonment for any such offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

(7) For the purposes of this section and the following provisions of this Ordinance, except where the context otherwise requires,—

- (a) any reference to a balance sheet or profit and loss account shall include any notes thereon or document annexed thereto giving information which is required by this Ordinance and is thereby allowed to be so given; and