

Appropriation
from the general
revenues and
other funds.

Schedule.

2. A sum not exceeding two thousand eight hundred and sixty-one million, nine hundred and forty-eight thousand, and twenty dollars shall be and the same is hereby charged upon the revenue and other funds of the Colony for the service of the financial year commencing on the 1st day of April 1971, and ending on the 31st day of March 1972, and the said sum so charged may be expended in the manner expressed in the Schedule.

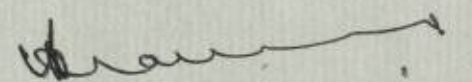
SCHEDULE.

[s. 2.]

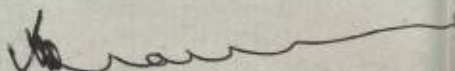
<i>Number of vote.</i>	<i>Head of Expenditure.</i>	<i>Amount of vote.</i>
		\$
21.	His Excellency the Governor's Establishment	1,098,100
22.	Agriculture and Fisheries Department	18,139,500
23.	Audit Department	2,563,800
24.	Census and Statistics Department	9,372,200
25.	Civil Aviation Department	13,572,000
26.	Colonial Secretariat	25,705,800
27.	Colonial Secretariat: London Office	2,682,200
28.	Commerce and Industry Department	23,231,100
29.	Defence: Royal Hong Kong Regiment (The Volunteers)	2,678,900
30.	Defence: Royal Hong Kong Auxiliary Air Force	2,800,100
31.	Defence: Essential Services Corps and Directorate of Manpower	398,600
32.	Defence: Auxiliary Fire Service	334,600
33.	Defence: Auxiliary Medical Service	1,826,900
34.	Defence: Civil Aid Services	3,626,000
35.	Defence: Registration of Persons Office	2,176,800
36.	Defence: Miscellaneous Measures	23,268,600
37.	Education Department	471,258,100
38.	Fire Services Department	40,265,300
39.	Government Supplies Department	11,753,700
40.	Immigration Department	13,043,700
41.	Information Services Department	9,466,800
42.	Inland Revenue Department	18,948,700
43.	Judiciary	14,046,000
44.	Kowloon-Canton Railway	11,317,600
45.	Labour Department: Labour Division	9,121,400
46.	Labour Department: Mines Division	2,738,000
47.	Legal Department	5,203,300
48.	Legal Aid Department	2,453,700
49.	Marine Department	45,111,100
50.	Medical and Health Department	197,269,700
51.	Miscellaneous Services	61,748,100
52.	New Territories Administration	18,956,800

<i>Number of vote.</i>	<i>Head of Expenditure.</i>	<i>Amount of vote.</i>
		\$
53.	Office of Unofficial Members of Executive and Legislative Councils	572,900
54.	Pensions	71,329,000
55.	Police: Royal Hong Kong Police Force	193,219,000
56.	Police: Royal Hong Kong Auxiliary Police Force	4,139,500
57.	Post Office	93,720,600
58.	Printing Department	12,151,600
59.	Prisons Department	26,499,100
60.	Public Debt	5,015,220
61.	Public Services Commission	243,600
62.	Public Works Department	153,042,500
63.	Public Works Recurrent	143,337,500
64.	Public Works Non-recurrent: Headquarters	21,562,700
65.	Public Works Non-recurrent: Buildings	227,390,600
66.	Public Works Non-recurrent: Engineering	186,173,600
67.	Public Works Non-recurrent: Waterworks	94,939,000
68.	Radio Hong Kong	6,441,600
69.	Rating and Valuation Department	5,531,200
70.	Registrar General's Department	7,481,100
71.	Registry of Trade Unions	446,900
72.	Resettlement Department	63,137,100
73.	Royal Observatory	4,762,100
74.	Secretariat for Home Affairs	8,804,200
75.	Social Welfare Department	40,324,000
76.	Subventions: Medical	88,881,900
77.	Subventions: Social Welfare	16,166,700
78.	Subventions: Miscellaneous	35,632,000
79.	Transport Department	4,124,200
80.	Treasury	7,131,700
81.	Universities	131,413,100
82.	Urban Services Department and Urban Council ...	122,588,500
83.	Urban Services Department: Housing Division	19,537,100
84.	World Refugee Year Schemes	31,000
TOTAL		\$2,861,948,020

Passed by the Hong Kong Legislative Council this 24th day of March, 1971.


Clerk to the Legislative Council.

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



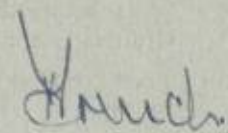
Clerk to the Legislative Council.

HONG KONG

No. 12 OF 1971.



I assent.



Governor.

25th March, 1971.

An Ordinance to provide for maintenance of certain dependants out of the estates of deceased persons.

[]

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 Deceased's Family Maintenance Ordinance 1971 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

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

Interpretation.

"court" means the Supreme Court;

"death duties" means estate duty under the Estate Duty Ordinance and every other duty leviable or payable on death;

(Cap. 111.)

"dependant", in relation to a deceased person, means—

(a) a wife or husband of the deceased by a valid marriage;

- (b) a daughter of the deceased by a valid marriage who has not been married;
- (c) an infant son of the deceased by a valid marriage;
- (d) a son of the deceased by a valid marriage who is, by reason of some mental or physical disability, incapable of maintaining himself; and
- (e) a parent of the deceased substantially maintained by him immediately before his death;

"son" and "daughter", respectively, in relation to a deceased person, mean—

- (a) a male or female child of a valid marriage to which the deceased was a party;
- (b) a male or female child adopted by the deceased—
 - (i) in pursuance of an adoption order made under the Adoption Ordinance; or
 - (ii) by an adoption to which section 17 of the Adoption Ordinance applies;
- (c) a male or female child of the deceased by a valid marriage *en ventre sa mère* at the time of the death of the deceased;

"will" includes codicil and any other testamentary document.

(2) In this Ordinance "net estate" means all the property of which a deceased person had power to dispose of by his will (otherwise than by virtue of a special power of appointment) less the amount of his funeral, testamentary and administration expenses, debts and liabilities and death duties payable out of his estate on his death, but does not include land to which Part II of the New Territories Ordinance applies and which has not been exempted by the Governor under subsection (2) or (3) of section 7 of that Ordinance from the provisions of that Ordinance.

(Cap. 97.)

Valid marriage.

3. For the purpose of this Ordinance, "valid marriage" means—

- (a) a marriage celebrated or contracted in accordance with the provisions of the Marriage Ordinance;
- (b) a modern marriage validated by the Marriage Reform Ordinance 1970;
- (c) a customary marriage declared to be valid by the Marriage Reform Ordinance 1970;
- (d) a marriage celebrated or contracted outside Hong Kong in accordance with the law in force at the time and in the place where the marriage was performed.

(Cap. 181.)

(68 of 1970.)

4. (1) Where, after the commencement of this Ordinance, a person dies leaving a dependant and the court on application made by or on behalf of that dependant is of opinion that the disposition of the deceased's estate effected by his will, or the law relating to intestacy, or the combination of his will and that law, is not such as to make reasonable provision for the maintenance of that dependant, the court may order that such reasonable provision as the court thinks fit shall, subject to such conditions or restrictions, if any, as the court may impose, be made out of the deceased's net estate for the maintenance of that dependant:

Power for court to order payment out of net estate of deceased for benefit of dependant.
1938, c. 45, s. 1(1), (2), (3) & (4).

Provided that no application shall be made to the court by or on behalf of any person in any case where the disposition of the deceased's estate effected as aforesaid is such that the surviving spouse is entitled to not less than two-thirds of the income of the net estate and where the only other dependant or dependants, if any, is or are a child or children of the surviving spouse.

(2) The provision for maintenance to be made by an order shall, subject to the provisions of subsection (4), be made by way of periodical payments and the order shall provide for their termination not later than—

- (a) in the case of a wife or husband, her or his remarriage;
- (b) in the case of a daughter who has not been married, her marriage;
- (c) in the case of an infant son, his attaining the age of twenty-one years;
- (d) in the case of a son under disability, the cesser of his disability;
- (e) in the case of a parent, her or his subsequent marriage,

or, in any case, his or her earlier death.

(3) Periodical payments made under subsection (2) to any one dependant shall not be at an annual rate which exceeds the annual income of the net estate, and, where payments are so made to more than one dependant in respect of the same period, the aggregate of the annual rates at which those payments are made shall not exceed the annual income of the net estate.

(4) The court may, if it sees fit, make an order providing for maintenance to be made wholly or in part by way of a lump sum payment.

Time within which application must be made.

1938, c. 45, s. 2(1).

Matters to be considered by the court.

1938, c. 45, s. 1(5), (6), (7) & (8).

5. Except as provided by section 11, an application under this Ordinance shall not, without the permission of the court, be made after the end of the period of six months from the date on which representation in regard to the estate of the deceased is first taken out.

6. (1) On an application made under this Ordinance the court shall have regard—

- (a) to any past, present, or future capital of the dependant to whom the application relates and to any income of that dependant from any source;
- (b) to the conduct of that dependant in relation to the deceased and otherwise;
- (c) to the interests of other dependants; and
- (d) to any other matter or thing which, in the circumstances of the case, the court may consider relevant or material in relation to that dependant or to persons interested in the estate of the deceased, or otherwise.

(2) The court shall also, on any such application, have regard to the deceased's reasons, so far as ascertainable, for making the dispositions made by his will, if any, or for refraining from disposing by will of his estate or part of his estate, or for not making any provision, or any further provision, as the case may be, for a dependant, and the court may accept such evidence of those reasons as it considers sufficient including any statement in writing signed by the deceased and dated, so, however, that in estimating the weight, if any, to be attached to any such statement the court shall have regard to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement.

(3) In determining whether, and in what way, and as from what date, provision for maintenance ought to be made by an order, the court shall have regard to the nature of the property representing the net estate of the deceased and shall not order any such provision to be made as would necessitate a realization that would be improvident having regard to the interests of the dependants of the deceased and of the person who, apart from the order, would be entitled to that property or to be maintained out of the deceased's estate.

(4) The court in considering for the purposes of section 4 whether the disposition of the deceased's estate effected by the law relating to intestacy, or by the combination of the deceased's will and that law, makes reasonable provision for the maintenance of a dependant shall not be bound to assume that the law relating to intestacy makes reasonable provision in all cases.

7. (1) Where an order is made under this Ordinance, then for all purposes, including the purposes of the enactments relating to death duties, the will or the law relating to intestacy, or both the will and the law relating to intestacy, as the case may be, shall have effect, and shall be deemed to have had effect as from the date of the deceased's death, subject to such variations as may be specified in the order for the purpose of giving effect to the provision for maintenance thereby made.

(2) An order made under this Ordinance providing for maintenance by way of periodical payments may provide for payments of a specified amount, or for payments equal to the whole or part of the income of the net estate or of the income of any part to be set aside or appropriated under this Ordinance of the net estate, or may provide for the amount of the payments or any of them to be determined in any other way which the court thinks fit.

(3) The court may give such consequential directions as it thinks fit for the purpose of giving effect to an order made under this Ordinance, but no larger part of the net estate shall be set aside or appropriated to answer by the income thereof the provision for maintenance thereby made than such a part as, at the date of the order, is sufficient to produce by the income thereof the amount of the said provision.

8. (1) If a deceased person dies leaving net estate situate in the Colony such net estate shall, whether the deceased at the time of his death was domiciled in the Colony or outside the Colony, be liable in accordance with the provisions of this Ordinance for the payment of any provision for maintenance ordered to be made under this Ordinance out of the net estate of the deceased as if the deceased at the time of his death had been domiciled in the Colony.

(2) The liability for the payment of any provision for maintenance ordered to be made under this Ordinance shall, unless the court otherwise orders, fall rateably upon the net estate of the deceased.

(3) The court may exonerate any part of the deceased's net estate from liability for the payment or payments for maintenance ordered to be made under this Ordinance after hearing such of the parties who may be affected by the exoneration as it thinks necessary, and may for that purpose direct any personal representative to represent, or appoint any person to represent, any such party.

Effect and form of order.
1938, c. 45, s. 3.

Liability for payment.

Power of court
to release part
of estate.

9. (1) On application at any time by or on behalf of a person interested, whether beneficially or as trustee, in any property set aside or appropriated to answer by the income thereof any provision for maintenance ordered to be made under this Ordinance, the court may fix a periodical or lump sum which that person may pay to represent, or in commutation of, such proportion of the provision as falls upon that property, and may order that on such security as the court thinks fit being given for the payment of the periodical sum or on payment of the lump sum, as the case may be, that property shall be freed from all liability for the provision for maintenance.

(2) The court may give such consequential directions as it thinks fit for the purpose of giving effect to an order made under this section, including directions as to whom the lump sum shall be paid and as to the manner in which it shall be invested for the benefit of the person to whom the commuted payment was payable.

Interim orders.
1938, c. 45, s. 4A.

10. (1) Where on an application for maintenance under this Ordinance it appears to the court—

- (a) that the applicant is in immediate need of financial assistance, but it is not yet possible to determine what order, if any, should be made on the application for the provision of maintenance for the applicant; and
- (b) that property forming part of the net estate of the deceased is or can be made available to meet the needs of the applicant,

the court may order, subject to such conditions or restrictions, if any, as the court may impose and to any further order of the court, that there shall be paid to or for the benefit of the applicant out of the net estate of the deceased such sum or sums and, if more than one, at such intervals as the court thinks reasonable.

(2) In determining what order, if any, should be made under this section the court shall, so far as the urgency of the case admits, take account of the same considerations as would be relevant in determining what order should be made on the application for the provision of maintenance for the applicant; and any subsequent order for the provision of maintenance may provide that sums paid to or for the benefit of the applicant by virtue of this section shall be treated to such extent, if any, and in such manner as may be provided by that order as having been paid on account of the maintenance provided for by that order.

(3) Subject to subsection (2), section 7 shall apply in relation to an order under this section as it applies in relation to an order providing for maintenance under section 4.

(4) Where the personal representative of the deceased pays any sum directed by an order under this section to be paid out of the net estate of the deceased, he shall not be under any liability by reason of that estate not being sufficient to make the payment, unless at the time of making the payment he has reasonable cause to believe that estate is not sufficient.

11. (1) Subject to the provisions of this section, where an order (in this section referred to as "the original order") has been made under section 4, the court may by order at any time and from time to time, on an application made under this section, discharge or vary the original order or suspend any provision of it temporarily or revive the operation of any provision so suspended and may reduce or increase the amount of the provision so made by the original order for any dependant, or make such other order as is just in the circumstances.

(2) An application under this section may be made by any of the following persons, that is to say—

- (a) the dependant on whose application the original order was made;
- (b) any other dependant of the deceased;
- (c) the trustees of any relevant property;
- (d) any person who, under the will of the deceased or under the law relating to intestacy, is beneficially interested in any relevant property.

(3) In exercising the powers conferred by this section, the court shall have regard to all the circumstances of the case, including any change in the circumstances to which the court was required to have regard in determining the application for the original order.

(4) In this section "relevant property" means property the income of which is at the date of the application applicable under an order made under this Ordinance for the maintenance of a dependant of the deceased.

12. (1) No mortgage or assignment of or charge on, or agreement to mortgage, assign or charge, a provision for maintenance in anticipation of the court ordering that provision to be made shall have effect until approved by the court.

(2) No mortgage or assignment of or charge on, or agreement to mortgage, assign or charge, a provision for maintenance which the court has ordered to be made, other than a provision by way of a lump sum payment, shall have effect until approved by the court.

Discharge and
variation of
orders and
additional
provision.
1965, c. 72, s. 27.

Restrictions
on dealings
with provisions
for maintenance.

Additional provisions as to orders under this Ordinance, 1938, c. 45, s. 2(1B), (1C).

13. (1) The provisions of this Ordinance shall not render the personal representatives of the deceased liable for having distributed any part of the estate of the deceased after the expiration of the period of six months mentioned in section 5 on the ground that they ought to have taken into account the possibility that the court might permit an application under this Ordinance after the end of that period or that an application might be made under section 11, but this section shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the making of an order under this Ordinance.

(2) In considering for the purposes of this section or section 5 the question when representation was first taken out, a grant limited to part only of the estate of the deceased shall be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

14. For the purposes of any law which relates to the discretion of the court as to the persons to whom administration is to be granted, a dependant of a deceased person by whom or on whose behalf an application under this Ordinance is proposed to be made shall be deemed to be a person interested in the deceased's estate.

15. The Chief Justice may make rules for the better carrying out of the purposes and provisions of this Ordinance and in particular, but without prejudice to the generality of the foregoing—

- (a) as to all matters of practice and procedure and incidental matters arising out of this Ordinance;
- (b) prescribing the forms to be used under this Ordinance; and
- (c) prescribing the fees and costs to be paid, charged or allowed under this Ordinance.

16. (1) The provisions of the Schedule shall have effect with regard to a union of concubinage entered before the appointed day under the Marriage Reform Ordinance 1970.

(2) In this section and in the Schedule, "union of concubinage" means a union of concubinage, entered by a male partner and a female partner before the appointed day under the Marriage Reform Ordinance 1970, under which union the female partner has, during the lifetime of the male partner, been accepted by his wife as his concubine and recognized as such by his family generally.

Dependant to be deemed a person interested for purposes of grant of administration. 1938, c. 45, s. 2(2).

Rules, etc.

Transitional provisions for concubinage. Schedule, (68 of 1970.)

SCHEDULE.

[s. 16.]

Interpretation.

1. In this Schedule—
- "dependant", in relation to a deceased person, means—
- (a) a *tsip* or male partner of the deceased by a union of concubinage;
 - (b) a daughter of the deceased by such a union who has not been married;
 - (c) an infant son of the deceased by such a union;
 - (d) a son of the deceased by such a union who is, by reason of some mental or physical disability, incapable of maintaining himself; and
 - (e) a parent of the deceased substantially maintained by him immediately before his death;
- "party to a union of concubinage" means a *tsip* or a male partner of such a union;
- "*tsip*" means the female partner of a union of concubinage.

2. Subject to paragraph 3, the Ordinance shall apply to a dependant, as defined in paragraph 1, as it does to a dependant as defined in section 2 and all references in the Ordinance (other than in this Schedule) to a dependant shall be construed accordingly.

Application of Ordinance to dependants by union of concubinage.

3. (1) Notwithstanding paragraph 2, the following provisions shall have effect with regard to a union of concubinage.

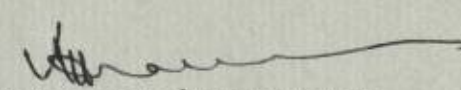
Special provisions relating to maintenance orders.

(2) An order for the maintenance of a *tsip* shall not be made if she has married or committed an act of sexual intercourse.

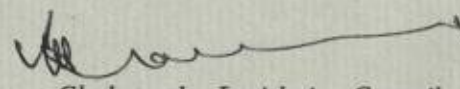
(3) An order under section 4 providing for the maintenance of a *tsip* by way of periodical payments shall provide for their termination thereupon if she marries or commits an act of sexual intercourse.

(4) Nothing in this Schedule shall authorize the court to make an order providing for maintenance to be made wholly or in part by way of a lump sum payment, in accordance with subsection (4) of section 4, to a party to a union of concubinage.

Passed by the Hong Kong Legislative Council this 24th day of March, 1971.

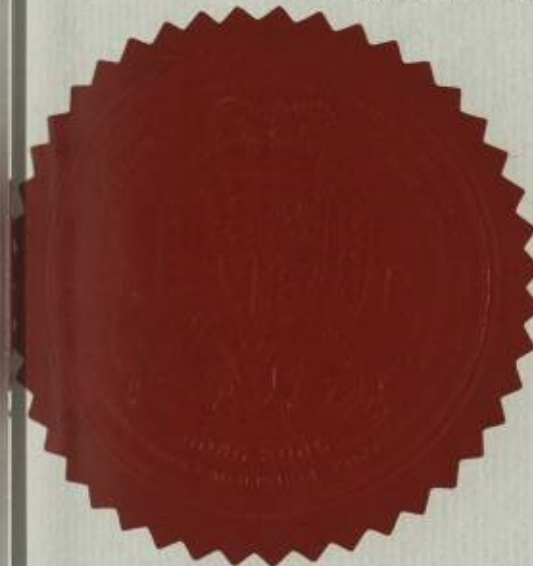

Clerk to the Legislative Council.

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. 13 of 1971.



I assent.

Governor.

25th March, 1971.

An Ordinance to amend the Inland Revenue Ordinance.

[1st April, 1970.]

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

1. This Ordinance may be cited as the Inland Revenue (Amendment) (No. 2) Ordinance 1971 and shall be deemed to have come into operation on 1st April 1970 and shall apply to assessments for the year of assessment commencing on 1st April 1971 and to subsequent years of assessment.

Short title and commencement.

2. Section 2 of the principal Ordinance is amended, in subsection (1), by deleting the definition of "approved charitable donation" and substituting the following—

Amendment of section 2.
(Cap. 112.)

"approved charitable donation" means a donation of money to any charitable institution or trust of a public character which is exempt from tax under section 88;".

3. Section 89 of the principal Ordinance is repealed.

Repeal of section 89.

Passed by the Hong Kong Legislative Council this 24th day of March, 1971.


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.

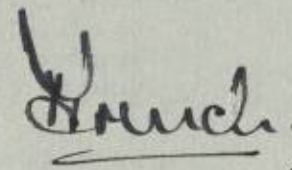

Clerk to the Legislative Council.

HONG KONG

No. 14 OF 1971.



I assent.


Governor.

7th April, 1971.

An Ordinance to amend further the Interpretation and General Clauses Ordinance.

[8th April, 1971.]

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 Interpretation and General Clauses (Amendment) Ordinance 1971. Short title.

2. Section 44 of the principal Ordinance is amended in subsection (1)— Amendment of section 44.
(Cap. 1.)

- (a) in paragraph (c), by deleting "and" at the end thereof;
- (b) in paragraph (d), by deleting the full stop at the end thereof and substituting the following—

"; and"; and

(c) by inserting after paragraph (d) the following new paragraph—

“(e) any delegation may be amended by the person so delegating.”.

Addition of new section 98A.

3. The principal Ordinance is amended by adding, after section 98, the following new section—

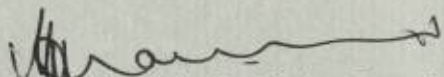
“Rectification of errors,

(53 of 1965.)

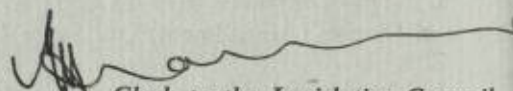
98A. (1) The Attorney General may, by order published in the *Gazette*, rectify any clerical or printing error appearing in any Ordinance, not being an Ordinance contained in a booklet prepared under the authority of the Revised Edition of the Laws Ordinance 1965.

(2) Every order made under this section shall be laid on the table of the Legislative Council without unreasonable delay, and, if a resolution is passed at the next sitting of the Legislative Council held after the sitting at which the order is so laid that the order be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of a new order.”.

Passed by the Hong Kong Legislative Council this 7th day of April, 1971.


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.

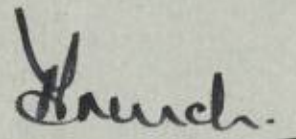

Clerk to the Legislative Council.

HONG KONG

No. 15 OF 1971.



I assent.


Governor.

7th April, 1971.

An Ordinance to amend the Trade Union Registration Ordinance.

[]

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

1. This Ordinance may be cited as the Trade Union Registration (Amendment) Ordinance 1971, and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

2. Section 1 of the principal Ordinance is amended by deleting “Union Registration” and substituting the following—
“Unions”.

Amendment of section 1.
(Cap. 332.)

3. Section 2 of the principal Ordinance is amended—
(a) by inserting, before the definition of “employee”, the following definitions—

Amendment of section 2.

““branch” means any number of members of a trade union who have in accordance with the constitution of the trade union appointed their

own management committee but who are under the control of the executive committee of such trade union and are bound by the constitution of the trade union to contribute to its funds;

"clerk" in relation to a trade union or a branch of a trade union or a trade union federation, means a clerk or other person appointed by, and acting under the instructions of, the executive thereof and paid from the funds of the trade union or the branch of the trade union or the trade union federation, as the case may be;";

- (b) by deleting the definition of "employee" and substituting the following—

"“employee” means any person who has entered into or works under, or, in the case of a contract which has been terminated, worked under, a contract with an employer, whether the contract is by way of manual labour, clerical work or otherwise, is express or implied, oral or in writing, and whether it is a contract of service or apprenticeship or a contract personally to execute any work or labour;”;

- (c) in the definition of "trade dispute" by deleting "workmen" wherever it occurs and substituting in each place the following—

"employees";

- (d) in the definition of "trade union" by deleting—

(i) "., whether temporary or permanent,";

(ii) "workmen" wherever it occurs and substituting in each place the following—

"employees";

- (e) by deleting the semicolon after the definition of "welfare fund" and substituting therefor a full stop;

- (f) by deleting the definition of "workman".

Amendment of
section 5.

4. Section 5 of the principal Ordinance is amended in subsection (3) by inserting, after "seven", the following—

"voting".

Amendment of
section 6.

5. Section 6 of the principal Ordinance is amended in subsection (1) by deleting "or withdrawn".

6. Section 7 of the principal Ordinance is amended in subsection (1)—

Amendment of
section 7.

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

“; or”;

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

“(d) he is of the opinion that the trade union applying for registration is substantially a trade union the certificate of registration of which has been cancelled under subsection (1) of section 10; but the Registrar shall not refuse registration solely on the ground that the membership of the trade union applying for registration includes members of the trade union the certificate of registration of which has been cancelled.”.

7. Section 8 of the principal Ordinance is amended—

Amendment of
section 8.

- (a) by deleting the comma at the end of paragraph (c) and substituting a semicolon and by inserting thereafter the following—

“(d) the trade union was not such a trade union as is specified in paragraph (d) of subsection (1) of section 7.”;

- (b) by deleting "the Full Court, and, if upon any such appeal the Full Court finds that the refusal of the Registrar to register the trade union was wrong as aforesaid, it may so declare" and substituting the following—

"the Supreme Court, which may, if it finds that the refusal of the Registrar to register the trade union was wrong as aforesaid, so declare".

8. Section 12 of the principal Ordinance is amended—

Amendment of
section 12.

- (a) in subsection (1), by deleting "the Full Court, and, if upon any such appeal the Full Court finds that the Registrar is not entitled as aforesaid to cancel the registration of the trade union, it may so declare" and substituting the following—

"the Supreme Court, which may, if it finds that the Registrar is not entitled as aforesaid to cancel the registration of the trade union, so declare";

- (b) in subsection (2), by deleting "the Full Court, and, if upon any such appeal the Full Court finds that the can-

cancellation of the registration of the trade union was wrong as aforesaid, it may so declare" and substituting the following—

"the Supreme Court, which may, if it finds that the cancellation of the registration of the trade union was wrong as aforesaid, so declare".

Amendment of
section 17

9. Section 17 of the principal Ordinance is amended—

(a) in subsection (1) by deleting "trade or occupation" wherever they occur and substituting in each place the following—

"trade, industry or occupation";

(b) in the proviso to subsection (1)—

(i) by deleting "and" at the end of paragraph (a);

(ii) by deleting the full stop at the end of paragraph (b) and substituting the following—

“; and”;

(iii) by inserting after paragraph (b) the following new paragraph—

“(c) no person shall be refused membership of a trade union solely on the ground that he is casually or seasonally engaged or employed in the trade, industry or occupation with which the trade union is directly concerned.”;

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

First Schedule.

“(3) Save with the consent of the Governor in Council, no person who has been convicted of any offence specified in the First Schedule shall, within the period of five years from the date of his conviction or discharge from prison, whichever is the later, be an officer of a registered trade union.

First Schedule.

(3A) The Governor in Council may, by order published in the *Gazette* amend the First Schedule.”.

Addition of
new section
17A.

10. The principal Ordinance is amended by adding after section 17, the following new section—

“Powers of
Registrar
in respect
of union
elections and
membership.

17A. (1) The Registrar may, if he is of the opinion that—

(a) a person is an officer of a registered trade union in contravention of section 17 or any of the rules of the trade union;

(b) a candidate for election as an officer of a registered trade union is ineligible to be so elected by virtue of section 17 or any of the rules of the trade union; or

(c) a person is a member of a registered trade union in contravention of section 17 or any of the rules of the trade union,

serve upon such officer, candidate or person, and upon the trade union, a notice in writing requiring the officer, candidate or person to cease holding office or to cease being a candidate for election as an officer or to cease being a member of the trade union.

(2) If the officer, candidate or person fails within fourteen days of service to satisfy the Registrar that he has complied with a notice under subsection (1) the Supreme Court may, on the application of the Registrar—

(a) grant an injunction prohibiting such officer, candidate or person from holding office or being a candidate for election as an officer or being a member of the trade union;

(b) make a declaration that such officer, candidate or person no longer holds office in the trade union or is no longer a candidate for election as an officer or a member of the trade union;

(c) make an order directing the trade union to hold, in such manner as the court may direct, a fresh election if an officer has ceased to hold office or a candidate for election as an officer has ceased to be a candidate by virtue of this section.”.

11. Section 18 of the principal Ordinance is amended by deleting “Schedule” wherever it occurs and substituting in each place the following—

Amendment of
section 18.

“Second Schedule”.

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

Addition of
new section
20A.

“Seal.

20A. (1) A registered trade union shall have a common seal bearing its registered name in legible characters.

(2) The common seal of a trade union shall only be used by the authority of the executive of the union

and every instrument to which the common seal shall be affixed shall be signed by an officer or a member appointed by the executive for that purpose and countersigned by the chairman, treasurer or secretary.

(3) A trade union which fails to comply with subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of one hundred dollars.

(4) An officer of a trade union, or any person on its behalf, who uses or authorizes the use of any seal which falsely purports to be the seal of the trade union shall be guilty of an offence and shall be liable on summary conviction to a fine of one hundred dollars."

Amendment of
section 21.

13. Section 21 of the principal Ordinance is amended by deleting subsection (1) and substituting the following—

"(1) Notification of—

- (a) every branch of a registered trade union;
- (b) every business or charitable, cultural, educational or medical undertaking which is operated by or in the name of a trade union; and
- (c) any change in the address of such branch, or business or charitable, cultural, educational or medical undertaking,

shall be made to the Registrar in writing, together with such particulars as the Registrar may require, by the trade union within fourteen days after the establishment of or change of address of such branch, or business or charitable, cultural, educational or medical undertaking."

Amendment of
section 23.

14. Section 23 of the principal Ordinance is amended—

- (a) in subsection (5), by deleting "the Full Court, and, if upon any such appeal the Full Court finds that the refusal of the Registrar to register the change of name was wrong as aforesaid, it may so declare" and substituting the following—

"the Supreme Court, which may, if it finds that the refusal of the Registrar to register the change of name was wrong as aforesaid, so declare";

- (b) by inserting, after subsection (7), the following new subsection—

"(8) A registered trade union which fails to comply with subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a fine of one hundred dollars."

15. Section 27 of the principal Ordinance is amended—

Amendment of
section 27.

- (a) by deleting "Schedule" wherever it occurs and substituting in each place the following—

"Second Schedule";

- (b) in subsection (3), by deleting "the Full Court, and, if upon any such appeal the Full Court finds that the refusal of the Registrar to give his consent to the intended amalgamation was wrong as aforesaid, it may so declare" and substituting the following—

"the Supreme Court, which may, if it finds that the refusal of the Registrar to give his consent to the intended amalgamation was wrong as aforesaid, so declare".

16. Section 30 of the principal Ordinance is amended in paragraph (b) of subsection (1) by inserting after "fifty per cent of the" the following—

Amendment of
section 30.

"voting"

17. Section 33 of the principal Ordinance is amended in subsection (1)—

Amendment of
section 33.

- (a) in paragraph (a), by deleting "employees" and substituting the following—

"clerks";

- (b) in paragraph (j) by deleting "in Council";

- (c) by deleting paragraph (k) and substituting the following—

"(k) the payment of fines imposed on the trade union for any offence of which it is convicted under this or any other Ordinance;

(l) any other purpose which the Governor may approve."

18. Section 36 of the principal Ordinance is amended—

Amendment of
section 36.

- (a) in subsection (1) by inserting, after "on application", the following—

"in writing";

- (b) in subsection (2) by inserting, after "the 31st day of March in each year", the following—

"or within such further period as the Registrar may on application in writing grant."

Amendment of section 43.

19. Section 43 of the principal Ordinance is amended in subsection (1) by deleting "workmen" and substituting the following—

"employees".

Amendment of section 44.

20. Section 44 of the principal Ordinance is amended in subparagraph (ii) of paragraph (c) by deleting "workman" wherever it occurs and substituting in each place the following—

"employee".

Amendment of section 46.

21. Section 46 of the principal Ordinance is amended—

- (a) by deleting "house or place where a person resides or works or carries on business or happens to be" and substituting the following—

"place where a person works or carries on business";

- (b) in the proviso by deleting "house or".

Amendment of section 47.

22. Section 47 of the principal Ordinance is amended in subsection (2) by deleting "house or" wherever they occur.

Amendment of section 52.

23. Section 52 of the principal Ordinance is amended in subsection (1) by deleting "Schedule" and substituting the following—

"Second Schedule".

Amendment of section 55.

24. Section 55 of the principal Ordinance is amended in paragraph (b) by deleting "engaged in the same trade or industry" and substituting the following—

"engaged or employed in the same trade, industry or occupation".

Amendment of section 56.

25. Section 56 of the principal Ordinance is amended in paragraph (a) of subsection (1) by deleting "engaged in the same trade or industry" and substituting the following—

"engaged or employed in the same trade, industry or occupation".

Repeal and replacement of section 63.

26. Section 63 of the principal Ordinance is repealed and replaced by the following—

"Service of legal process and notices issued by Registrar.

63. (1) Every—

- (a) summons, notice or other document required to be served on a registered trade union in any civil or criminal proceeding; and

- (b) notice or other document issued by the Registrar under this Ordinance and required to be served on a registered trade union,

shall be deemed to be duly served if it is delivered at or sent by registered post addressed to the registered office of the trade union or if it is served personally on any officer of the trade union, provided that such service is otherwise in compliance with the requirements of any relevant Ordinance.

- (2) Notwithstanding the provisions of subsection (1), whenever the Registrar is required under section 11 to give notice to a trade union, he may in addition publish such notice in the *Gazette* and such publication shall be deemed to be good and effective notice to the trade union."

27. Section 64 of the principal Ordinance is amended—

Amendment of section 64.

- (a) in subsection (1), by deleting "Full Court" and substituting the following—

"Supreme Court";

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

"(2) An appeal shall be from a decision of the Supreme Court under this Ordinance to the Full Court in accordance with section 29 of the Supreme Court Ordinance."

28. Section 66 of the principal Ordinance is amended—

Amendment of section 66.

- (a) in paragraph (d), by deleting "and";

- (b) in paragraph (e), by deleting the full stop and substituting the following—

"; and"; and

- (c) by inserting after paragraph (e) the following new paragraph—

"(f) the fact that a trade union has withdrawn its application for registration under this Ordinance."

29. The principal Ordinance is amended by adding, after section 68, the following new Schedule—

Addition of new Schedule.

"FIRST SCHEDULE.

[s. 17.]

Any offence involving—

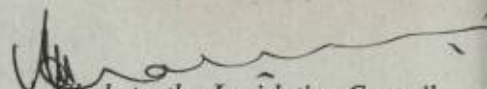
- (a) fraud;
- (b) dishonesty;
- (c) extortion;
- (d) membership of a triad society."

Amendment of
the Schedule.

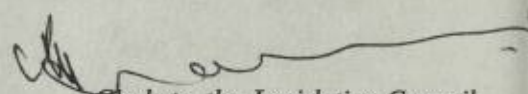
30. The Schedule to the principal Ordinance is amended—

- (a) by being renumbered as the Second Schedule;
- (b) by deleting the full stop at the end of paragraph (o) and substituting therefor a semicolon;
- (c) by inserting after paragraph (o) the following new paragraph—
 "(p) provide for the safe custody of the common seal of the trade union."

Passed by the Hong Kong Legislative Council this 7th day
of April, 1971.


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.*

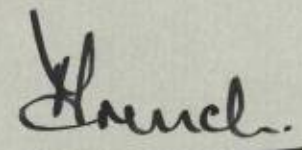

Clerk to the Legislative Council.

HONG KONG

No. 16 OF 1971.



I assent.


Governor.

7th April, 1971.

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

[]

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

1. This Ordinance may be cited as the Public Health and
Urban Services (Amendment) Ordinance 1971 and shall come into
operation on a day to be appointed by the Governor by notice
in the *Gazette*.

Short title and
commencement.

2. Section 77 of the principal Ordinance is amended in sub-
section (1)—

Amendment of
section 77.
(Cap. 132.)

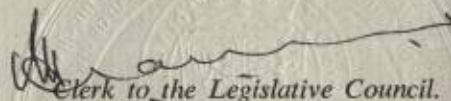
(a) by adding after paragraph (j) the following new para-
graph—

"(ja) the conferring of powers on public officers or
any public body to detain animals and the car-

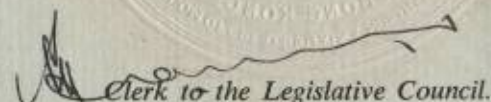
casses and other parts of animals, to direct the slaughter of animals, and to dispose of animals and the carcasses and other parts of animals;";

(b) in paragraph (k), by deleting sub-paragraph (v).

Passed by the Hong Kong Legislative Council this 7th day of April, 1971.


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.

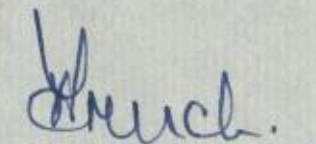

Clerk to the Legislative Council.

HONG KONG

No. 17 OF 1971.



I assent.



Governor.

29th April, 1971.

An Ordinance to amend the Life Insurance Companies Ordinance.

[30th April, 1971.]

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 Companies (Amendment) Ordinance 1971.

Short title.

2. Section 22 of the principal Ordinance is amended by—

Amendment of
section 22.
(Cap. 36.)

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

(b) adding after subsection (1) the following new subsections—

“(2) Without prejudice to subsection (1) and subject to subsection (3), if the assets of a life insurance company registered under any Ordinance relating to the registration of companies are less than the aggregate amount of its liabilities and the amounts deposited by it under section 3, the court

(Cap. 32.)

shall, on the application by petition of the Registrar, order that the company be wound up in accordance with the Companies Ordinance as if it had been proved to be insolvent.

(3) The court shall not make an order under subsection (2) if the life insurance company satisfies the court that, at the date of hearing of the Registrar's application, its assets excluding goodwill are not less than the aggregate of its liabilities, including its life insurance fund but excluding its share capital, and the amounts deposited by it under section 3.

(4) For the purposes of subsection (2) but not for the purposes of subsection (3)—

"assets" means the assets of the life insurance company excluding goodwill shown in the statement of its balance sheet;

"liabilities" means the liabilities of the life insurance company, including its life insurance fund but excluding its share capital, shown in the statement of its balance sheet;

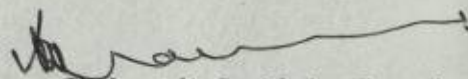
"statement of its balance sheet" means the latest statement of the balance sheet of the life insurance company deposited with the Registrar under section 15."

Amendment of
section 23.

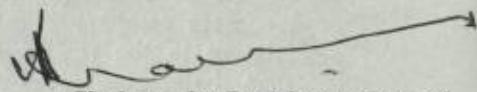
3. Section 23 of the principal Ordinance is amended by deleting "to be insolvent as aforesaid" and substituting the following—

"under subsection (1) of section 22 to be insolvent".

Passed by the Hong Kong Legislative Council this 28th day of April, 1971.


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.

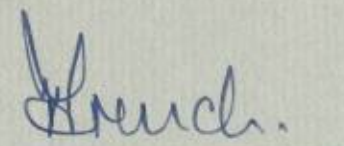

Clerk to the Legislative Council.

HONG KONG

No. 18 OF 1971.



I assent.



Governor.

29th April, 1971.

An Ordinance to amend further the Revised Edition of the Laws Ordinance.

[30th April, 1971.]

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 Revised Edition of the Laws (Amendment) Ordinance 1971.

Short title.

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

Repeal and
replacement
of section 13.
(53 of 1965.)

"Annual
revision
of revised
edition.

13. (1) As soon as practicable after the first day of January in every year the Attorney General shall, subject to subsection (2), cause to be published—

(a) in the form of a separate booklet, a new revised edition of any Ordinance which has been amended during the period of twelve

months ending on the preceding thirty-first day of December;

- (b) in the form of a separate booklet, any new Ordinance enacted during the said period, other than Ordinances the sole or substantial effect of which was to amend other Ordinances;
- (c) in the form of a booklet, either separately or together with any other such enactment or instrument, a new revised edition of any imperial enactment, treaty or convention already included in the revised edition which has been amended during the said period;
- (d) booklets containing such imperial enactments, treaties or conventions enacted, made or agreed to during the said period as he considers may usefully be published; and
- (e) a new table of contents and index to the revised edition, a chronological list of Ordinances, a list of appointments and a list of the latest edition of each booklet containing an Ordinance and included in the revised edition.

(2) The Attorney General shall not be required by subsection (1) to prepare and publish a booklet containing a new revised edition of any Ordinance, imperial enactment, treaty or convention which has been amended if he considers that the amendments are not sufficiently extensive to justify the preparation and publication thereof, but he shall cause a separate booklet of minor amendments to be prepared and published in which all such amendments shall be contained.

(3) Without prejudice to subsection (1), the Attorney General may, as soon as practicable after the first day of January in every year, cause to be published, in the form of a separate booklet—

- (a) a new revised edition of any Ordinance which has not been amended during the period of twelve months ending on the preceding thirty-first day of December;
- (b) a new revised edition of the subsidiary legislation made under or by virtue of any

Ordinance, whether or not any part of that subsidiary legislation has been amended during the period of twelve months ending on the preceding thirty-first day of December.

(4) Where the Attorney General is of the opinion that it is desirable that corrections, alterations or adaptations shall be made to any Ordinance but that such corrections, alterations or adaptations are not sufficiently extensive to justify the preparation and publication of a new revised edition of such Ordinance, he may, in relation to such Ordinance, exercise any of the powers contained in paragraphs (n), (o), (p), (q) and (r) of section 5 and include any corrections, alterations or adaptations occasioned thereby in the booklet of minor amendments prepared and published under subsection (2).

13A. (1) Without prejudice to the powers conferred by section 13, the Attorney General may also—

- (a) consolidate into one Ordinance any two or more Ordinances in *pari materia*;
- (b) divide any Ordinance into two or more Ordinances; or
- (c) transfer to subsidiary legislation any part of an Ordinance which can more conveniently be included as subsidiary legislation under that Ordinance or under any other Ordinance.

(2) Where the Attorney General has exercised the powers conferred by subsection (1), he shall, as soon as practicable after the first day of January in the year following such exercise, cause to be published in the form of a separate booklet—

- (a) any Ordinance into which two or more Ordinances have been consolidated;
- (b) each Ordinance into which any Ordinance has been divided; and
- (c) the subsidiary legislation into which any part of an Ordinance has been transferred.

13B. (1) For the purposes of sections 13 and 13A, the Attorney General may exercise and perform, *mutatis mutandis*, the powers and duties conferred or imposed by this Ordinance upon the Commissioner.

Additional
power to
revise.

Powers
and duties
of Attorney
General.

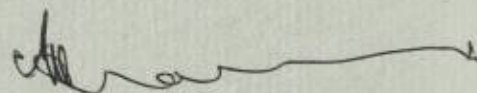
(2) In any booklet published pursuant to section 13 or 13A, the law shall be as it was on the preceding thirty-first day of December and shall contain at the beginning thereof the year of that thirty-first day of December.

(3) Where a new revised edition of the subsidiary legislation made under or by virtue of an Ordinance is published in a separate booklet under paragraph (b) of subsection (3) of section 13 or under paragraph (c) of subsection (2) of section 13A, such booklet shall—

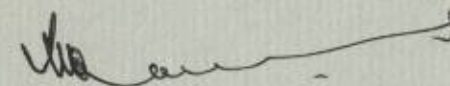
- (a) be part of the Chapter of the Ordinance under or by virtue of which that subsidiary legislation is made; and
- (b) in addition to the other expressions required to be contained therein, contain on the front page thereof—
 - (i) the title and Chapter number of the Ordinance under or by virtue of which that subsidiary legislation is made; and
 - (ii) the expression "Subsidiary Legislation".

(4) The Attorney General shall transmit to the Governor a copy of every booklet published under section 13 or 13A and with effect from such date as the Governor may specify by notice in the *Gazette* any such booklet shall be without any question whatsoever in all courts of justice and for all purposes whatsoever the sole and only proper law of the Colony in respect of that Ordinance, or in the case of a booklet containing subsidiary legislation only, that subsidiary legislation."

Passed by the Hong Kong Legislative Council this 28th day of April, 1971.


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. 19 OF 1971.



I assent.

Amoy

Governor.

29th April, 1971.

An Ordinance to amend the Corporal Punishment Ordinance.

[30th April, 1971.]

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 Corporal Punishment (Amendment) Ordinance 1971.

Short title.

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

Addition of new section 8.
(Cap. 222.)

"Amendment of Schedule.

8. The Legislative Council may, by resolution, amend the Schedule."

3. The Schedule to the principal Ordinance is amended in Part I—

Amendment of Schedule.

(a) by deleting item 2 and substituting the following—

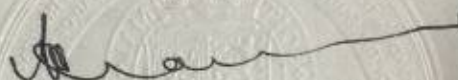
"2. Any offence contrary to section 10 or 12 of the Theft Ordinance 1970.";

(21 of 1970.)

(b) by adding after item 8 the following new items—

- "9. Any offence contrary to section 33
(Cap. 245.) of the Public Order Ordinance.
10. Affray."

Passed by the Hong Kong Legislative Council this 28th day
of April, 1971.


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.*

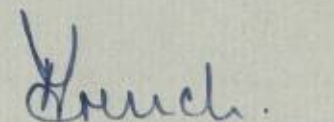

Clerk to the Legislative Council.

HONG KONG

No. 20 OF 1971.



I assent.



Governor.

13th May, 1971.

An Ordinance to amend the Probation of Offenders Ordinance.

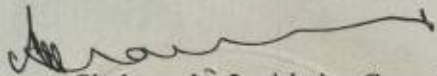
[14th May, 1971.]

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

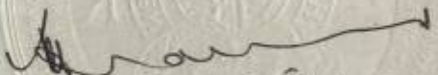
1. This Ordinance may be cited as the Probation of Offenders (Amendment) Ordinance 1971. Short title.
2. Section 3 of the principal Ordinance is amended in sub-section (1) by deleting "and where such court does proceed to conviction instead of sentencing him,". Amendment of section 3.
(Cap. 298.)
3. The principal Ordinance is amended by adding, after section 3, the following new section— Addition of new section 3A.
 - 3A. An offender in whose case a probation order is made may in addition be sentenced under the Corporal Punishment Ordinance to be caned, but save as aforesaid an offender in whose case a probation order is made shall not be sentenced."

"Restriction
on punish-
ment of
probationer.
(Cap. 222.)

Passed by the Hong Kong Legislative Council this 12th day of May, 1971.


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.

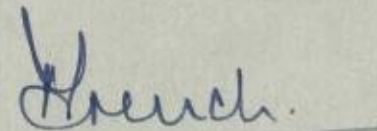

Clerk to the Legislative Council.

HONG KONG

No. 21 OF 1971.



I assent.



Governor.

13th May, 1971.

An Ordinance to amend the Army Legal Services Ordinance.

[14th May, 1971.]

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 Army Legal Services (Amendment) Ordinance 1971. Short title.

2. The long title of the principal Ordinance is amended— Amendment of long title.
(Cap. 286.)

(a) by deleting "*the Deputy Assistant Director of Army Legal Services, Hong Kong,*" and substituting the following—

"officers of the Army Legal Services"; and

(b) by deleting "*a solicitor*" and substituting the following—
"solicitors".

Amendment of
section 2.

3. Section 2 of the principal Ordinance is amended—

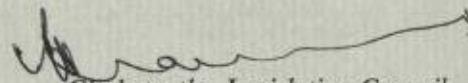
- (a) by deleting subsection (1) and substituting the following subsection—

(Cap. 159.)

“(1) Notwithstanding anything contained in the Legal Practitioners Ordinance, any commissioned officer of the Army Legal Services may act as solicitor for any member of Her Majesty’s forces in any criminal proceedings against such member if—

- (a) the officer has filed with the Registrar of the Supreme Court a certificate, signed by the Commander British Forces, that the officer is an officer of the Army Legal Services, and an affidavit of identity in such form as may be approved by the Chief Justice; and
- (b) the officer has satisfied the Chief Justice that he is a member of the Bar or a solicitor in England or Northern Ireland or an advocate or solicitor in Scotland.”;
- (b) in subsections (3) and (4) by deleting “person” wherever it occurs and substituting the following—
“officer”.

Passed by the Hong Kong Legislative Council this 12th day of May, 1971.


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.

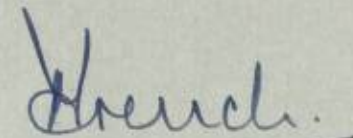

Clerk to the Legislative Council.

HONG KONG

No. 22 OF 1971.



I assent.



Governor.

13th May, 1971.

An Ordinance to provide for the management and control of museums maintained by the Government.

[14th May, 1971.]

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 Museums Ordinance 1971. Short title.
2. In this Ordinance, unless the context otherwise requires— Interpretation.

“Authority” means, in respect of any museum—

 - (a) situate in the urban areas, the Urban Council; or
 - (b) situate in the New Territories except New Kowloon, the Director of Urban Services;

“exhibit” means an article intended for display within a museum whether or not the article is displayed to the public at any particular time;

"museum" means a building, or part of a building, or area designated under section 3 as a museum.

Governor may
designate
museums.

3. The Governor may by notice in the *Gazette* designate any building, or part of a building, or area as a museum.

Management
vested in
Authority.

4. The management and control of every museum shall vest in the Authority.

By-laws and
regulations.

5. (1) The Urban Council may make by-laws to provide for all or any of the matters specified in subsection (3) in respect of any museum situate in the urban areas.

(2) The Governor in Council may make regulations to provide for all or any of the matters specified in subsection (3) in respect of any museum situate in the New Territories except New Kowloon.

(3) By-laws made under subsection (1) or regulations made under subsection (2) may provide for—

- (a) the fixing of days and hours during which the public may be admitted to a museum, or any part thereof;
- (b) the closing or partial closing of a museum;
- (c) the regulation of admission of any person, animal or thing to a museum, or any part thereof;
- (d) the regulation of the copying, photographing or reproduction of exhibits;
- (e) the regulation of the use of any exhibit or facility in a museum;
- (f) the regulation of the conduct of persons in a museum;
- (g) the protection of a museum and the exhibits, fittings and furniture therein, and any other contents thereof, from damage, destruction or loss;
- (h) the circumstances in which the Authority may refuse any person the use of any facility in a museum;
- (i) the circumstances under which any person may be directed to leave a museum, or any part thereof;
- (j) the terms and conditions under which any article may be brought into or used within a museum;
- (k) the control of the movement and parking of vehicles within a museum;
- (l) the prevention of obstruction of the staff of a museum in the performance of their duties;

(m) appeal against any decision, direction or requirement made or given by a public officer in accordance with by-laws or regulations made under this section;

(n) the general regulation and management of a museum.

(4) All by-laws made by the Urban Council under this section shall be submitted to the Governor and shall be subject to the approval of the Legislative Council.

6. (1) The Authority may fix the fees to be paid by the public for—

Powers of
Authority to
fix fees.

- (a) admission to any part of a museum;
- (b) admission to any special exhibition or function organized by the Authority in museum;
- (c) the use of any facilities provided in a museum.

(2) The Authority may, in any particular case, reduce or waive any fees fixed under this section.

(3) All fees fixed by the Authority under this section shall be subject to the approval of the Colonial Secretary.

7. All moneys received by the Authority from the collection of fees under this Ordinance or otherwise derived from the management of, or the provision of facilities in, a museum shall be paid into the general revenue of the Colony.

Moneys to
be paid to
general
revenue.

8. Any part of a museum to which from time to time the public has access, whether on payment or otherwise, shall, during such time, be deemed to be a public place for the purposes of the Summary Offences Ordinance.

Certain parts
of a museum
to be public
places.
(Cap. 228.)

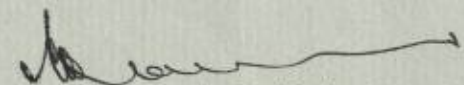
9. Any sum of money which is payable under this Ordinance shall be recoverable as a debt due to the Government.

Sums recover-
able as debts
due to
Government.

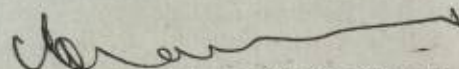
10. Without prejudice to any other law relating to the prosecution of offences, a prosecution for any offence against this Ordinance may be brought in the name of the Authority.

Prosecutions
may be in the
name of the
Authority.

Passed by the Hong Kong Legislative Council this 12th day of May, 1971.


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.

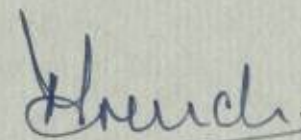

Clerk to the Legislative Council.

HONG KONG

No. 23 OF 1971.



I assent.


Governor.

13th May, 1971.

An Ordinance to amend the Buildings Ordinance.

[]

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

1. This Ordinance may be cited as the Buildings (Amendment) Ordinance 1971 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

2. Section 2 of the principal Ordinance is amended in subsection (1) 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. 123.)

“registered ventilation contractor” means any person whose name is for the time being on the register of ventilation contractors maintained under section 8;

“ventilating system” means a mechanical system for introducing or exhausting air;”.

Amendment of
section 8.

3. Section 8 of the principal Ordinance is amended—

- (a) in subsection (1)—
 - (i) by deleting “and” at the end of paragraph (b);
 - (ii) by deleting the full stop at the end of paragraph (c) and substituting the following—
“; and”; and
 - (iii) by inserting, after paragraph (c), the following—
“(d) a register (hereinafter referred to as the register of ventilation contractors) of all persons who are qualified to carry out inspections of ventilating systems and the machinery and equipment connected therewith.”;
- (b) in paragraph (b) of subsection (3)—
 - (i) by inserting, after “escalator contractors”, the following—
“or the register of ventilation contractors”;
 - (ii) by inserting, after “escalator works”, the following—
“or the inspection of ventilating systems”;
- (c) in paragraph (b) of subsection (4) by inserting, after “escalator contractors”, the following—
“or the register of ventilation contractors”; and
- (d) in subsection (6)—
 - (i) by deleting “or registered escalator contractor” and substituting the following—
“, registered escalator contractor or registered ventilation contractor”;
 - (ii) by inserting, after “escalator works”, the following—
“, or the inspection of ventilating systems”.

Amendment of
section 11.

4. Section 11 of the principal Ordinance is amended in subsection (3) by inserting, after “registered escalator contractor”, the following—
“or a registered ventilation contractor”.

Amendment of
section 13.

5. Section 13 of the principal Ordinance is amended—

- (a) by deleting subsection (1) and substituting the following—
“(1) Where it appears to the Building Authority that a registered contractor, a registered lift con-

tractor, a registered escalator contractor or a registered ventilation contractor has been convicted by any court of such an offence, or has in the carrying out of any—

- (a) building works or street works;
- (b) lift works;
- (c) escalator works; or
- (d) inspection of a ventilating system,

respectively, been guilty of such negligence or misconduct, as—

- (i) renders such contractor unfit to be on the register;
 - (ii) makes the further inclusion of the contractor in the register prejudicial to the due administration of this Ordinance; or
 - (iii) renders the contractor deserving of censure,
- the Building Authority may bring the matter to the notice of a disciplinary board appointed under section 11.”;

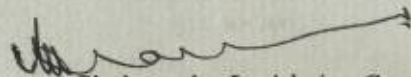
- (b) in paragraph (a) of subsection (2), by inserting, after “escalator contractors”, the following—
“or the register of ventilation contractors”;
- (c) in subsection (3), by deleting “or escalator contractor” and substituting the following—
“, escalator contractor or ventilation contractor”;
- (d) in paragraph (a) of subsection (4), by deleting “or registered escalator contractor” and substituting the following—
“, registered escalator contractor or registered ventilation contractor”.

6. Section 38 of the principal Ordinance is amended in paragraph (a) of subsection (1)—

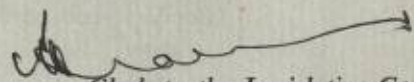
Amendment of
section 38.

- (a) by deleting the semicolon at the end of sub-paragraph (iv) and substituting a comma;
- (b) by inserting, after sub-paragraph (iv), the following—
“(v) registered ventilation contractors”.

Passed by the Hong Kong Legislative Council this 12th day of May, 1971.


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.

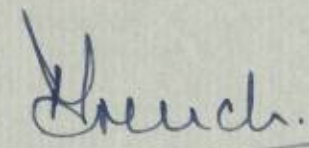

Clerk to the Legislative Council.

HONG KONG

No. 24 OF 1971.



I assent.


Governor.

13th May, 1971.

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

[]

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

1. This Ordinance may be cited as the Public Health and Urban Services (Amendment) (No. 2) Ordinance 1971 and shall come into operation on the day appointed for the commencement of the Buildings (Amendment) Ordinance 1971.

Short title and commencement.

2. Section 2 of the principal Ordinance is amended by inserting, after the definition of "public swimming pool", the following—

Amendment of section 2.
(Cap. 132.)

"registered ventilation contractor" means any person whose name is for the time being on the register of ventilation contractors maintained under section 8 of the Buildings Ordinance;"

(Cap. 123.)

Amendment of
section 97.

3. Section 97 of the principal Ordinance is amended—
- (a) in subsection (1) by deleting "person authorized by the Authority for the purpose" and substituting the following—
"registered ventilation contractor";
 - (b) in subsection (2) by deleting "Authority" and substituting the following—
"Director of Fire Services".

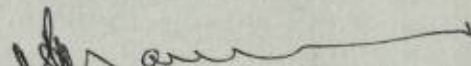
Amendment of
section 98.

4. Section 98 of the principal Ordinance is amended in subsection (1)—
- (a) in paragraph (d) by deleting "Authority" and substituting the following—
"Director of Fire Services";
 - (b) in paragraph (e) by deleting "Authority" and substituting the following—
"Director of Fire Services";
 - (c) in paragraph (f) by inserting, after "Authority", the following—
"or the Director of Fire Services".

Amendment of
Third Schedule.

5. The Third Schedule to the principal Ordinance is amended—
- (a) in the first, second and third columns by deleting the following—
"97(1) and (2) Urban Council Director of Urban Services";
 - (b) in the first column by deleting "98(1)(a), (d), (e) and (f)" and substituting the following—
"98(1)(a) and (f)".

Passed by the Hong Kong Legislative Council this 12th day of May, 1971.


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.

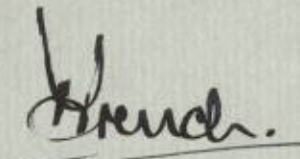

Clerk to the Legislative Council.

HONG KONG

No. 25 OF 1971.



I assent.


Governor.

26th May, 1971.

An Ordinance to amend the Exchange Fund Ordinance.

[27th May, 1971.]

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 Exchange Fund (Amendment) Ordinance 1971. Short title.

2. Section 3 of the principal Ordinance is amended—

- (a) by deleting subsection (2) and substituting the following—

Amendment of
section 3.
(Cap. 66.)

"(2) The Fund, or any part of it, may be held in Hong Kong currency or in any other currency or in gold or silver or may be invested by the Financial Secretary in securities approved by the Secretary of State; and the Financial Secretary may for the account of the Fund buy or sell such currency or

gold or silver or securities accordingly. Any such purchases or sales of currency shall be for immediate delivery.”;

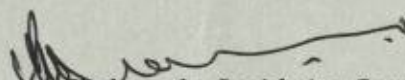
- (b) by inserting, after subsection (2), the following new subsections—

“(3) Subject to subsection (4), the Financial Secretary may borrow for the account of the Fund either in Hong Kong or elsewhere on the security of any asset held by the Fund or on the general revenue of the Colony.

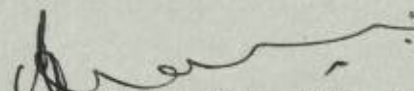
(4) The aggregate amount of borrowing under subsection (3), other than on certificates of indebtedness issued under section 4, outstanding at any one time shall, subject to subsection (5), not exceed five thousand million dollars, or, if held in foreign exchange, the equivalent at the current rate of exchange.

(5) The Legislative Council may from time to time, by resolution proposed by the Governor with the approval of the Secretary of State, determine some other amount to be the amount which the aggregate amount of such borrowings outstanding at any one time shall not exceed.”.

Passed by the Hong Kong Legislative Council this 26th day of May, 1971.


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.

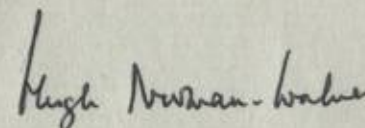

Clerk to the Legislative Council.

HONG KONG

NO. 26 OF 1971.



I assent.



Acting Governor.

10th June, 1971.

An Ordinance to consolidate and amend the law relating to probate and letters of administration and to the administration of the estates of deceased persons.

[7th October, 1971.]

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 Probate and Administration Ordinance 1971 and shall come into operation on the 7th October 1971.

Short title and commencement.

2. In this Ordinance, unless the context otherwise requires—
“administration” includes any letters of administration of the estate of a deceased person, whether with or without a will annexed, and whether granted for general, special or limited purposes;

Interpretation.

1925, c. 49,
s. 175(1).

“administrator” means a person to whom administration is granted;

1925, c. 23, s. 55.

“court” means the Supreme Court;

“estate” or “property” of a deceased person means the movable and immovable property passing on the death of such person;

“estate duty” means estate duty under the Estate Duty Ordinance;

(Cap. 111.)

"executor" means a person to whom the execution of the last will of a deceased person is, by the testator's appointment, confided;

1925, c. 49, s. 175. "grant" means a grant of probate or of administration;

1925, c. 23, s. 55. "intestate" includes a person who leaves a will but dies intestate as to some beneficial interest in his estate;

1925, c. 49, s. 175(1). "non-contentious or common form probate business" means the business of obtaining probate and administration where there is no contention as to the right thereto, including the passing of probate and administration through the court in a contentious case where the contest has been terminated, and all business of a non-contentious nature in matters of testacy and intestacy not being proceedings in any action, and also the business of lodging caveats against the grant of probate or administration;

1925, c. 23, s. 55. "personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person;

"probate" means a grant under the seal of the court authorizing the executors therein named to administer the testator's estate;

"Registrar" means the Registrar of the court and any Deputy or Assistant Registrar thereof;

"Registry" means the Probate Registry of the court;

1925, c. 23, s. 55. "representation" means the probate of a will and administration, and the expression "taking out representation" refers to the obtaining of the probate of a will or of the grant of administration;

"trust corporation" means—

- (a) the Public Trustee in England;
- (b) a corporation appointed by the court in any particular case to be a trustee (if authorized by its constitution to act as trustee); and
- (c) any trust company registered under Part VIII of the Trustee Ordinance;

(Cap. 29.)

1925, c. 49, s. 175(1).

"will" includes any testamentary instrument of which probate may be granted.

PART I.

JURISDICTION AND POWERS OF THE COURT.

Jurisdiction of the court in probate and administration.

3. (1) The court shall have jurisdiction in all matters relating to probate and administration of deceaseds' estates, with power to grant probates of wills and letters of administration to the estates of deceased persons and to alter or revoke such grants.

(2) The court shall have jurisdiction to make a grant of probate or administration in respect of a deceased person notwithstanding that the deceased person left no estate.

1932, c. 55, s. 2.

(3) The court shall have jurisdiction to reseal grants of probate and letters of administration made by a court of probate in any part of the Commonwealth or by a British court having jurisdiction outside the Commonwealth in pursuance of an Order in Council (whether made under any Act of the Parliament of the United Kingdom or otherwise) in accordance with the provisions of Part IV of this Ordinance.

4. All probates, letters of administration, orders and other instruments, and copies thereof and all exemplifications and copies thereof, shall be sealed with the seal of the court; and any such document purporting to be so sealed shall be received in evidence in any proceedings without further proof thereof.

Sealing of documents.
1925, c. 49, s. 174(2).

5. (1) Subject to section 6, a grant of probate or administration may be made, amended or resealed by the Registrar in the name and under the seal of the court.

Registrar may exercise jurisdiction in certain cases.

(2) The Registrar may, in any case in which he has jurisdiction under this section, exercise all such powers as are ancillary thereto which the court or a judge may exercise in like circumstances.

(3) Nothing in this section shall—

- (a) limit or prevent the exercise by a judge of any jurisdiction conferred upon the Registrar by this section; or
- (b) confer upon the Registrar jurisdiction to revoke a grant.

(4) In this section and in section 6 "grant" means a grant, or the resealing of a grant, of probate or administration or any amendment thereof.

6. (1) No grant shall be made by the Registrar under section 5—

- (a) in any case in which there is contention, until the contention has been disposed of;
- (b) if it appears to the Registrar that the grant ought not to be made without the direction of a judge; or
- (c) if the person applying for the grant or to whom the grant has been made is the Official Administrator acting under Part II.

Restrictions upon exercise of jurisdiction by Registrar.

(2) The Registrar, where he exercises jurisdiction under section 5—

(a) shall refer the matter to a judge if it appears to the Registrar—

(i) to be doubtful whether or not a grant should be made;

(ii) that a grant ought not to be made without the direction of a judge; or

(iii) that a question of special difficulty arises in relation to a grant; and

(b) may refer to a judge any matter which appears to him to be proper for the decision of a judge.

(3) If a matter is referred to a judge under subsection (2) the judge may either dispose of it himself or refer it back to the Registrar with such directions as he thinks fit.

7. (1) The court may, on motion or petition or otherwise, in a summary way, whether any proceedings are or are not pending in the court with respect to any probate or administration, order any person to produce and bring into the Registry, or otherwise as the court may direct, any paper or writing being or purporting to be testamentary which may be shown to be in the possession or under the control of such person.

(2) If it is not shown that any such paper or writing is in the possession or under the control of such person, but it appears that there are reasonable grounds for believing that he has knowledge of any such paper or writing, the court may direct such person to attend for the purpose of being examined in open court or upon interrogatories respecting the same, and such person shall be bound to answer such questions or interrogatories, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like process of contempt in case of default in not attending or in not answering such questions or interrogatories, or not bringing in such paper or writing, as he would have been subject to in case he had been a party to an action in the court and had made such default.

(3) The Registrar may, whether or not any proceedings are pending in the court, issue a subpoena requiring any person to produce and bring into the Registry any paper or writing being or purporting to be testamentary, which may be shown to be in the possession, within the power, or under the control of such person; and such person, upon being duly served with the said subpoena, shall be bound to produce and bring in such paper or writing, and shall be subject to the like process of contempt in case

Power of ordering production of testamentary writings.

1857, c. 77, s. 26.

1858, c. 95, s. 23.

of default as if he had been a party to proceedings in the court, and had been ordered by a judge to produce and bring in such paper or writing.

8. The court shall have power to summon any person named as executor in a will to prove or renounce probate of the will, and to do such other things concerning the will as the High Court in England may do with regard to such matters.

Summons of executor to prove or renounce.
1925, c. 49, s. 159.

PART II.

THE OFFICIAL ADMINISTRATOR.

9. (1) The Registrar shall be *ex officio* Official Administrator under this Ordinance.

Registrar to be Official Administrator.

(2) In all cases the Official Administrator shall be subject to the immediate control and act under the direction of the court.

(3) The Official Administrator may employ a solicitor or other agent to do any business which may be sanctioned by the court.

(4) An application by the Official Administrator to the court may be made personally, and without notice or other formality; but the court may in any case order that an application be renewed in a formal manner, and that such notice thereof be given to any person likely to be affected thereby as the court may direct.

(5) For the purpose of subsection (1) the term "Registrar" does not include Deputy or Assistant Registrar, but the powers and duties of the Official Administrator may be exercised by a Deputy or Assistant Registrar.

10. Where any person dies, whether in Hong Kong or elsewhere, leaving estate in Hong Kong in respect of which he dies intestate, such estate shall vest in the Official Administrator who may, if he thinks fit, receive and take possession of the same until administration is granted in respect thereof.

Vesting of estate of deceased person in Official Administrator.

11. All property vested in the Official Administrator for the time being by virtue of any grant of administration made to him or any predecessor in office or otherwise shall, on his vacating or otherwise ceasing to hold the office, be deemed to be vested in his successor without any further transfer or conveyance.

Re-vesting of property on vacation of office.

12. (1) The Official Administrator may, whenever he thinks it expedient to do so and upon such evidence of death as he deems sufficient, take possession of the movable property of a deceased person which may be found within Hong Kong, and provide for the safe custody thereof until probate of the will of such deceased

Power to take possession of property until grant;

person or administration of his estate has been granted by the court:

Provided that the Official Administrator may, in lieu thereof if he thinks fit, issue forthwith a commission of appraisement of all or any of such property.

(2) In the case of the death of any person who is the national of a State to which section 3 of the Consular Conventions Ordinance applies or of the United States of America, the Official Administrator shall, as soon as conveniently may be after the fact of such death has come to his knowledge, inform the nearest consular officer of the State of the same.

(3) A consular officer of the United States of America shall have the right to appear, either personally or by delegate, in any proceedings on behalf of the absent heirs or creditors, until they are otherwise represented, of a citizen of the United States of America who dies in Hong Kong.

13. Any person who, without lawful authority or reasonable excuse—

- (a) removes or attempts to remove out of Hong Kong any such property as is mentioned in section 12; or
- (b) destroys, conceals, or refuses to yield up any such property on demand to the Official Administrator,

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.

14. The Official Administrator shall have a lien upon all property mentioned in section 12 for the reasonable expenses incurred by him in carrying out the provisions of that section, and such expenses shall also constitute the first charge on the estate of the deceased person, before the payment of debts having priority.

15. The Official Administrator may, where the whole of an estate does not, in his opinion, exceed twenty thousand dollars in value, without any legal formality, get in and administer the same in a summary manner, for the benefit of the persons he may deem interested therein, without a grant or other legal formality.

16. (1) On application made by the Official Administrator, the court shall, unless it sees good reason to the contrary, grant to him administration in any of the following cases—

- (a) where a person dying intestate, whether in Hong Kong or elsewhere, has left property situate in Hong Kong and no next of kin of such person are resident in Hong Kong;
- (b) where a person dying intestate, whether in Hong Kong or elsewhere, has left property situate in Hong Kong and

procedure relating to deaths of nationals of certain foreign States.
(Cap. 267.)

Unlawfully removing property of deceased from Hong Kong.

Lien on property of deceased person for expenses incurred under section 12.

Summary administration of estates not exceeding \$20,000.

Cases in which Official Administrator is entitled to administration.

the next of kin of such person who is resident in Hong Kong files in the Registry a request for or consent to the making of such grant, in writing signed by him;

- (c) where a person dying intestate, whether in Hong Kong or elsewhere, has left property situate in Hong Kong and no person has, within twelve months after the death of such person, obtained administration of his estate; and
- (d) where a person dying intestate, whether in Hong Kong or elsewhere, has left property situate in Hong Kong and the next of kin is resident in Hong Kong and is an infant.

(2) The provisions of this section shall apply, with the necessary modifications, in the case of a person who dies testate, whether in Hong Kong or elsewhere, but without appointing an executor, or whose executor, if appointed, refuses, neglects, or is unable to act.

17. Nothing in this Ordinance shall be construed to enable or require the Official Administrator to obtain administration of the estate of any person dying in any of Her Majesty's forces or of any deceased seaman or apprentice for the administration of whose estate provision is made by any Act.

18. Any grant made to the Official Administrator under this Ordinance may be limited in such manner as the court may direct.

19. A commission at the rate of five *per cent* on the first one thousand dollars, two and one half *per cent* on the next four thousand dollars and one *per cent* on the balance, or such lower rate or rates as the court may approve on the application of the Official Administrator in the case of any particular estate, shall be chargeable on the gross value of all property of whatsoever nature received or taken possession of, or realized or otherwise dealt with, by the Official Administrator under this Ordinance.

20. (1) The Official Administrator shall keep a general register of all estates under his administration, a cash book, and a ledger or account current book, and such other books as he may find necessary or may be prescribed.

(2) He shall enter in books, to be kept by him for that purpose, separate and distinct accounts of each estate and of all property of every description which may come to his hands, and also of all payments made by him on account of each estate, specifying the dates of such receipts and payments respectively.

(3) Each book shall be kept in the Registry and shall be open during office hours for the inspection of any person who has occasion to inspect the same, on payment of the prescribed fee.

Saving as to estates of certain persons.

Power of limiting grant.

Commission on moneys received.

Keeping of books of account.

Copies of documents and accounts.

21. (1) The Official Administrator shall give to any person who applies for the same copies of all documents and accounts in his possession relating to any estate under his administration or to any property which he receives or of which he takes possession under this Ordinance, on payment of the prescribed fees.

(2) If any such copy is refused, the applicant may petition the court in a summary way for an order on the Official Administrator to give such copy; and the costs of any such petition and order shall be paid by the Official Administrator, if the court so directs.

Redress against Official Administrator.

22. No action shall be brought against the Official Administrator for anything done *bona fide* by him in the execution or the intended execution of any power vested in him by this Ordinance or for anything done by him in the exercise of his office as administrator under any grant of letters of administration made to him under this Ordinance, but any person who feels aggrieved thereby may apply for redress to the court by summary petition, verified upon oath, and the court may thereupon take such evidence and may make such order in relation to the matter as it thinks fit.

Effect of grant to Official Administrator.

23. A grant of administration to the Official Administrator, whether the name of the officer holding the appointment at the time of the grant is or is not mentioned therein, shall be deemed to have been made to him and his successors in office.

PART III.

GRANTING AND REVOCATION OF PROBATES, ETC.

Application for grants.
[cf. 1925, c. 49, s. 150.]

24. (1) An application for the grant or revocation of probate or letters of administration shall be made through the Registry.

(2) No application under subsection (1) shall be submitted in the form of a petition.

Number of personal representatives.
1925, c. 49, s. 160.

25. (1) Probate or administration shall not be granted to more than four persons in respect of the same property, and administration shall, if there is a minority or if a life interest arises under the will or intestacy, be granted either to a trust corporation, with or without an individual, or to not less than two individuals:

Provided that the court in granting administration may act on such *prima facie* evidence, furnished by the applicant or any other person, as to whether or not there is a minority or life interest, in accordance with probate rules and orders.

(2) If there is only one personal representative (not being a trust corporation) then, during the minority of a beneficiary or the subsistence of a life interest and until the estate is fully administered, the court may, on the application of any person interested or of the guardian, committee or receiver of any such person, appoint one or more personal representatives in addition to the original personal representative in accordance with probate rules and orders.

(3) This section applies to grants of representation made after the commencement of this Ordinance whether the testator or intestate died before or after such commencement.

26. (1) The court may—

- (a) where a trust corporation is named in a will as executor, whether alone or jointly with another person, grant probate to the corporation either solely or jointly with another person, as the case may require; and
- (b) grant administration to a trust corporation either solely or jointly with another person,

and the corporation may act accordingly as executor or administrator, as the case may be.

(2) Probate or administration shall not be granted to a syndic or nominee on behalf of a trust corporation.

(3) Any officer authorized for the purpose by a trust corporation or the directors or governing body thereof may, on behalf of the corporation, swear affidavits, give security and do any other act or thing which the court may require with a view to the grant to the corporation of probate or administration, and the acts of an officer so authorized shall be binding on the corporation.

(4) This section shall apply whether the testator or intestate died before or after the commencement of this Ordinance.

27. (1) Where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the others or other to prove, all the powers which are by law conferred on the personal representative may be exercised by the proving executor or executors for the time being and shall be as effectual as if all the persons named as executors had concurred therein.

(2) This section applies whether the testator died before or after the commencement of this Ordinance.

Grant of representation to a trust corporation.
1925, c. 49, s. 161.

Right of proving executors to exercise powers.
1925, c. 23, s. 8.

Cesser of right
of executor to
prove.
1925, c. 23, s. 5.

28. Where a person appointed executor by a will—

- (a) survives the testator but dies without having taken out probate of the will; or
- (b) is cited to take out probate of the will and does not appear to the citation; or
- (c) renounces probate of the will,

his rights in respect of the executorship shall wholly cease, and the representation to the testator, and the administration of his estate shall go, devolve, and be committed in like manner as if such person had not been appointed executor.

Express
renunciation
of right to
probate.

29. (1) Any person who is or may become entitled to representation may expressly renounce his right to such representation.

(2) Such renunciation may be made orally on the hearing of any petition or probate action by the person renouncing or by counsel on his behalf, or in writing signed by the person so renouncing and attested by a solicitor or by any person before whom an affidavit may be sworn.

Constructive
renunciation.

30. (1) Any person having or claiming any interest in the estate of a deceased person may cause to be issued a citation directed to the executors appointed by the deceased's will calling upon them to accept or renounce their executorship.

(2) Any person so cited may enter an appearance to the citation, but if he makes a default in appearance thereto, he shall be deemed to have renounced his executorship; and if, having appeared, he does not proceed to apply for probate, or having applied has failed to prosecute his application with reasonable diligence, the person so citing may apply for an order that the person cited, unless he applies for and obtains probate within a time limited by the order, shall be deemed to have renounced his right thereto, and an order may be made accordingly.

Retraction of
renunciation.

31. A renunciation of probate or administration may be retracted at any time on the order of the court:

Provided that leave may be given to an executor to retract a renunciation of probate after a grant has been made to some other person entitled in a lower degree only if the court is satisfied that such retraction is for the benefit of the estate or persons interested therein.

Withdrawal of
renunciation.
1925, c. 23, s. 6.

32. (1) Where an executor who has renounced probate has been permitted, whether before or after the commencement of this Ordinance, to withdraw the renunciation and prove the will,

the probate shall take effect and be deemed always to have taken effect without prejudice to the previous acts and dealings of and notices to any other personal representative who has previously proved the will or taken out letters of administration, and a memorandum of the subsequent probate shall be endorsed on the original probate or letters of administration.

(2) This section applies whether the testator died before or after the commencement of this Ordinance.

33. (1) Where it appears to the court that a probate or administration either ought not to have been granted or contains an error, the court may call in the probate or administration and if satisfied that it would be revoked at the instance of a party interested, may revoke it.

Revocation
of grants and
removal of
executors.
1956, c. 46, s. 17.

(2) A probate or administration may be revoked under subsection (1) without being called in if it cannot be called in.

(3) The court may, if satisfied that the due and proper administration of the estate and the interests of the persons beneficially entitled thereto so require, suspend or remove an executor or administrator (other than the Official Administrator) and provide for the succession of another person in place of such executor or administrator and for the vesting in that other person of any property belonging to the estate.

34. (1) An executor of a sole or last surviving executor of a testator is the executor of that testator.

(2) Subsection (1) shall not apply to an executor who does not prove the will of his testator, and, in the case of an executor who on his death leaves surviving him some other executor of his testator who afterwards proves the will of that testator it shall cease to apply on such probate being granted.

Executor of
executor rep-
resents original
testator.
1925, c. 23, s. 7.

(3) So long as the chain of such representation is unbroken, the last executor in the chain is the executor of every preceding testator.

(4) The chain of such representation is broken by—

- (a) an intestacy; or
- (b) the failure of a testator to appoint an executor; or
- (c) the failure to obtain probate of a will,

but is not broken by a temporary grant of administration if probate is subsequently granted.

(5) Every person in the chain of representation to a testator—

- (a) has the same rights in respect of the estate of that testator as the original executor would have had if living; and
- (b) is, to the extent to which the estate of that testator has come to his hands, answerable as if he were an original executor.

On failure of executors.

35. (1) Where—

- (a) no executor is appointed by a will;
- (b) all the executors are legally incapable of acting as such, or have renounced;
- (c) no executor survives the testator;
- (d) all the executors die before obtaining probate or before having administered all the estate of the deceased;
- (e) the executors have failed to appear to a citation to prove or renounce probate; or
- (f) the executors do not apply for probate,

letters of administration with the will annexed may be granted to such person or persons as the court thinks fit.

1925, c. 49, s. 166.

(2) Where letters of administration with the will annexed are granted, the will of the deceased shall be performed and exercised in like manner as if probate thereof had been granted to an executor.

Appointment of administrator of intestate's estate.
1857, c. 77, s. 73.

36. Where a person dies wholly intestate as to his estate or leaving a will affecting estate but without having appointed an executor thereof willing and competent to take probate, or where the executor is, at the time of the death of such person, resident out of Hong Kong, or where it appears to the court to be necessary or convenient to appoint some person to be the administrator of the estate of the deceased person or of any part of such estate, other than the person who, if this Ordinance had not been passed, would by law have been entitled to a grant of administration of such estate, the court may, subject to section 25, appoint such person as the court thinks fit to be such administrator, on his giving such security, if any, as may be required under this Part or as the court may direct, and every such administration may be limited in such manner as the court thinks fit.

37. (1) If at the expiration of twelve months from the death of a person any personal representative of the deceased to whom a grant has been made is residing out of Hong Kong the court may, on the application of any creditor or person interested in the estate of the deceased, grant to him special administration of the estate of such deceased person.

Grant of special administration.
[cf. 1925, c. 49, s. 164.]

(2) The court may, for the purpose of any legal proceedings to which the administrator under the special administration is a party, order the transfer into the name of the Registrar of any money or securities belonging to the estate of the deceased person and all persons shall obey any such order.

(3) If the personal representative, capable of acting as such, returns to and resides within Hong Kong while any legal proceedings to which a special administrator is a party are pending, that personal representative shall be made a party to the legal proceedings.

38. The costs of and incidental to the grant of special administration and the legal proceedings to which a special administrator is a party shall be paid by such person or out of such fund as the court in which the proceedings are pending may direct.

Payment of costs relating to special administration.
1925, c. 49, s. 164.

39. (1) Where an infant is sole executor of a will, administration with the will annexed shall be granted to his guardian, or to such other person as the court thinks fit, until the infant attains the age of twenty-one years, and on his attaining that age, and not before, probate of the will may be granted to him.

Case of infant being sole executor.
1925, c. 49, s. 165.

(2) Where a testator by his will appoints an infant to be an executor, the appointment shall not operate to transfer any interest in the property of the deceased to the infant or to constitute him a personal representative for any purpose unless and until probate is granted to him under this section.

40. (1) Where any legal proceedings touching the validity of the will of a deceased person, or for obtaining, recalling, or revoking any grant are pending the court may, subject to section 25, appoint an administrator of the estate of the deceased.

Appointment of administrator pendente lite.
1925, c. 49, s. 163.

(2) An administrator so appointed shall have all the rights and powers of a general administrator, other than the right of distributing the residue of the estate.

(3) Every such administrator shall be subject to the immediate control of the court and act under its direction.

Administration
pending appeal.

41. All the provisions of section 40 relating to grants of administration pending action shall be deemed to apply to the case of an appeal to Her Majesty in Council from any decision of the court.

Prohibition of
executor acting
pending ad-
ministration.
1925, c. 23, s. 15.

42. Where administration has been granted in respect of any estate of a deceased person, no person shall have power to bring any action, or otherwise to act as executor of the deceased person in respect of the estate comprised in or affected by the grant, until the grant has been recalled or revoked.

Rights and
liabilities of
administrator.
1925, c. 23, s. 21.

43. Every person to whom administration of the estate of a deceased person is granted shall, subject to the limitations contained in the grant, have the same rights and liabilities and be accountable in like manner as if he were the executor of the deceased.

Legal pro-
ceedings after
revocation of
temporary
administration.
1925, c. 23, s. 17.

44. If, while any legal proceeding is pending in any court by or against an administrator to whom a temporary administration has been granted, that administration is revoked, that court may order that the proceeding be continued by or against the new personal representative in like manner as if the same had been originally commenced by or against him, but subject to such conditions and variations, if any, as that court directs.

Caveats.
1925, c. 49, s. 154.

45. A caveat against a grant of probate or administration may be entered in the Registry.

Power to
require
administrators
to produce
sureties.
1925, c. 49, s. 167(1).

46. As a condition of granting administration to any person the court may, subject to the provisions of section 47 and subject to and in accordance with probate rules and orders, require one or more sureties to guarantee that they will make good, within any limit imposed by the court on the total liability of the surety or sureties, any loss which any person interested in the administration of the estate of the deceased may suffer in consequence of a breach by the administrator of his duties as such.

Effect of
guarantee.
1925, c. 49, s. 167(2).

47. (1) A guarantee given in pursuance of any requirement under section 46 shall ensure for the benefit of every person interested in the administration of the estate of the deceased as if contained in a contract under seal made by the surety or sureties with every such person and, where there are two or more sureties, as if they had bound themselves jointly and severally.

(2) No action shall be brought on any such guarantee without the leave of the court.

(3) No sureties shall be required where administration is granted to the Official Administrator or to the consular officer of

a State to which section 3 of the Consular Conventions Ordinance applies or in such other cases as may be prescribed by probate rules and orders.

(Cap. 267.)

PART IV.

SEALING OF GRANTS BY BRITISH COURTS OUTSIDE HONG KONG.

48. In this Part—

Interpretation.

"British court in a foreign country" means any British court having jurisdiction out of the Commonwealth in pursuance of an Order in Council;

"court of probate" means any court or authority, by whatever name designated, having jurisdiction in matters of probate;

"probate" and "letters of administration" include confirmation in Scotland, and any instrument having in any other part of the Commonwealth the same effect which under English law is given to probate and letters of administration respectively;

"estate duty" includes any duty payable on the value of the estate and effects for which probate or letters of administration is or are granted.

49. Where a court of probate in any part of the Commonwealth, or a British court in a foreign country, has granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, on being produced to, and a copy thereof deposited with, the court, be sealed with the seal of the court, and thereupon shall be of the like force and effect, and have the same operation in Hong Kong as if granted by that court.

Sealing of
grants by
British courts
outside Hong
Kong.

50. The court shall, before sealing a probate or letters of administration under this Part, be satisfied that estate duty has been paid in respect of so much, if any, of the estate as is liable to estate duty in Hong Kong and may require such evidence if any as it thinks fit as to the domicile of the deceased person.

Conditions to
be fulfilled
before sealing.

51. As a condition of sealing letters of administration under this Part, the court may exercise the powers conferred on the court by sections 46 and 47 in the same manner as if it were granting an administration under this Ordinance.

Application of
sections 46
and 47.

52. For the purposes of this Part, a duplicate of any probate or letters of administration sealed with the seal of the court granting the same, or a copy thereof certified as correct by or under the authority of the court granting the same, shall have the same effect as the original.

Duplicate or
copy admissible.

PART V.

POWERS, RIGHTS, DUTIES AND OBLIGATIONS OF PERSONAL REPRESENTATIVES.

Rights of action of personal representative. [cf. 1934, c. 41, s. 1.]

Power of personal representative to dispose of property. [cf. 1925, c. 23, s. 2(2).]

53. Subject to the provisions of any other Ordinance, a personal representative has the same power to sue in respect of all causes of action vested in and surviving the deceased.

54. (1) No conveyance of immovable property of a deceased person dying after the commencement of this Ordinance shall be made without the concurrence of all the personal representatives of the deceased or an order of the court.

(2) Notwithstanding subsection (1), where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the other or others to prove, any conveyance of the immovable property may be made by the proving executor or executors for the time being, without an order of the court, and shall be as effectual as if all the persons named as executors had concurred therein.

(3) Save where subsection (1) or (2) applies, where there are several personal representatives the powers of all may, in the absence of any direction to the contrary in the will or grant of administration, be exercised by any one of them.

(4) A personal representative may charge, mortgage or otherwise dispose of any property vested in him, as he may think proper, subject to any restriction which may be imposed in this behalf by the will of the deceased and to the provisions of this section:

Provided that an executor may dispose of any property notwithstanding any restriction so imposed, if he does so in accordance with an order of the court.

(5) The disposal of property by a personal representative in contravention of the provisions of this section shall be voidable at the instance of any other person interested in the property.

55. If a personal representative purchases, either directly or indirectly, any of the property of the deceased, the sale shall be voidable at the instance of any other person interested in the property sold.

56. The personal representative of a deceased person shall, when lawfully required so to do, exhibit, by affidavit filed in the court, a true and perfect inventory and account of the movable and immovable property of the deceased, and the court shall have power as heretofore to require personal representatives to bring in inventories.

Purchase by personal representative of deceased's property.

Duty of personal representative as to inventory. 1925, c. 23, s. 25.

57. (1) Every person making or permitting to be made any payment or disposition in good faith under a representation shall be indemnified and protected in so doing, notwithstanding any defect or circumstance whatsoever affecting the validity of the representation.

(2) Where a representation is revoked, all payments and dispositions made in good faith to a personal representative under the representation before the revocation thereof are a valid discharge to the person making the same; and the personal representative who acted under the revoked representation may retain and reimburse himself in respect of any payments or dispositions made by him which the person to whom representation is afterwards granted might have properly made.

(3) All transfers and conveyances of any interest in property made to a purchaser either before or after the commencement of this Ordinance by a person to whom probate or letters of administration have been granted are valid, notwithstanding any subsequent revocation or variation, either before or after the commencement of this Ordinance, of the probate or administration.

(4) This section takes effect without prejudice to any order of the court made before the commencement of this Ordinance and applies whether the testator or intestate died before or after such commencement.

58. If any person, to the defrauding of creditors or without full valuable consideration, obtains, receives or holds any movable or immovable property of a deceased person or effects the release of any debt or liability due to the estate of the deceased, he shall be charged as executor in his own wrong to the extent of the property received or coming into his hands, or the debt or liability released, after deducting—

- (a) any debt for valuable consideration and without fraud due to him from the deceased person at the time of his death; and
- (b) any payment made by him which might properly be made by a personal representative.

59. Where a person as personal representative of a deceased person (including an executor in his own wrong) wastes or converts to his own use any part of the property of the deceased, and dies, his personal representative shall, to the extent of the available assets of the defaulter, be liable and chargeable in respect of such waste or conversion, in the same manner as the defaulter would have been if living.

Protection of persons acting on probate or administration. 1925, c. 23, s. 27(1).

1925, c. 23, s. 27(2).

1925, c. 23, s. 37(1).

1925, c. 23, s. 37(2).

Liability of a person fraudulently obtaining or retaining estate of deceased. [cf. 1925, c. 23, s. 28.]

Liability of estate of personal representative. [cf. 1925, c. 23, s. 29.]

Allowance of remuneration to executor, administrator or attorney.

60. (1) Subject to subsection (2), the court may allow to any executor or administrator, including an administrator appointed *pendente lite* under section 40 (or to a person acting under a power of attorney as attorney for an executor or administrator in the matter of the sealing of a probate or administration under Part IV or in the matter of the realization and administration of an estate under a probate or administration so sealed) such remuneration out of the estate of the deceased person as the court thinks fit.

- (2) (a) No allowance shall be made to any executor or administrator or attorney who neglects to pass his accounts at such time, or to dispose of any moneys, goods, chattels, or securities with which he is chargeable in such manner as may be required by probate rules and orders.
- (b) No such remuneration shall exceed five *per cent* on the first one thousand dollars, two and a half *per cent* on the next four thousand dollars and one *per cent* on the balance of the gross value of all property of whatsoever nature administered.

PART VI.

ADMINISTRATION OF ASSETS.

Property of deceased is asset for payment of debts.
[cf. 1925, c. 23, s. 32.]

61. (1) (a) The property of a deceased person, to the extent of his beneficial interest therein, and the property of which a deceased person in pursuance of any general power disposes by his will, are assets for payment of his debts and liabilities, and any disposition by will inconsistent with this Ordinance is void as against the creditors; and the court shall, if necessary, administer the property for the purpose of the payment of debts and liabilities.

- (b) This subsection takes effect without prejudice to the rights of incumbrancers.

(2) If any person to whom any such beneficial interest devolves or is given, or in whom any such interest vests, disposes thereof in good faith before an action is brought or process is sued out against him, he shall be personally liable for the value of the interest so disposed of by him, but that interest shall not be liable to be taken in execution in the action or under the process.

62. (1) On the death of a person intestate as to any property, such property shall be held by his personal representatives—

- (a) as to the immovable property upon trust, subject to section 54, to sell the same; and
- (b) as to the movable property upon trust to call in, sell and convert into money such part thereof as may not consist of money.

with power to postpone such sale and conversion for such a period as the personal representatives, without being liable to account, may think proper, and so that any reversionary interest be not sold until it falls into possession unless the personal representatives see special reason for sale.

(2) Out of the net money to arise from the sale and conversion of such movable and immovable property (after payment of costs), and out of the ready money of the deceased (so far as not disposed of by his will, if any), the personal representatives shall pay all such funeral, testamentary and administration expenses, debts and other liabilities as are properly payable thereout, and out of the residue of the said money the personal representatives shall set aside a fund sufficient to provide for any pecuniary legacies bequeathed by the will (if any) of the deceased.

(3) During the minority of any beneficiary or the subsistence of any life interest, and pending the distribution of the whole or any part of the estate of the deceased, the personal representatives may invest the residue of the said money, or so much thereof as may not have been distributed, in any investments for the time being authorized by any Ordinance for the investment of trust money, with power, at the discretion of the personal representatives, to change such investments for others of a like nature.

(4) The income (including net rents and profits of immovable property after payments of rates, taxes, rent, costs of insurances, repairs and other outgoings properly attributable to income) of so much of the movable and immovable property of the deceased as may not be disposed of by his will, if any, or may not be required for the administration purposes aforesaid, may, however such estate is invested, as from the death of the deceased, be treated and applied as income, and for that purpose any necessary apportionment may be made between tenant for life and remainderman.

(5) Nothing in this section affects the rights of any creditor of the deceased or the rights of the Government in respect of estate duty.

(6) Where the deceased leaves a will, this section has effect subject to the provisions contained in the will.

Duties of representatives.
[cf. 1925, c. 23, s. 33.]

Administration
of assets.
1925, c. 23, s. 34.
First Schedule.

63. (1) Where the estate of a deceased person is insolvent his estate shall be administered in accordance with the rules set out in Part I of the First Schedule.

(2) (a) The right of retainer of a personal representative and his right to prefer creditors may be exercised in respect of all assets of the deceased but the right of retainer shall only apply to debts owing to the personal representative in his own right whether solely or jointly with another person.

(b) Subject as aforesaid, nothing in this Ordinance affects the right of retainer of a personal representative or his right to prefer creditors.

(3) Where the estate of a deceased person is solvent his estate shall, subject to rules of court and the provisions hereinafter contained as to charges on property of the deceased, and to the provisions, if any, contained in his will, be applicable towards the discharge of the funeral, testamentary and administration expenses, debts and liabilities payable thereout in the order mentioned in Part II of the First Schedule.

First Schedule.

Charges to be
paid primarily
out of the
property
charged.
1925, c. 23, s. 35.

64. (1) Where a person dies possessed of, or entitled to, or, under a general power of appointment, by his will disposes of an interest in property which at the time of his death is charged with the payment of money, whether by way of legal mortgage, equitable charge or otherwise (including lien for unpaid purchase money), and the deceased has not by will, deed or other document signified a contrary or other intention, the interest so charged shall, as between the different persons claiming through the deceased, be primarily liable for the payment of the charge; and every part of the said interest, according to its value, shall bear a proportionate part of the charge on the whole thereof.

(2) Such contrary or other intention shall not be deemed to be signified—

(a) by a general direction for the payment of debts or of all the debts of the testator out of his movable property or of his residuary estate; or

(b) by a charge of debts upon any such estate,

unless such intention is further signified by words expressly or by necessary implication referring to all or some part of the charge.

(3) Nothing in this section affects the right of a person entitled to the charge to obtain payment or satisfaction thereof either out of the other assets of the deceased or otherwise.

65. (1) Subject to the provisions of section 54 every contract entered into by a personal representative in the due administration of an estate shall be binding on and be enforceable against and by any other personal representative for the time being of the deceased, and may be carried into effect or be varied or rescinded by any other such personal representative as if it had been entered into by himself.

(2) Nothing in this section shall affect the right of any person to require an assent, transfer or conveyance to be made.

(3) This section applies whether the testator or intestate died before or after the commencement of this Ordinance.

66. (1) A personal representative may assent to the vesting in any person who (whether by devise, bequest, devolution, appropriation or otherwise) may be entitled thereto, either beneficially or as a trustee or personal representative, of any immovable property to which the testator or intestate was entitled or over which he exercised a general power of appointment by his will and which devolved upon the personal representative.

Contracts by
personal
representative.

Assent or
conveyance
by personal
representative.
[cf. 1925, c. 23,
s. 36.]

(2) The assent shall operate to vest in that person the estate to which the assent relates, and unless a contrary intention appears, the assent shall relate back to the death of the deceased.

(3) An assent to the vesting of a legal estate shall be in writing, signed by the personal representative, and shall name the person in whose favour it is given, and shall operate to vest in that person the legal estate to which it relates; and an assent not in writing or not in favour of a named person shall not be effectual to pass the legal estate.

(4) A conveyance of a legal estate by a personal representative to a purchaser shall not be invalidated by reason only that the purchaser may have notice that all debts, liabilities, funeral and testamentary or administration expenses, duties, and legacies of the deceased have been discharged or provided for.

(5) An assent or conveyance given or made by a personal representative shall not, except in favour of a purchaser of a legal estate, prejudice the right of a personal representative or any other person to recover the estate to which the assent or conveyance relates, or to be indemnified out of such estate against any duties, debts or liability to which such estate would have been subject if there had not been any assent or conveyance.

(6) A personal representative may, as a condition of giving an assent or making a conveyance, require security for the discharge of any such duties, debt or liability, but shall not be entitled to

postpone the giving of an assent merely by reason of the subsistence of any such duties, debt or liability, if reasonable arrangements have been made for the discharging of the same, and an assent may be given subject to any legal estate or charge by way of legal mortgage.

(7) This section applies to assents and conveyances made after the commencement of this Ordinance, whether the testator or intestate died before or after such commencement.

67. (1) An assent, transfer or conveyance by a personal representative to a person other than a purchaser does not prejudice the rights of any person to follow the property to which the assent, transfer or conveyance relates, or any property representing the same, into the hands of the person in whom it is vested by the assent, transfer or conveyance, nor of any other person (not being a purchaser) who may have received the same or in whom it may be vested.

(2) Notwithstanding any such assent, transfer or conveyance the court may, on the application of any creditor or other person interested—

- (a) order a sale, exchange, mortgage, charge, lease, payment, transfer or other transaction to be carried out which the court considers requisite for the purpose of giving effect to the rights of the persons interested;
- (b) declare that the person, not being a purchaser, in whom the property is vested is a trustee for those purposes;
- (c) give directions respecting the preparation and execution of any conveyance or other instrument, or as to any other matter required for giving effect to the order;
- (d) make any vesting order or appoint a person to convey in accordance with provisions of the Trustee Ordinance.

(3) This section does not prejudice the rights of a purchaser or a person deriving title under him, but applies whether the testator or intestate died before or after the commencement of this Ordinance.

68. (1) The personal representative may appropriate any part of the movable or immovable property, including things in action, of the deceased in the actual condition or state of investment thereof at the time of appropriation in or towards satisfaction of any legacy bequeathed by the deceased, or of any other interest or share in his property, whether settled or not, as to the personal representative may seem just and reasonable, according

Right to follow property and powers of the court in relation thereto.
1925, c. 23, s. 38.

(Cap. 29.)

Powers of personal representative as to appropriation.
[cf. 1925, c. 23, s. 41.]

to the respective rights of the persons interested in the property of the deceased.

(2) Notwithstanding the provisions of subsection (1)—

- (a) an appropriation shall not be made under this section so as to affect prejudicially any specific devise or bequest;
- (b) an appropriation of property, whether or not being an investment authorized by law or by the will, if any, of the deceased for the investment of money subject to the trust, shall not (save as hereinafter mentioned) be made under this section except with the following consents—

(i) when made for the benefit of a person absolutely and beneficially entitled to possession, the consent of that person;

(ii) when made in respect of any settled legacy, share or interest, the consent of either the trustee thereof, if any (not being also the personal representative) or the person who may for the time being be entitled to the income,

and if the person whose consent is so required as aforesaid is a minor or a mentally disordered person, the consent shall be given on his behalf by his parents or parent, testamentary or other guardian, committee or receiver, or if, in the case of a minor, there is no such parent or guardian, by the court on the application of his next friend;

- (c) no consent (save of such trustee as aforesaid) shall be required on behalf of a person who may come into existence after the time of appropriation, or who cannot be found or ascertained at that time;
- (d) if no committee or receiver of a mentally disordered person has been appointed, then, if the appropriation is of an investment authorized by law or by the will, if any, of the deceased for the investment of money subject to the trust, no consent shall be required on behalf of the mentally disordered person;
- (e) if, independently of the personal representative, there is no trustee of a settled legacy, share or interest, and no person of full age and capacity entitled to the income thereof, no consent shall be required to an appropriation in respect of such legacy, share or interest so long as the appropriation is of an investment authorized as aforesaid.

(3) Any property duly appropriated under the powers conferred by this section shall thereafter be treated as an authorized investment, and may be retained or dealt with accordingly.

(4) For the purposes of such appropriation, the personal representative may ascertain and fix the value of the respective parts of the movable and immovable property and the liabilities of the deceased as he may think fit, and shall for that purpose employ a duly qualified valuer in any case where such employment may be necessary, and may make any transfer or conveyance (including an assent) which may be requisite for giving effect to the appropriation.

(5) An appropriation made pursuant to this section shall bind all persons interested in the property of the deceased whose consent is not hereby made requisite.

(6) The personal representative shall, in making the appropriation, have regard to the rights of any person who may thereafter come into existence, or who cannot be found or ascertained at the time of appropriation, and of any other person whose consent is not required by this section.

(7) This section does not prejudice any other power of appropriation conferred by law or by the will (if any) of the deceased, and takes effect with any extended powers conferred by the will (if any) of the deceased, and where an appropriation is made under this section in respect of a settled legacy, share or interest, the property appropriated shall remain subject to all trusts for sale and powers of leasing, disposition and management, or varying investments, which would have been applicable thereto or to the legacy, share or interest in respect of which the appropriation is made, if no such appropriation had been made.

(8) If after any immovable property has been appropriated in purported exercise of the powers conferred by this section, the person to whom it was transferred or conveyed disposes of it or any interest therein, then, in favour of a purchaser, the appropriation shall be deemed to have been made in accordance with the requirements of this section and after all requisite consents, if any, had been given.

(9) In this section, a settled legacy, share or interest includes any legacy, share or interest to which a person is not absolutely entitled in possession at the date of the appropriation, also an annuity, and "purchaser" means a purchaser for money or money's worth.

(10) This section applies whether the deceased died intestate or not, and whether before or after the commencement of this Ordinance, and extends to property over which a testator exercises a general power of appointment, and authorizes the setting apart of a fund to answer an annuity by means of the income of that fund or otherwise, but is subject to the provisions of section 54.

69. (1) Where an infant is absolutely entitled under the will or on the intestacy of a person dying before or after the commencement of this Ordinance (in this subsection called "the deceased") to a devise or legacy, or to the residue of the estate of the deceased, or any share therein, and such devise, legacy, residue or share is not under the will, if any, of the deceased, devised or bequeathed to trustees for the infant, the personal representatives of the deceased may appoint a trust corporation or two or more individuals not exceeding four (whether or not including the personal representatives or one or more of the personal representatives), to be the trustees of such devise, legacy, residue or share for the infant, and may, subject to the provisions of section 54, execute or do any assurance or thing requisite for vesting such devise, legacy, residue or share in the trustee or trustees so appointed; and on such appointment the personal representatives, as such, shall be discharged from all further liability in respect of such devise, legacy, residue or share, and the same may be retained in its existing condition or state of investment, or may be converted into money, and such money may be invested in any authorized investment.

(2) Where a personal representative has before the commencement of this Ordinance retained or sold any such devise, legacy, residue or share, and invested the same or the proceeds thereof in any investments in which he was authorized to invest money subject to the trust, then, subject to any order of the court made before such commencement, he shall not be deemed to have incurred any liability on that account, or by reason of not having paid or transferred the money or property into court.

70. (1) A personal representative, before giving an assent or making a conveyance in favour of any person entitled, may permit that person to take possession of the land, and such possession shall not prejudicially affect the right of the personal representative to take or resume possession, nor his power to convey the land as if he were in possession thereof, but subject to the interest of any lessee, tenant or occupier in possession or in actual occupation of the land.

(2) Any person who, as against the personal representative, claims possession of immovable property, or the appointment of a receiver thereof, or a transfer or conveyance thereof, or an assent to the vesting thereof, or to be registered as proprietor thereof, may apply to the court for directions with reference thereto, and the court may make such vesting or other order as may be deemed proper, and the provisions of the Trustee Ordinance, relating to vesting orders and to the appointment of a person to transfer or convey, shall apply.

Power to
appoint trustees
of infant's
property.
[cf. 1925, c. 23,
s. 42.]

Powers of
personal
representative
as to giving
possession
of land and
powers of the
court.
[cf. 1925, c. 23,
s. 43.]

(Cap. 29.)

(3) This section applies whether the testator or intestate dies before or after the commencement of this Ordinance.

71. Subject to the provisions of this Ordinance, a personal representative is not bound to distribute the estate of the deceased before the expiration of one year from the death.

PART VII.

MISCELLANEOUS.

72. (1) The Chief Justice may make rules and orders (in this Ordinance referred to as probate rules and orders), for regulating the practice and procedure of the court and the Registry with respect to non-contentious or common form probate business and generally for the better carrying out of the provisions of this Ordinance.

(2) In all such business in respect of which no provision is made by probate rules and orders, the practice and procedure for the time being in force in the Probate Registry in England shall be deemed to be in force in the court and the Registry.

73. All original wills and other documents which are under the control of the court in the Registry shall be deposited and preserved in such places as the Chief Justice may direct, and any wills or other documents so deposited shall, subject to the control of the court and the provisions of probate rules and orders, be open to inspection.

74. An official copy of the whole or any part of a will, or an official certificate of the grant of an administration, may be obtained from the Registry on the payment of such fees as may be fixed for the same by probate rules and orders.

75. (1) Nothing in this Ordinance shall be taken to affect the application of the provisions of—

- (a) Part II of the New Territories Ordinance to land to which Part II of that Ordinance applies and which has not been exempted by the Governor under subsection (2) or (3) of section 7 of that Ordinance from the provisions of Part II of that Ordinance;
- (b) the Administration of Estates by Consular Officers Ordinance; or
- (c) section 42 of the Police Force Ordinance.

Power to postpone distribution.
1925, c. 23, s. 44.

Probate rules and orders.
[cf. 1925, c. 49, s. 100.]

Depositing and inspection of wills.
[cf. 1925, c. 49, s. 170.]

Copy of will, etc.
[cf. 1925, c. 49, s. 171.]

Saving.

(Cap. 97.)

(Cap. 191.)

(Cap. 232.)

(2) The said provisions shall continue to apply to the same extent and with the same effect as if this Ordinance had not been enacted.

(3) In this section "land" has the meaning attaching to it under section 2 of the New Territories Ordinance.

76. (1) The Probate and Administration Ordinance is repealed.

Repeals and amendments.
(Cap. 10.)

(2) The Ordinances specified in the first column of the Second Schedule are amended to the extent and in the manner set out in the second column of that Schedule.

Second Schedule.

(3) Unless otherwise expressly provided, nothing in this section shall be taken to affect the administration of the estate of any person who dies prior to the commencement of this Ordinance.

FIRST SCHEDULE.

[s. 63.]

PART I.

Rules as to payment of debts where estate is insolvent.

1. Subject to the provisions of section 14, the funeral, testamentary, and administration expenses have priority.
2. Subject as aforesaid, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities provable and as to the valuation of annuities and future and contingent liabilities respectively, and as to the priorities of debts and liabilities, as may be in force for the time being under the law of bankruptcy with respect to the assets of persons adjudged bankrupt.

PART II.

Order of application of assets where the estate is solvent.

1. Property of the deceased undisposed of by will, subject to the retention thereof of a fund sufficient to meet any pecuniary legacies.
2. Property of the deceased not specifically devised or bequeathed but included (either by a specific or general description) in a residuary gift, subject to the retention out of such property of a fund sufficient to meet any pecuniary legacies, so far as not provided for as aforesaid.
3. Property of the deceased specifically appropriated or devised or bequeathed (either by a specific or general description) for the payment of debts.

4. Property of the deceased charged with, or devised or bequeathed (either by a specific or general description) subject to a charge for the payment of debts.

5. The fund, if any, retained to meet pecuniary legacies.

6. Property specifically devised or bequeathed, rateably according to value.

7. Property appointed by will under a general power, rateably according to value.

8. The following provisions shall also apply—

(a) the order of application may be varied by the will of the deceased;

(b) this Part of this Schedule does not affect the liability of immovable property to answer the estate duty imposed thereon in exoneration of other assets.

SECOND SCHEDULE.

[s. 76.]

Short title.	Amendments.
(Cap. 267.) Consular Conventions Ordinance.	Section 3 is amended by deleting subsection (3).
(Cap. 279.) Education Ordinance.	Section 53 is amended by deleting subsection (4).
(Cap. 88.) Application of English Law Ordinance.	The Schedule is amended— (a) by deleting items 2, 12 and 17; (b) in item 16 by deleting "8, 9, 10 and 11" and substituting the following— "8 and 9"; and (c) by deleting items 19, 22, 58, 62, 63 and 68.

Passed by the Hong Kong Legislative Council this 9th day of June, 1971.

[Signature]
Clerk to the Legislative Council.

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

[Signature]
Clerk to the Legislative Council.

HONG KONG

No. 27 OF 1971.



I assent.

[Signature]
Acting Governor.

24th June, 1971.

An Ordinance to consolidate with amendments the law relating to the status of married persons.

[7th October, 1971.]

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 Married Persons Status Ordinance 1971 and shall come into operation on the 7th October 1971.

Short title and commencement.

2. (1) Save where otherwise appears, this Ordinance applies to persons who are parties to a marriage, whether married before or after the commencement of this Ordinance.

Application.

(2) In subsection (1), "marriage" means—

(a) a marriage celebrated or contracted in accordance with the provisions of the Marriage Ordinance;

(Cap. 181.)

(b) a modern marriage validated by the Marriage Reform Ordinance;

(Cap. 178.)

- (c) a customary marriage declared to be valid by the Marriage Reform Ordinance; or
- (d) a marriage celebrated or contracted outside Hong Kong in accordance with the law in force at the time and in the place where the marriage was performed.

Capacity of married women.
1935 c. 30, s. 1.

3. (1) Subject to this Ordinance, a married woman shall—
- (a) be capable of acquiring, holding and disposing of, any property;
 - (b) be capable of rendering herself, and being rendered, liable in respect of any tort, contract, debt or obligation;
 - (c) be capable of suing and being sued, either in tort or in contract or otherwise; and
 - (d) be subject to the law relating to bankruptcy and to the enforcement of judgements and orders,

in all respects as if she were unmarried.

1882, c. 75, s. 18.

(2) A married woman may act as a trustee or personal representative in all respects as if she were unmarried.

Property of married women.
1935 c. 30, s. 2.

4. (1) Subject to this Ordinance, all property which—
- (a) immediately before the 20th day of March 1936 was the separate property of a married woman or held for her separate use in equity; or
 - (b) belonged or belongs at the time of her marriage to a woman married after that date; or
 - (c) after that date has been or is acquired by or devolved or devolves upon a married woman,

shall belong to her in all respects as if she were unmarried and may be disposed of accordingly.

1949 c. 78, s. 1(1) & (2).

(2) No restriction upon anticipation or alienation attached, whether before or after the commencement of this Ordinance, to the enjoyment of any property by a woman which could not have been attached to the enjoyment of that property by a man shall be of any effect.

Actions in tort between husband and wife.
1962 c. 48, s. 1(1) & (2).

5. (1) Subject to this section, each of the parties to a marriage shall have the like right of action in tort against the other as if they were unmarried.

(2) Where an action in tort is brought by one of the parties to a marriage against the other during the subsistence of the marriage, the court may stay the action if it appears—

- (a) that no substantial benefit would accrue to either party from the continuation of the proceedings; or

- (b) that the question or questions in issue could more conveniently be disposed of on an application made under section 6.

(3) Without prejudice to paragraph (b) of subsection (2), the court may, in such an action, either exercise any power which could be exercised on an application under section 6 or give such directions as it thinks fit for the disposal under that section of any question arising in the proceedings.

(4) The references in subsection (1) to the parties to a marriage include references to the persons who were parties to a marriage which has been dissolved.

1962 c. 48, s. 3(3).

(5) This section does not apply to any cause of action which arose, or would but for the subsistence of a marriage have arisen, before the commencement of this Ordinance.

1962 c. 48, s. 3(4).

6. (1) In any question between husband and wife as to the title to or possession of property the husband or the wife may apply by summons or otherwise in a summary way to a judge to determine the question.

Questions between husband and wife as to property to be decided in a summary way.
1882 c. 75, s. 17.

(2) On any such application the judge may make such order with respect to the property in dispute and as to the costs of and consequent on the application as he thinks fit, or may direct such application to stand over and any inquiry touching the matters in question to be made in such manner as he thinks fit.

(3) An order made under subsection (2) shall be subject to appeal in the same way as an order made by the judge in an action in the Supreme Court would be.

(4) If either party so requests, the judge may hear the application in private.

7. (1) Any right of a wife, under section 6, to apply to a judge, in any question between husband and wife as to the title to or possession of property, shall include the right to make such an application where it is claimed by the wife that her husband has had in his possession or under his control—

Extension of section 6.
1958 c. 35, s. 7.

- (a) money to which, or to a share of which, she was beneficially entitled (whether by reason that it represented the proceeds of property to which, or to an interest in which, she was beneficially entitled, or for any other reason); or
- (b) property (other than money) to which, or to an interest in which, she was beneficially entitled,

and that either that money or other property has ceased to be in his possession or under his control or that she does not know whether it is still in his possession or under his control.

(2) Where, on an application made to a judge under section 6, as extended by subsection (1), the judge is satisfied—

- (a) that the husband has had in his possession or under his control money or other property as mentioned in paragraph (a) or (b) of subsection (1); and
- (b) that he has not made to the wife, in respect of that money or other property, such payment or disposition as would have been appropriate in the circumstances,

the power to make orders under that section shall be extended in accordance with subsection (3).

(3) Where subsection (2) applies, the power to make orders under section 6 shall include power for the judge to order the husband to pay to the wife—

- (a) in a case falling within paragraph (a) of subsection (1), such sum in respect of the money to which the application relates, or the wife's share thereof, as the case may be; or
- (b) in a case falling within paragraph (b) of subsection (1), such sum in respect of the value of the property to which the application relates, or the wife's interest therein, as the case may be,

as the judge may consider appropriate.

(4) Where on an application under section 6, as extended by this section, it appears to the judge that there is any property which—

- (a) represents the whole or part of the money or property in question; and
- (b) is property in respect of which an order could have been made under that section if an application had been made by the wife thereunder in a question as to the title to or possession of that property,

the judge (either in substitution for or in addition to the making of an order in accordance with subsection (3)) may make any order under that section in respect of that property which he could have made on such an application as is mentioned in paragraph (b).

(5) Subsections (1), (2), (3) and (4) shall have effect in relation to a husband as they have effect in relation to a wife, as if any reference to the husband were a reference to the wife and any reference to the wife were a reference to the husband.

(6) Any power of a judge under section 6 to direct inquiries or give any other directions in relation to an application under

that section shall be exercisable in relation to an application made under that section, as extended by this section; and subsections (3) and (4) of that section shall apply in relation to any order made under section 6, as extended by this section, as they apply in relation to an order made under that section apart from this section.

(7) For the avoidance of doubt it is hereby declared that any power conferred by section 6 to make orders with respect to any property includes power to order a sale of the property.

(8) In this section "disposition" does not include any provision contained in a will, but, with that exception, includes any conveyance, assurance or gift of property of any description, whether made by an instrument or otherwise.

1958 c. 35, s. 8(1).

8. Subject to this Ordinance, the husband of a woman shall not, by reason only of his being her husband, be liable—

- (a) in respect of any tort committed by her whether before or after the marriage, or in respect of any contract entered into, or debt or obligation incurred, by her before the marriage; or
- (b) to be sued or made a party to any legal proceedings brought in respect of any such tort, contract, debt or obligation.

Abolition of husband's liability for wife's torts, contracts, debts and obligations.
1935 c. 30, s. 3.

9. Nothing in this Ordinance shall be construed as validating—

- (a) as against creditors of the husband, any gift, by a husband to his wife, of any property which, after such gift, continues to be in the order or disposition or reputed ownership of the husband or any deposit or other investment of moneys of the husband made by or in the name of his wife in fraud of his creditors; or
- (b) as against creditors of the wife, any gift, by a wife to her husband, of any property which, after such gift, continues to be in the order or disposition or reputed ownership of the wife or any deposit or other investment of moneys of the wife made by or in the name of her husband in fraud of her creditors,

Gift in fraud of creditors.
1882 c. 75, s. 10.

and any such money so deposited or invested may be followed as if this Ordinance had not been passed.

10. (1) This section applies to a policy of assurance or endowment expressed to be for the benefit of, or by its express terms purporting to confer a benefit upon, the wife, husband or child of the insured.

Insurance for benefit of spouse or children.
1882 c. 75, s. 11.

(2) The policy shall create a trust in favour of the objects therein named.

(3) The moneys payable under the policy shall not, so long as any part of the trust remains unperformed, form part of the estate of the insured or be subject to his or her debts.

(4) If it is proved that the policy was effected and the premiums paid with intent to defraud the creditors of the insured, they shall be entitled to receive, out of the moneys payable under the policy, a sum equal to the premiums so paid.

(5) The insured may by the policy, or by any memorandum under his or her hand, appoint a trustee or trustees of the moneys payable under the policy, and from time to time appoint a new trustee or new trustees thereof, and may make provision for the appointment of a new trustee or new trustees thereof, and for the investment of the moneys payable under any such policy.

(6) In default of any such appointment of a trustee, such policy, immediately on its being effected, shall vest in the insured and his or her legal personal representatives, in trust for the purposes aforesaid.

(7) The receipt of a trustee or trustees duly appointed, or in default of any such appointment, or in default of notice to the insurer, the receipt of the legal personal representative of the insured, shall be a discharge to the insurer for the sum secured by the policy, or for the value thereof, in whole or in part.

Will of married woman.
(Cap. 30.)
1893 c. 63, s. 3.

11. Section 19 of the Wills Ordinance (which provides for the cases in which a will is to be construed as speaking from the death of the testator) shall apply to the will of a married woman made during coverture whether she is or is not possessed of or entitled to any property at the time of making it, and such will shall not require to be re-executed or republished after the death of her husband.

Receipts by married infants.
1925 c. 20, s. 21.

12. A married infant shall have power to give valid receipts for all income (including statutory accumulations of income made during minority) to which the infant may be entitled in like manner as if the infant were an adult.

Power of attorney of married woman.
1925 c. 20, s. 129.

13. A married woman, whether an infant or not, shall have power, as if she were unmarried and an adult, by deed, to appoint an attorney on her behalf for the purpose of executing any deed or doing any other act which she might herself execute or do.

14. For the avoidance of doubt it is hereby declared that nothing in this Ordinance—

Savings.
1935 c. 30, s. 4(2).

- (a) renders the husband of a married woman liable in respect of any contract entered into, or debt or obligation incurred, by her after the marriage in respect of which he would not have been liable if this Ordinance had not been passed;
- (b) exempts the husband of a married woman from liability in respect of any contract entered into, or debt or obligation (not being a debt or obligation arising out of the commission of a tort) incurred, by her after the marriage in respect of which he would have been liable if this Ordinance had not been passed;
- (c) prevents a husband and wife from acquiring, holding, and disposing of, any property jointly or as tenants in common, or from rendering themselves, or being rendered, jointly liable in respect of any tort, contract, debt or obligation, and of suing and being sued either in tort or in contract or otherwise, in like manner as if they were not married;
- (d) prevents the exercise of any joint power given to a husband and wife.

15. The enactments specified in the first column of the Schedule are repealed to the extent specified in the second column thereof.

Repeal.
Schedule.

SCHEDULE.

[s. 15.]

<i>Enactment.</i>	<i>Extent of Repeal.</i>	
The Bankruptcy Ordinance.	Section 57.	(Cap. 6.)
The Trustee Ordinance.	In subsection (1) of section 61, the words from "and notwithstanding" to "anticipation."	(Cap. 29.)
The Companies Ordinance.	Section 175.	(Cap. 32.)
The Married Women (Disposition of Property) Ordinance.	The whole Ordinance.	(Cap. 182.)
The Married Women's Property Ordinance.	The whole Ordinance.	(Cap. 183.)
The Married Women Ordinance.	The whole Ordinance.	(Cap. 184.)

Passed by the Hong Kong Legislative Council this 23rd day of June, 1971.

Clerk to the Legislative Council.