

1966

ORDS.
OF
H. K.



HONG KONG

No. 1 OF 1966.



I assent.

[Signature]

Governor.

6th January, 1966.

An Ordinance to amend the Explosive Substances Ordinance.

[7th January, 1966.]

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

1. This Ordinance may be cited as the Explosive Substances (Amendment) Ordinance 1966. Short title.

2. Section 5 of the Explosive Substances Ordinance (hereinafter referred to as the principal Ordinance) is repealed and replaced by the following—

"Making or possession of explosive.

5. (1) Any person who makes an explosive substance or, whether or not he knows it to be an explosive substance, knowingly has in his possession or custody or under his control anything which is an explosive substance shall, unless he can show that he made it or has it in his possession or custody or under his control for a lawful object, be guilty of felony and on conviction shall be liable to imprisonment for fourteen years, and the explosive substance shall be forfeited.

Repeal and replacement of section 5. (Cap. 206).



(2) Where in any prosecution for an offence under subsection (1) it is proved that the accused knowingly had in his possession or custody or under his control anything whatsoever, other than premises, containing any explosive substance, then, unless the accused can show that he had reasonable grounds for believing that the thing did not contain anything or contained only something other than an explosive substance, he shall be presumed knowingly to have had in his possession or custody or under his control the explosive substance contained in that thing.

(3) A prosecution for an offence under subsection (1) shall not be instituted except by or with the consent of the Attorney General."

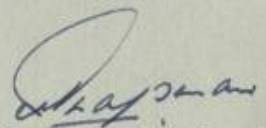
Addition
of new
section 6A.

3. The principal Ordinance is amended by the addition, after section 6, of the following new section—

"Exclusion of
public during
hearing of
proceedings
for offence
under
Ordinance.
[cf. 10 & 11,
Geo. 5, c. 75,
s. 8(4).]"

6A. In addition and without prejudice to any powers that a court or magistrate may possess to order the exclusion of the public from any proceedings if, in the course of proceedings, including proceedings on appeal, before a court or magistrate in respect of an offence under this Ordinance, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the public safety, that all or any portion of the public shall be excluded during any part of the hearing, the court or magistrate may make an order to that effect, but the passing of sentence shall in any case take place in public."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 5th day of January, 1966, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

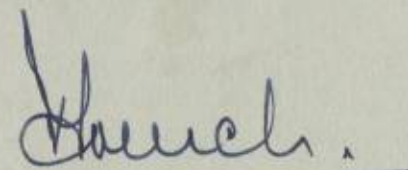
(Secretariat SCR63/64)

HONG KONG

No. 2 OF 1966.



I assent.


Governor.

6th January, 1966.

An Ordinance to declare the extent to which English law is in force in the Colony.

[7th January, 1966.]

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

1. This Ordinance may be cited as the Application of English Law Ordinance 1966. Short title.

2. In this Ordinance, unless the context otherwise requires—
"Act" means an enactment of the Parliament of England, the Parliament of Great Britain or the Parliament of the United Kingdom.

Interpreta-
tion.

3. The common law and the rules of equity shall be in force in Hong Kong, so far as they may be applicable to the circumstances of Hong Kong or its inhabitants and subject to such modifications thereto as such circumstances may require, save to the extent that such common law or any such rule of equity may from time to time be modified or excluded by—

Application
of common
law and
equity.

(a) any Order in Council which applies to Hong Kong;

- (b) any Act which applies to Hong Kong, whether by express provision or by necessary implication; or
(c) any Ordinance.

Application
of English
enactments.

4. (1) Subject to the provisions of this section and of any other Ordinance, the law of England as set out in the following Acts shall be in force in Hong Kong, that is to say—

Schedule.

- (a) the Acts specified in the second and third columns of the Schedule to the extent specified in the fourth column thereof subject to such modifications thereto as the circumstances of Hong Kong may require;
(b) any other Act which applies to Hong Kong by virtue of—
(i) any Order in Council;
(ii) any express provision in the enactment, or by necessary implication; or
(iii) any Ordinance.

(2) Any such enactment as is mentioned in subsection (1) as being in force in Hong Kong shall, in its application to Hong Kong, be subject to such amendment as may have been or may hereafter be made thereto by—

- (a) any Order in Council which applies to Hong Kong; or
(b) any Act which applies to Hong Kong; or
(c) any Ordinance.

Power to
amend
Schedule.

5. The Legislative Council may by resolution—

- (a) delete any item in the Schedule;
(b) amend any item contained in the Schedule;
(c) add to the Schedule the whole or any part of any Act passed before the 5th day of April, 1843, with or without amendments made thereto, whether made before or after the said date.

Saving for
the Crown.

6. Nothing in this Ordinance shall diminish or derogate from—
(a) any rights, privileges or powers of the Crown; or
(b) the right of Her Majesty in Council to make laws from time to time for the peace, order and good government of Hong Kong.

Amendment
of Cap. 4.

7. (1) Section 5 of the Supreme Court Ordinance is repealed.
(2) Section 6 of the Supreme Court Ordinance is repealed and replaced by the following—

"Practice
of English
courts.

6. Subject to the provisions of this Ordinance, the practice of the Supreme Court of Judicature of England for the time being in force therein shall be in force in the court."

SCHEDULE.

[s. 4.]

In this Schedule—

Any reference to any Act or section of any Act shall include a reference to any Schedule referred to in the Act or section.

"S.L.R." means Statute Law Revision Act.

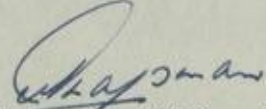
First Column. Item.	Second Column. Session and Chapter.	Third Column. Title or Short Title.	Fourth Column. Extent of Application.
1.	25 Edw. 3 stat. 5 c. 2	Treason Act 1351.	The whole, as amended to 5th April, 1843 and by the Escheat (Procedure) Act 1887.
2.	25 Edw. 3 stat. 5 c. 5	Executors 1351-2.	The whole.
3.	34 Edw. 3 c. 1	Justices of the Peace Act 1361.	The whole, as amended by S.L.R. 1948.
4.	28 Hen. 8 c. 15	Offences at Sea Act 1536.	Sections 1, 2 and 4.
5.	31 Hen. 8 c. 1	An Acte for Joynt Tenants and Tenants in comon 1539.	The whole.
6.	32 Hen. 8 c. 32	Jointenants for lif or yeres 1540.	The whole.
7.	32 Hen. 8 c. 34	Graunties of Reversions 1540.	The whole.
8.	32 Hen. 8 c. 37	Cestui que vie Act 1540.	Sections 1, 3 and 4, as amended by S.L.R.'s 1888 and 1948.
9.	1 & 2 Phil. & Mary c. 10	Treason Act 1554.	Sections 6 and 8, as amended by S.L.R. 1888.
10.	13 Eliz. 1 c. 5	An Acte against fraudulent deedes, giftes, alienation, etc., 1571.	Sections 1, 2 and 5.
11.	27 Eliz. 1 c. 4	An Acte against covenous and fraudulent conveyances 1584.	Sections 1, 2, 3 and 4.
12.	43 Eliz. 1 c. 8	Administration of Estates 1601.	The whole.
13.	12 Car. 2 c. 24	Tenures Abolition Act 1660.	Sections 8 and 9.
14.	18 & 19 Car. 2 c. 11	Cestui que vie Act 1666.	Sections 1 and 4.
15.	22 & 23 Car. 2 c. 10	Statute of Distribution 1670.	Sections 1, 3, 4, 5 and 6, as amended by Court of Probate Act 1857 and S.L.R. 1888.
16.	29 Car. 2 c. 3	Statute of Frauds 1677.	Sections 1, 2, 3, 4, 7, 8, 9, 10, 11 and 24.
17.	30 Car. 2 c. 7	Administration of Estates 1678.	The whole, as amended by S.L.R. 1863.
18.	31 Car. 2 c. 2	Habeas Corpus Act 1679.	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9 and 16.

<i>First Column. Item.</i>	<i>Second Column. Session and Chapter.</i>	<i>Third Column. Title or Short Title.</i>	<i>Fourth Column. Extent of Application.</i>
19.	1 Jac. 2 c. 17	Administration of Intestates Estates 1685.	Sections 6 and 7, as amended by S.L.R. 1888.
20.	2 Will. & Mary c. 5	Distress for Rent Act 1689.	The whole, as amended by S.L.R. 1888 and the Summary Jurisdiction Act 1884.
21.	4 Will. & Mary c. 16	An Act to prevent frauds by clandestine mortgages 1692.	Sections 1, 2 and 3.
22.	4 Will. & Mary c. 24	Administration of Estates 1692.	Section 12.
23.	7 & 8 Will. 3 c. 3	Treason Act 1695.	Sections 5 and 6.
24.	10 Will. 3 c. 22	An Act to enable posthumous children to take estates as if born in their father's lifetime 1697.	Section 1.
25.	11 Will. 3 c. 7	Piracy Act 1698.	Sections 7, 8, 9, 10, 11, 12 and 14.
26.	6 Anne c. 72	Cestui que vie Act 1707.	The whole, as amended by S.L.R. 1888.
27.	8 Anne c. 18	Landlord and Tenant Act 1709.	Sections 4, 6, 7 and 8, as amended by S.L.R. 1948.
28.	9 Anne c. 19	Gaming Act 1710.	Section 1, as amended to 5th April, 1843.
29.	4 Geo. 1 c. 11	Piracy Act 1717.	Section 7.
30.	8 Geo. 1 c. 24	Piracy Act 1721.	Section 7.
31.	4 Geo. 2 c. 28	Landlord and Tenant Act 1730.	Sections 1, 5 and 6, as amended by S.L.R. 1948.
32.	7 Geo. 2 c. 20	Mortgage Act 1733.	The whole.
33.	11 Geo. 2 c. 19	Distress for Rent Act 1737.	Sections 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 18, 19 and 20, as amended by S.L.R. 1948.
34.	18 Geo. 2 c. 34	Piracy Act 1744.	Sections 1 and 3.
35.	24 Geo. 2 c. 23	Calendar (New Style) Act 1750.	Sections 1, 2, 3 and 6.
36.	12 Geo. 3 c. 24	Dockyards, etc., Protection Act 1772.	The whole, as amended by S.L.R. 1888 and as extended by the Air Force (Application of Enactments) (No. 2) Order 1918.
37.	14 Geo. 3 c. 48	Life Assurance Act 1774.	The whole, as amended by S.L.R. 1888.
38.	14 Geo. 3 c. 78	Fires Prevention (Metropolis) Act 1774.	Sections 83 and 86, as amended by S.L.R.'s 1861, 1888 and 1948.
39.	32 Geo. 3 c. 60	Libel Act 1792.	The whole.

<i>First Column. Item.</i>	<i>Second Column. Session and Chapter.</i>	<i>Third Column. Title or Short Title.</i>	<i>Fourth Column. Extent of Application.</i>
40.	33 Geo. 3 c. 67	Shipping Offences Act 1793.	Sections 1, 4, 7 and 8.
41.	36 Geo. 3 c. 7	Treason Act 1795.	Section 1.
42.	37 Geo. 3 c. 70	Incitement of Mutiny Act 1797.	Sections 1 and 2, as amended by S.L.R. 1888 and as extended by the Air Force (Application of Enactments) (No. 2) Order 1918.
43.	37 Geo. 3 c. 123	Unlawful Oaths Act 1797.	Sections 1, 2, 3, 4, 5 and 6.
44.	39 Geo. 3 c. 37	Offences at Sea Act 1799.	Section 1.
45.	39 & 40 Geo. 3 c. 93	Treason Act 1800.	The whole.
46.	39 & 40 Geo. 3 c. 98	Accumulations Act 1800.	Sections 1 and 2.
47.	46 Geo. 3 c. 37	Witnesses Act 1806.	The whole.
48.	52 Geo. 3 c. 101	Charities Procedure Act 1812.	The whole, as amended by S.L.R. 1888 and the Statute Law Revision and Civil Procedure Act 1881.
49.	52 Geo. 3 c. 104	Unlawful Oaths Act 1812.	Sections 1, 2, 3, 4, 5 and 6, as amended by S.L.R. 1888.
50.	56 Geo. 3 c. 100	Habeas Corpus Act 1816.	The whole.
51.	57 Geo. 3 c. 6	Treason Act 1817.	Sections 1, 4, 5 and 6.
52.	57 Geo. 3 c. 52	Deserted Tenements Act 1817.	The whole.
53.	60 Geo. 3 & 1 Geo. 4 c. 1	Unlawful Drilling Act 1819.	Sections 1 and 2, as amended by S.L.R.'s 1888 (No. 2) and 1890 (No. 1).
54.	60 Geo. 3 & 1 Geo. 4 c. 8	Criminal Libel Act 1819.	Sections 1, 2, 4 and 7, as amended by S.L.R.'s 1888, 1890 and 1890 (No. 2).
55.	9 Geo. 4 c. 14	Statute of Frauds Amendment Act 1828.	Section 6.
56.	11 Geo. 4 & 1 Will. 4 c. 40	Executors Act 1830.	Sections 1 and 2.
57.	11 Geo. 4 & 1 Will. 4 c. 46	Illusory Appointments Act 1830.	The whole.
58.	11 Geo. 4 & 1 Will. 4 c. 47	Debts Recovery Act 1830.	Sections 2, 3, 4, 5, 6, 7, 8, 9, 11 and 12, as amended by S.L.R.'s 1888 (No. 2) and 1890 (No. 2).
59.	2 & 3 Will. 4 c. 57	Charities Procedure Act 1832.	Section 3, as amended by S.L.R. 1888 (No. 2).

First Column. Item.	Second Column. Session and Chapter.	Third Column. Title or Short Title.	Fourth Column. Extent of Application.
60.	2 & 3 Will. 4 c. 71	Prescription Act 1832.	Sections 1, 2, 3, 4, 5, 6, 7 and 8, as amended by S.L.R. 1888 (No. 2).
61.	2 & 3 Will. 4 c. 75	Anatomy Act 1832.	Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18 and 19, as amended by S.L.R. 1888 (No. 2).
62.	3 & 4 Will. 4 c. 42	Civil Procedure Act 1833.	Sections 2, 37 and 38, as amended by S.L.R.'s 1888 (No. 2) and 1890 (No. 2).
63.	3 & 4 Will. 4 c. 104	Administration of Estates Act 1833.	The whole.
64.	3 & 4 Will. 4 c. 106	Inheritance Act 1833.	Sections 1, 2, 3, 4, 5, 6, 7, 8 and 9, as amended by S.L.R. 1888 (No. 2).
65.	4 & 5 Will. 4 c. 22	Apportionment Act 1834.	The whole.
66.	7 Will. 4 & 1 Vict. c. 26	Wills Act 1837.	The whole (except sections 2, 12, 35 and 36).
67.	7 Will. 4 & 1 Vict. c. 88	Piracy Act 1837.	Sections 2 and 4.
68.	2 & 3 Vict. c. 60	Debts Recovery Act 1839.	The whole.
69.	3 & 4 Vict. c. 90	Infant Felons Act 1840.	The whole.
70.	5 & 6 Vict. c. 51	Treason Act 1842.	Sections 2 and 3, as amended by S.L.R.'s 1888 (No. 2) and 1892.

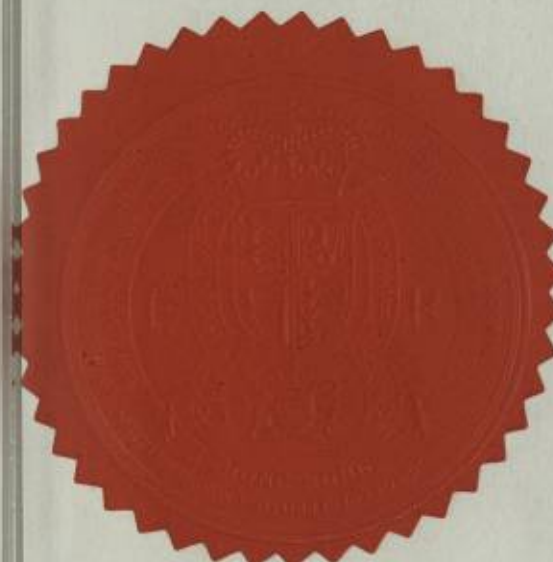
This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 5th day of January, 1966, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

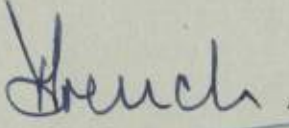
(Secretariat GR2/3231/65)

HONG KONG

No. 3 OF 1966.



I assent.


Governor.

6th January, 1966.

An Ordinance to amend the City Hall Ordinance 1961.

[7th January, 1966.]

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

1. This Ordinance may be cited as the City Hall (Amendment) Ordinance 1966.

2. Section 4 of the City Hall Ordinance 1961 (hereinafter referred to as the principal Ordinance) is amended by the deletion of paragraph (b). Amendment of section 4. (12 of 1961).

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

"Fees and conditions for use of or admission to City Hall.

4A. (1) The Urban Council may fix the fees to be paid for, and specify the conditions to be observed in, the use of all or any of the facilities provided in the city hall or the use of any part of the city hall.

(2) The Urban Council may fix the fees to be paid by the public for admission to any part of the city hall or to any function organized by the Urban Council in the city hall.

(3) All fees fixed by the Urban Council under this section shall be subject to the approval of the Governor."

Amendment
of section 5.

4. Section 5 of the principal Ordinance is amended by the insertion after "section 4" of the following—

"and notwithstanding the power to fix fees or specify conditions conferred by section 4A".

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 5th day of January, 1966, and is found by me to be a true and correctly printed copy of the said Bill.

[Signature]
Deputy Clerk of Councils.

(Secretariat CR6/1146/58)

HONG KONG

No. 4 OF 1966.

I assent.

[Signature]
Governor.

19th January, 1966.

An Ordinance to amend the Merchant Shipping (Aliens Employment) Ordinance.

[20th January, 1966.]

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

1. This Ordinance may be cited as the Merchant Shipping (Aliens Employment) (Amendment) Ordinance 1966. Short title.

2. Section 2 of the Merchant Shipping (Aliens Employment) Ordinance (hereinafter referred to as the principal Ordinance) is amended, in the proviso to subsection (1), by the deletion of "in Council". Amendment of section 2. (Cap. 80).

3. The principal Ordinance is amended by the addition, after section 4, of the following new section— Addition of new section 5.

"Transitional provisions.

5. A certificate of exemption granted to any person by the Governor in Council under the proviso to subsection (1) of section 2 prior to the 20th day of January, 1966 (being the date of the commencement of the Merchant Shipping (Aliens Employment) (Amendment) Ordinance 1966)

which continued to be in force until the said 20th day of January, 1966 shall be deemed thereafter to have been granted by the Governor under the proviso to subsection (1) of section 2, subject to the conditions, if any, attached thereto by the Governor in Council."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 19th day of January, 1966, and is found by me to be a true and correctly printed copy of the said Bill.

(Secretariat GR15/5061/62)

[Signature]
Deputy Clerk of Councils.

HONG KONG

No. 5 OF 1966,

I assent.

[Signature]
Governor.

24th February, 1966.

An Ordinance to amend the Public Reclamations and Works Ordinance 1956.

[25th February, 1966.]

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

1. This Ordinance may be cited as the Public Reclamations and Works (Amendment) Ordinance 1966. Short title.

2. Paragraph (b) of subsection (2) of section 2 of the Public Reclamations and Works Ordinance 1956 (hereinafter referred to as the principal Ordinance) is amended by the insertion, after "any loss which", of the following— Amendment of section 2. (27 of 1956).

"it".

3. Section 3 of the principal Ordinance is amended—

(a) by the deletion of subsection (1) and the substitution thereof of the following— Amendment of section 3.

"(1) Where before the expiration of the period specified in the notification published under section 2 any

objection to a proposed undertaking or any claim of private right in respect thereof has been submitted to the Director of Public Works in accordance with such notification, the Governor in Council shall consider the proposed undertaking together with every objection and every claim so submitted and shall afford every person who has so submitted an objection or claim an opportunity of being heard in person or by counsel or solicitor.”;

- (b) by the deletion, in subsection (2), of “all objections and claims” and the substitution therefor of the following—

“every objection and every claim”;

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

“(2A) Where before the expiration of the period specified in the notification published under section 2 no objection to a proposed undertaking and no claim of private right in respect thereof has been submitted to the Director of Public Works in accordance with such notification, the Governor shall consider the proposed undertaking and may authorize such undertaking with or without modification thereof.”; and

- (d) by the deletion, in subsection (3), of “A” and the substitution therefor of the following—

“Where the Governor in Council has authorized an undertaking with or without modification under subsection (2) or where the Governor has authorized an undertaking with or without modification under subsection (2A), a”.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of February, 1966, and is found by me to be a true and correctly printed copy of the said Bill.

[Signature]
Deputy Clerk of Councils.

(Secretariat BL1/3151/53)

HONG KONG

No. 6 OF 1966.



I assent.

[Signature]
Governor.

24th February, 1966.

An Ordinance further to amend the Foreshores and Sea Bed Ordinance.

[25th February, 1966.]

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

1. This Ordinance may be cited as the Foreshores and Sea Bed (Amendment) Ordinance 1966. Short title.

2. Section 3 of the Foreshores and Sea Bed Ordinance (hereinafter referred to as the principal Ordinance) is repealed and replaced by the following— Repeal and replacement of section 3. (Cap. 127).

3. Subject to the provisions of this Ordinance, the Governor may grant and agree to grant such Crown leases for any term not exceeding ninety-nine years (renewable on the usual terms), or for such longer term as the Secretary of State may authorize, of the foreshore and sea bed within the limits of the waters of the Colony, and of Crown land covered with water in any tidal river or channel connected with such waters, as may be declared by the Governor in

“Power to grant Crown leases of foreshore and sea bed.”

Council under subsection (3) of section 3B, or by the Governor under section 3C, to be expedient to be granted for the purpose of reclamation, harbour improvement or building, or for the construction of docks, slips, piers or wharves, or in view of the requirements of manufactures, commerce or traffic, or for any other purpose whatsoever."

Addition of
new sections.

3. The principal Ordinance is amended by the addition of the following new sections—

"Notification
of proposed
lease.

3A. (1) Notification of every lease proposed to be granted under section 3 shall be published—

- (a) in three issues of the *Gazette*; and
- (b) in three issues of at least one English language and two Chinese language daily newspapers; and
- (c) by posting the same in the English and Chinese languages at some suitable place near the site of the property intended to be demised.

(2) A notification under subsection (1) shall—

- (a) set out the terms of the lease proposed to be made and a description of the property intended to be demised; and
- (b) contain a notice calling upon all persons having objections to the granting of such lease, and also all persons who deem that their property may be injuriously affected by reason of the access of such property to the sea being interfered with by the granting of such lease and who claim compensation in respect thereof, to send in their objections or claims in writing to the Director of Public Works before the expiration of such period, being not less than two months after the date of the first issue of the *Gazette* in which the notification under subsection (1) is published, as may be specified in the notice.

Objections
to lease.
After con-
sidering
objections
Governor in
Council may
declare it
expedient
that lease
should be
granted.

3B. (1) Any person who objects to the grant of such Crown lease shall deliver to the Director of Public Works his objection in writing within the period specified in the notice referred to in paragraph (b) of subsection (2) of section 3A.

(2) All such objections shall be duly considered by the Governor in Council. On such consideration, the Governor in Council shall have regard to the objections and also to the public benefit which would accrue by overruling them.

(3) After considering every such objection under subsection (2), the Governor in Council may declare that it is expedient that such Crown lease should be granted.

If no objec-
tion to lease
Governor
may declare
it expedient
that lease
should be
granted.

Claims for
compensa-
tion.

3C. If no objection is delivered to the Director of Public Works in accordance with subsection (1) of section 3B the Governor may declare that it is expedient that such Crown lease should be granted.

3D. (1) Any person who deems that his property may be injuriously affected by any such Crown lease by reason of the access of such property to the sea being interfered with and who claims compensation in respect thereof shall deliver to the Director of Public Works particulars in writing of such injurious affecting and of his claims in respect thereof within the period specified in the notice referred to in paragraph (b) of subsection (2) of section 3A; and the Governor may, if he thinks fit, enter into an agreement with any claimant for the settlement or compromise of any claim.

(2) If the Governor makes no acceptable offer of settlement or compromise within two months of such delivery of particulars, the claimant may within three months of such delivery notify the Director of Public Works that he desires a reference to a judge; and the Governor shall thereupon refer the claim with the particulars thereof to such one of the judges as the Chief Justice shall in each case nominate for the purpose.

(3) Such judge shall hear any evidence which either the Director of Public Works or the claimant may wish to tender and, if so desired, hear counsel or solicitor on behalf of the Crown and the claimant, and shall determine the amount of compensation, if any, to be paid to any such claimant for any such injurious affecting as is described in subsection (1) and may award costs in his discretion either for or against the Crown or for or against any party claiming compensation, such costs in case of difference to be settled by the Registrar of the Supreme Court.

(4) Such judge shall have powers similar to those vested in the Supreme Court on the occasion of any action in respect of—

- (a) enforcing the attendance of witnesses and examining them upon oath, or otherwise;
- (b) compelling the production of documents;
- (c) punishing persons guilty of contempt;

(d) ordering inspection of any premises; and

(e) entering upon and viewing any premises.

(5) No appeal shall lie from any award or decision of a judge under this section."

Amendment
of section 4.

4. Section 4 of the principal Ordinance is amended—

(a) in paragraph (a), by the insertion, after "signified in writing by the Governor", of the following—

"or by any officer authorized by the Governor in writing in that behalf"; and

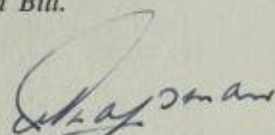
(b) by the deletion of paragraph (b) and the substitution therefor of the following—

"(b) such covenants and provisos with regard to the construction and use of any works to be made and done upon the said land and as to the time within which such works shall be commenced and completed as may be approved—

(i) by the Governor in Council in the case of each lease declared by the Governor in Council under subsection (3) of section 3B to be expedient to be granted; and

(ii) by the Governor in the case of each lease declared by the Governor under section 3C to be expedient to be granted; and".

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of February, 1966, and is found by me to be a true and correctly printed copy of the said Bill.



Deputy Clerk of Councils.

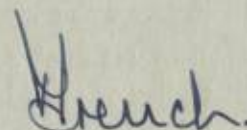
(Secretariat BL1/3220/52)

HONG KONG

No. 7 OF 1966.



I assent.



Governor.

10th March, 1966.

An Ordinance to regulate the recruitment of seamen for service in foreign-going ships, to make provision in respect of allotments and remittances made by seamen supplied for service in foreign-going ships by companies licensed thereunder and in respect of the payment of advances of wages to seamen supplied for such service by any such company, and to provide for matters ancillary to or connected with the purposes aforesaid.

[]

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

PART I.

SHORT TITLE AND INTERPRETATION.

1. This Ordinance may be cited as the Merchant Shipping (Recruiting of Seamen) Ordinance 1966, and shall come into operation on a day to be appointed by the Governor by Proclamation in the Gazette.

Short title
and com-
mencement.

Interpretation.

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

“Advisory Board” means the Seamen’s Recruiting Advisory Board established by section 5;

“Authority” means the Seamen’s Recruiting Authority;

“Board of Reference” means a Board of Reference constituted under section 16;

(Cap. 32). “company” has the meaning assigned to it by section 2 of the Companies Ordinance and also means a company incorporated outside the Colony which has established a place of business within the Colony;

“crew department list” means the list kept in a licensed crew department pursuant to subsection (1) of section 57 or the list kept by the Deputy Naval Store Officer pursuant to subsection (1) of section 75;

“fishing vessel” means any ship employed in sea fishing, but does not include a ship employed in whale fishing;

“foreign-going ship” does not include any ship employed exclusively in trading or going between any port of the Colony and any place or places situated within the following limits, that is to say—

(a) to the east, meridian 114° 30' east;

(b) to the south, parallel 22° 09' north; and

(c) to the west, meridian 113° 31' east,

but save as aforesaid includes any foreign-going ship of any flag whatsoever whether or not the ship calls at any port of the Colony;

“junk” includes any ship of Chinese or other Asiatic build, construction or rig;

(Cap. 87). “legal officer” has the meaning that it has for the purposes of the Legal Officers Ordinance;

“licensed company” means any company holding a valid licence to maintain a crew department granted under subsection (1) of section 47;

“licensed crew department” means the crew department maintained by a licensed company;

“lighter” includes any barge or other vessel normally used within the waters of the Colony for the transport of cargo or in the construction or maintenance of harbour and other works;

“lorcha” includes any ship—

(a) of European build and construction, but of Chinese or other Asiatic rig; or

(b) of Chinese or other Asiatic build and construction, but of European rig;

“panel” means the panel appointed under section 15;

“pleasure craft” means any ship not employed in trading for profit;

“prescribed” means prescribed by the Authority under section 88;

“register” means the register kept pursuant to section 6;

“registered address” means the address of a seaman recorded in the register pursuant to subsection (2) of section 12;

“seaman” means—

(a) any person who is, or is to be, engaged for or employed in service at sea in a ship in any capacity other than that of master, mate, engineer, radio or electrical officer, doctor, purser, writer, nurse, sick berth attendant, stewardess, musician, cadet, apprentice, compradore or tallyman or otherwise than as a member of the staff of a compradore or tallyman; and

(b) any person who, if engaged for or employed in service at sea in a ship, would be engaged for or employed in such service therein in any capacity other than that of master, mate, engineer, radio or electrical officer, purser, doctor, writer, nurse, sick berth attendant, stewardess, musician, cadet, apprentice, compradore or tallyman or otherwise than as a member of the staff of a compradore or tallyman;

“Seamen’s Recruiting Office” means the Seamen’s Recruiting Office established pursuant to subsection (1) of section 4;

“ship” means every ship or boat, or other description of vessel used in navigation, not propelled by oars, other than a fishing vessel, junk, lighter, lorcha or pleasure craft;

“Superintendent” means the public officer appointed under subsection (2) of section 4 to be the Superintendent of the Seamen’s Recruiting Office.

(2) Any drug which is a dangerous drug for the purposes of the Dangerous Drugs Ordinance shall be a dangerous drug for the purposes of this Ordinance. (Cap. 134).

(3) Any reference in this Ordinance to the doing of anything, or to anything not being done, in the presence of the Superintendent of the Mercantile Marine Office or the consular officer or to the production of anything to the Superintendent of the Mercantile Marine Office or the consular officer includes a reference to the doing of that thing, or to its not being done, or to the production of that thing to any person duly acting on behalf of the Superintendent of the Mercantile Marine Office or the consular officer.

PART II.

APPOINTMENT OF SEAMEN'S RECRUITING AUTHORITY AND ESTABLISHMENT OF SEAMEN'S RECRUITING OFFICE AND ADVISORY BOARD.

Appointment
of Seamen's
Recruiting
Authority.

3. The Director of Marine shall be the Seamen's Recruiting Authority.

Establish-
ment of
Seamen's
Recruiting
Office.

4. (1) For the purposes of this Ordinance, there shall be established an office to be known as the Seamen's Recruiting Office.

(2) The Authority may appoint any public officer to be the Superintendent of the Seamen's Recruiting Office and may from time to time, after consultation with the Advisory Board if he thinks fit, give to the Superintendent, either generally or in any particular case, such directions with respect to the administration of the Seamen's Recruiting Office as he considers necessary.

(3) Subject to the provisions of this Ordinance and to any directions given by the Authority under subsection (2), the Superintendent shall be responsible for the administration of the Seamen's Recruiting Office.

(4) Nothing in subsection (2) shall be deemed to authorize or permit the Authority to give directions of any kind whatsoever with respect to the exercise by the Superintendent of the powers conferred on him by this Ordinance.

Establish-
ment of
Seamen's
Recruiting
Advisory
Board.

5. (1) For the purposes of this Ordinance, there is hereby established a board, which shall be known as the Seamen's Recruiting Advisory Board, whose function shall be to advise the Authority in all matters with respect to which it is consulted by the Authority.

(2) The Advisory Board shall consist of the following members—

- (a) the Authority, who shall be the chairman;
- (b) the Commissioner of Labour or the Deputy Commissioner of Labour;
- (c) the Superintendent; and
- (d) three persons appointed by the Governor, none of whom shall be in the service of the Government.

(3) Save as provided in subsection (4), any person appointed by the Governor to be a member of the Advisory Board shall hold office for three years or for such lesser period, or until such day, as the Governor specifies at the time of the appointment.

(4) Any person appointed by the Governor to be a member of the Advisory Board may at any time resign his appointment by notice in writing addressed to the Colonial Secretary.

(5) Where for any reason a person appointed by the Governor to be a member of the Advisory Board is or will be unable temporarily to exercise his functions as such member, the Governor may appoint another person to be temporarily a member of the Advisory Board.

(6) The quorum at any meeting of the Advisory Board shall be three members thereof.

(7) Subject to the provisions of this Ordinance, the proceedings at any meeting of the Advisory Board shall be conducted in such manner as the Advisory Board determines.

PART III.

REGISTRATION OF SEAMEN.

6. (1) There shall be kept in the Seamen's Recruiting Office a register of the names of seamen who desire to serve in foreign-going ships. Register of seamen.

(2) The register shall be in four parts and, subject to the provisions of this Ordinance, shall be kept in such form and manner as the Superintendent determines.

7. (1) Save as provided in section 11, Part I of the register shall contain and, save as provided in subsections (3) and (6), shall contain only the names of those seamen who are qualified to have their names entered therein by virtue of subsection (2). Part I of register.

(2) A seaman shall be qualified to have his name entered in Part I of the register—

- (a) if he satisfies the Superintendent that he has been discharged from a foreign-going ship within the period of twenty-four months preceding his application for registration; or
- (b) if he is at least seventeen years of age and has passed to the satisfaction of the Superintendent such medical examination as to his fitness for service in a foreign-going ship as the Authority specifies and—

- (i) has completed satisfactorily a course of training at a sea training school, or other school or institution, recognized by the Authority for the purposes of this Ordinance or possesses such experience as the Superintendent considers sufficient; or

- (ii) possesses such experience of the operation and maintenance of machinery as the Superintendent considers sufficient; or

- (iii) possesses such experience in the catering industry as the Superintendent considers sufficient.

(3) If at any time it appears to the Superintendent that the number of seamen whose names appear in Part I of the register and who are suitable and available for service in any particular post in a foreign-going ship is not, or may not be, sufficient to meet the demand for seamen for service in that post, he may cause to be entered in that Part of the register the name of any seaman—

- (a) whose name appears in Part II or Part III of the register and who is suitably qualified, by virtue of experience or otherwise, for service in that post; and
- (b) who has passed to the satisfaction of the Superintendent such medical examination as to his fitness for service in a foreign-going ship as the Authority specifies.

(4) In exercising the power conferred upon him by subsection (3), the Superintendent shall, so far as circumstances permit, give preference to seamen whose names appear in Part II of the register and as between seamen whose names appear in Part II of the register shall give preference to seamen according to the date on which their names were entered in the register.

(5) Upon application at any time by a seaman whose name appears in Part IV of the register, but not in Part I thereof, and whose

registration is not for the time being suspended under paragraph (i) or (ii) of subsection (1) of section 18 or suspended for a further period under subsection (1) of section 29, the Superintendent shall re-enter the name of the seaman in Part I of the register.

(6) The Authority may at any time, after consultation with the Advisory Board, direct the Superintendent to enter in Part I of the register the names of such seamen as the Authority thinks fit.

8. (1) Save as provided in subsection (3) and sections 11 and 14, Part II of the register shall contain, and shall contain only, the names of those seamen who are qualified to have their names entered therein by virtue of subsection (2). Part II of register.

(2) A seaman shall be qualified to have his name entered in Part II of the register if he satisfies the Superintendent that he has been in service at sea in a foreign-going ship at any time more than twenty-four months preceding his application for registration.

(3) Upon application by a seaman whose name appears in Part I of the register, the name of the seaman shall be entered in Part II of the register and shall thereupon be removed from Part I of the register.

9. Save as provided in section 11, the name of any seaman shall upon application be entered in Part III of the register if such seaman is at least eighteen years of age and not more than forty years of age and is not qualified to have his name entered in Part I or Part II of the register. Part III of register.

10. (1) Where— Part IV of register.

- (a) a seaman whose name appears in Part I or Part IV, or in both Part I and Part IV, of the register and whose registration is not for the time being suspended under paragraph (i) or (ii) of subsection (1) of section 18 or suspended for a further period under subsection (1) of section 29 makes application to have his name entered in respect of a licensed company or the Deputy Naval Store Officer in Part IV of the register; or
- (b) a licensed company or the Deputy Naval Store Officer makes application to have the name of a seaman whose name appears in Part I or Part IV, or in both Part I and Part IV, of the register and whose registration is not for the time being suspended under paragraph (i) or (ii) of subsection (1) of section 18 or suspended for a further period under subsection (1) of section 29 entered in respect of the licensed company or the Deputy Naval Store Officer, respectively, in Part IV of the register,

then, if—

- (i) in the first mentioned case, the Superintendent is satisfied that the licensed company in respect of which the name of the sea-

man is to be entered in Part IV of the register or the Deputy Naval Store Officer, as the case may be, consents to the application; or

- (ii) in the second mentioned case, the Superintendent is satisfied that the seaman consents to the application,

and in either case—

- (iii) the Superintendent is satisfied that the crew department list in which the name of the seaman is to be entered does not contain a number of names of seamen of the rating held by such seaman greater than the number of posts of that rating for which the crew department supplies seamen for service in foreign-going ships, save by such percentage of the number of such posts as the Authority may determine; and
- (iv) the Superintendent is satisfied that if the name of the seaman is entered in Part IV of the register in respect of that licensed company or the Deputy Naval Store Officer, as the case may be, the name of the seaman will appear in Part IV of the register only in respect of not more than two licensed companies or only in respect of the Deputy Naval Store Officer and not more than one licensed company,

he shall enter the name of the seaman in respect of that licensed company or the Deputy Naval Store Officer, as the case may be, in Part IV of the register and, in the case of a seaman whose name appears in Part I of the register, he shall on the application of the seaman, but not otherwise, remove the name of the seaman from Part I of the register.

(2) Where the Superintendent receives notice under subsection (5) of section 57 that the name of a seaman has been removed from the crew department list kept in a licensed crew department, or receives notice under subsection (5) of section 75 that the name of a seaman has been removed from the crew department list kept by the Deputy Naval Store Officer, and the name of the seaman does not appear in Part IV of the register in respect of any other person, the Superintendent shall remove the name of the seaman from Part IV of the register unless, under subsection (1) of section 58 or subsection (1) of section 76, as the case may be, he requires the licensed company or the Deputy Naval Store Officer to restore the name of the seaman to the crew department list.

(3) Where under subsection (2) the name of a seaman is removed from Part IV of the register, then, if the name of the seaman does not appear in Part I of the register, the Superintendent shall thereupon enter the name of the seaman in Part I of the register.

11. Save as provided in section 14 and save where—

- (a) the name of a seaman is restored to the register under subsection (2) or (3) of section 28;
- (b) an appeal by a seaman under section 32 is allowed and by reason thereof the name of a seaman is restored to the register; or
- (c) the name of a seaman is restored to the register pursuant to the directions of a judge on an appeal by the seaman under section 32,

Disqualification for entry of seaman's name in register.

a seaman shall not be entitled to have his name entered in the register again if his name has previously been removed therefrom under subsection (1) of section 17 or pursuant to a direction of a Board of Reference under subsection (1) of section 29.

12. (1) Subject to the provisions of this section, the register shall, depending on the part thereof in which the name of a seaman appears, contain in relation to that seaman such particulars as the Superintendent considers necessary.

Particulars to be entered in register.

(2) In the case of every seaman whose name appears in the register, there shall be recorded in the register—

- (a) the address for the time being supplied, in the appropriate prescribed form, by the seaman to the Superintendent as the address to which any notice or other document required or permitted by this Ordinance to be served on him may be sent by post or to which any other notice or document sent to him for the purposes of this Ordinance may be addressed; and
- (b) the rating of the seaman, if any.

13. (1) If it comes to the notice of the Superintendent that a seaman whose name appears in Part I or Part IV, or in both Part I and Part IV, of the register has been promoted to a rating higher than that recorded in relation to him in the register, the Superintendent shall cause the new rating to be recorded in the register in lieu of the seaman's former rating.

Change of seaman's rating.

(2) If it comes to the notice of the Superintendent that the rating recorded in the register in relation to a seaman whose name appears in Part I or Part IV, or in both Part I and Part IV, of the register has been reduced, the Superintendent shall cause the new rating to be recorded in the register in lieu of the seaman's former rating unless, after such inquiry as he thinks fit, the Superintendent considers that the seaman's rating was reduced without any or any sufficient cause.

Power of Authority to direct that name of seaman whose name has been removed from register be restored to Part II of register.

14. (1) At any time after the expiry of a period of five years from the day on which the Board of Reference confirmed the removal of the name of a seaman from the register under subsection (1) of section 28 or directed the Superintendent to remove the name of a seaman from the register under subsection (1) of section 29, the seaman may apply to the Authority for a direction that his name be entered in Part II of the register.

(2) On an application by a seaman under subsection (1), the Authority may, after consultation with the Advisory Board, direct the Superintendent to enter the name of the seaman in Part II of the register or refuse the application.

PART IV.

BOARDS OF REFERENCE AND REMOVAL OR SUSPENSION OF SEAMEN FROM REGISTER.

Appointment of panel.

15. (1) The Governor may appoint such persons as he thinks fit to be members of a panel from which persons may be appointed under section 16 to be members of a Board of Reference.

(2) In appointing persons to be members of the panel, the Governor shall appoint such number of legally qualified persons as he considers will be adequate for the purposes of subsection (2) of section 16.

(3) A member of the panel may resign at any time by giving one month's notice in writing to the Colonial Secretary of his intention to resign, and the Governor may at any time and for any reason whatsoever terminate the appointment of any person to be a member of the panel.

Boards of Reference.

16. (1) Every Board of Reference shall consist of—

- (a) the Authority or an assistant director of marine appointed by the Authority, who shall be the chairman;
- (b) the Commissioner of Labour or a public officer appointed by the Commissioner of Labour; and
- (c) three members of the panel appointed by the Colonial Secretary.

(2) Of the three members of the panel appointed by the Colonial Secretary to be members of a Board of Reference, one shall be a legally qualified person.

(3) The Superintendent shall not be a member of any Board of Reference.

17. (1) The Superintendent may, after considering any representations that the seaman may make on the occasion specified in the notice served on him pursuant to subsection (1) of section 19, remove the name of a seaman from the register in either of the following cases, that is to say, if he is satisfied that—

Removal of seaman's name from register by Superintendent.

- (a) after the commencement of this Ordinance, the seaman has been convicted in the Colony or elsewhere of any offence involving the import, export, sale or other dealing in or with, or possession of any dangerous drug; or
- (b) the seaman has been convicted—
 - (i) of an offence against subsection (2) of section 73; or
 - (ii) of an offence against subsection (2) of section 3 of the Prevention of Corruption Ordinance in respect of any matter or transaction whatsoever, actual or proposed, in which the Seamen's Recruiting Office was concerned. (Cap. 215).

(2) The Superintendent shall remove the name of a seaman from the register in either of the following cases, that is to say—

- (a) in the event of the death of the seaman; or
- (b) if the seaman requests the removal of his name therefrom.

(3) Where under subsection (1) the Superintendent has removed the name of a seaman from the register, he shall forthwith refer the case to the Authority and serve on the seaman notice—

- (a) that his name has been so removed from the register, together with a statement of the ground on which it was removed; and
- (b) that the case has been referred to the Authority.

(4) Where under this section the Superintendent has removed from the register the name of a seaman whose name appeared in Part IV of the register, whether or not the name of the seaman also appeared in Part I of the register, he shall forthwith give notice in writing thereof to every person in respect of whom the name of the seaman appeared in Part IV of the register.

18. (1) If, after considering any representations that the seaman may make on the occasion specified in the notice served on him pursuant to subsection (1) of section 19, it appears to the Superintendent that—

Suspension of seaman's registration by Superintendent.

- (a) after the commencement of this Ordinance, the seaman has deserted his ship, in the Colony or elsewhere;
- (b) after the commencement of this Ordinance, the seaman has been convicted in the Colony or elsewhere of any offence of such a nature as to render it undesirable that the seaman should continue to serve in foreign-going ships;

- (c) after the commencement of this Ordinance, the seaman has been guilty of misconduct on a ship of such a serious nature as to render it undesirable that the seaman should continue to serve in foreign-going ships, whether or not such misconduct constituted an offence, and, if it did constitute an offence, whether or not the seaman has been convicted of such offence;
- (d) without reasonable excuse, the seaman has failed to comply with any order, direction, requirement or request made, given or issued under or for the purposes of this Ordinance by the Superintendent or any other public officer; or
- (e) during any period of fifteen months during which the name of the seaman appeared at all times in Part I of the register, but did not at any time during such period appear in Part IV of the register, the seaman has neither been in service in a foreign-going ship nor been engaged for such service,

the Superintendent may—

- (i) suspend the registration of the seaman for any period not exceeding six months; or
 - (ii) suspend the registration of the seaman and forthwith refer the case to the Authority.
- (2) In calculating the period of fifteen months for the purposes of paragraph (e) of subsection (1), no account shall be taken of—
- (a) any days, not exceeding one hundred and eighty days altogether, on which the seaman takes a holiday of which notice was given to the Superintendent in accordance with subsection (5) of section 38;
 - (b) any period during which the registration of the seaman was suspended under paragraph (i) or (ii) of subsection (1) or suspended for a further period under subsection (1) of section 29;
 - (c) any period during which the seaman was unable, to the satisfaction of the Superintendent, to attend at the Seamen's Recruiting Office to be supplied for selection for service in a foreign-going ship by reason of illness; or
 - (d) any other period of which the Superintendent, after such inquiry as he thinks fit upon the application of the seaman at any time before or after the expiry of the said period of fifteen months, considers no account ought to be taken.
- (3) (a) The Superintendent shall serve on a seaman whose registration has been suspended under paragraph (i) of subsection (1) notice that his registration has been suspended and of the period for which it was suspended, together with a statement of the ground on which it was suspended.

- (b) The Superintendent shall serve on a seaman whose registration has been suspended under paragraph (ii) of subsection (1) notice—

- (i) that his registration has been so suspended, together with a statement of the ground on which it was suspended; and
- (ii) that the case has been referred to the Authority.

(4) Where under paragraph (i) or (ii) of subsection (1) the Superintendent has suspended the registration of a seaman whose name appears in Part IV of the register, whether or not the name of the seaman also appears in Part I of the register, he shall forthwith give notice in writing thereof to every person in respect of whom the name of the seaman appears in Part IV of the register, and—

- (a) where the seaman's registration was suspended under paragraph (i) of subsection (1), such notice shall also specify the period for which his registration was suspended; and
- (b) where the seaman's registration was suspended under paragraph (ii) of subsection (1), such notice shall also state that the case has been referred to the Authority.

19. (1) Where the Superintendent considers that he may remove the name of a seaman from the register under subsection (1) of section 17, or suspend the registration of a seaman under paragraph (i) or (ii) of subsection (1) of section 18, he shall serve on the seaman notice thereof.

Seaman to be notified of intention to remove name from register or to suspend registration.

(2) Every such notice shall also—

- (a) specify the ground on which the Superintendent considers that he may remove the name of the seaman from the register or suspend the seaman's registration, as the case may be; and
- (b) specify a date and time at which the seaman may appear before the Superintendent for the purpose of making representations in the matter.

20. (1) A seaman whose registration has been suspended by the Superintendent under paragraph (i) of subsection (1) of section 18 may appeal to the Authority—

- (a) on the ground that he disputes the ground on which his registration was so suspended;
- (b) on the ground that the period for which his registration was so suspended is excessive; or
- (c) on both of such grounds.

(2) An appeal under this section shall be made by delivering to the Authority, within one month after notice of the Superintendent's decision was served on the seaman in accordance with paragraph (a) of

Appeal against suspension of seaman's registration under section 18(1)(i).

subsection (3) of section 18 or within such further time as the Authority may allow in any particular case, a notice in writing setting forth the ground or grounds of appeal.

(3) The Authority shall refer every appeal duly made in accordance with this section to a Board of Reference and shall serve on the seaman by whom the appeal is made a notice specifying the date on which the appeal will be heard.

Authority to refer cases to Board of Reference.

21. The Authority shall refer every case referred to him by the Superintendent under subsection (3) of section 17 or paragraph (ii) of subsection (1) of section 18 to a Board of Reference, and shall serve on the seaman a notice specifying the date on which the case will be heard.

Provision for case where hearing of appeal or referred case not commenced within prescribed period.

22. (1) If the hearing of an appeal under section 20 by a seaman is not commenced within three months after the notice of appeal was delivered to the Authority in accordance with subsection (2) of section 20 and the period for which the seaman's registration was suspended has not then expired, the Superintendent shall forthwith withdraw the suspension of the seaman's registration.

(2) If the hearing of a case referred by the Authority under section 21 to a Board of Reference is not commenced within three months after the case was referred to the Authority in accordance with subsection (3) of section 17 or paragraph (ii) of subsection (1) of section 18, as the case may be, the Superintendent shall forthwith restore the seaman's name to the register or withdraw the suspension of the seaman's registration, as the case may be, and no further proceedings on the case shall take place.

Board of Reference may proceed with hearing of referred case in absence of seaman in certain cases.

23. If a Board of Reference is satisfied that the notice required by section 21 to be served on a seaman was served by delivering it to the seaman personally, the Board of Reference may proceed with the hearing of the case notwithstanding that the seaman is not present.

Practice and procedure upon hearing of appeal or referred case.

24. (1) Subject to the provisions of section 25 and subsections (3), (4), (5), (6), (7), (8) and (9) of this section, the practice and procedure on the hearing by a Board of Reference of an appeal under section 20 by a seaman on the ground that the period for which his registration was suspended is excessive shall be such as the Board of Reference thinks fit.

(2) The practice and procedure on the hearing by a Board of Reference of an appeal under section 20 by a seaman on the ground that he disputes the ground on which his registration was suspended or of a case referred by the Authority under section 21 to the Board of Reference shall be such as the Board of Reference thinks fit, subject

to the following provisions and to the provisions of sections 23 and 25 and subsections (3), (4), (5), (6), (7), (8) and (9) of this section—

- (a) the burden of proof shall be on the Superintendent;
- (b) the Superintendent may address the Board of Reference and adduce evidence in support of his case;
- (c) the seaman shall be entitled to put questions to any witness called by the Superintendent;
- (d) when all the evidence which the Superintendent wishes to adduce has been adduced, the seaman may give evidence himself and adduce other evidence in support of his case and may then address the Board of Reference;
- (e) the Superintendent shall be entitled to put questions to the seaman if he gives evidence and to any witness called by the seaman;
- (f) the Board of Reference may call any witness whom it considers necessary, but the Superintendent and the seaman shall be entitled to put questions to any such witness and if any such witness is called after the seaman has addressed the Board of Reference pursuant to paragraph (d) the seaman shall be entitled to address the Board again on any matter arising from the evidence given by such witness.

(3) On the hearing of an appeal under section 20 by a seaman or of a case referred by the Authority under section 21 to a Board of Reference, the seaman may be represented by counsel or a solicitor or by any other person and the Superintendent may be represented by a legal officer.

(4) Any deposition made on oath by any person before a magistrate in any part of the Commonwealth, or before any British consular officer elsewhere, shall be admissible in evidence in any proceedings before a Board of Reference—

- (a) if, at the time, the person by whom the deposition was made is not, or cannot be found, in the Colony; and
- (b) if the deposition is authenticated by the signature of the magistrate or British consular officer before whom it was made.

(5) Any entry in the official log book kept in any ship or in any similar document, and any copy of any such entry certified by the superintendent of a mercantile marine office in any part of the Commonwealth or by a British consular officer to be a true copy, shall be admissible in evidence in any proceedings before a Board of Reference if the entry was made, and signed by the master and some other member of the crew, within twenty-four hours after the occurrence to which it relates.

(6) Any deposition purporting to be signed by the magistrate or British consular officer before whom it was made shall be deemed to have been so signed until the contrary is proved.

(7) Any entry in the official log book kept in any ship, or in any similar document, purporting to be signed by the master and another member of the crew shall be deemed to have been so signed until the contrary is proved, and any date and time purporting to be the date on and time at which any such entry was made and signed shall be deemed to be the date on and time at which the same was made and signed until the contrary is proved.

(8) Any copy of any entry in the official log book kept in any ship, or in any similar document, purporting to be certified to be a true copy by the superintendent of a mercantile marine office in any part of the Commonwealth or by a British consular officer shall be deemed to have been so certified until the contrary is proved.

(9) Subject to the provisions of subsections (4), (5), (6), (7) and (8), a Board of Reference may receive and consider such evidence as it thinks fit, notwithstanding that the evidence would not be admissible in the courts of the Colony under the law relating to evidence.

25. Save as provided in sections 26, 28 and 29, in the event of a difference between the members of a Board of Reference on any matter arising in any proceedings before the Board of Reference on an appeal under section 20 by a seaman or a case referred by the Authority under section 21 to the Board of Reference, the decision shall be taken by the votes of the majority.

26. (1) If, on the hearing of an appeal under section 20 by a seaman on the ground that he disputes the ground on which his registration was suspended by the Superintendent, the Board of Reference is unanimously satisfied, as the case may be, that—

- (a) after the commencement of this Ordinance, the seaman has deserted his ship, in the Colony or elsewhere;
- (b) after the commencement of this Ordinance, the seaman has been convicted in the Colony or elsewhere of any offence of such a nature as to render it undesirable that the seaman should continue to serve in foreign-going ships;
- (c) after the commencement of this Ordinance, the seaman has been guilty of misconduct on a ship of such a serious nature as to render it undesirable that the seaman should continue to serve in foreign-going ships, whether or not such misconduct constituted an offence, and, if it did constitute an offence, whether or not the seaman has been convicted of such offence;
- (d) without reasonable excuse, the seaman has failed to comply with any order, direction, requirement or request made, given or issued under or for the purposes of this Ordinance by the Superintendent or any other public officer; or

- (e) during any period of fifteen months during which the name of the seaman appeared at all times in Part I of the register, but did not at any time during such period appear in Part IV of the register, the seaman has neither been in service in a foreign-going ship nor been engaged for such service,

the Board of Reference shall dismiss the appeal.

(2) If on the hearing of any such appeal the Board of Reference is not unanimously satisfied as to the relevant ground specified in subsection (1), the Board of Reference shall direct the Superintendent to withdraw the suspension of the seaman's registration.

(3) On an appeal under section 20 by a seaman on the ground that the period for which his registration was suspended by the Superintendent is excessive, the Board of Reference may confirm the decision of the Superintendent or direct that the seaman's registration shall be suspended under paragraph (i) of subsection (1) of section 18 for such shorter period as it thinks fit.

(4) In calculating the period of fifteen months for the purposes of paragraph (e) of subsection (1), no account shall be taken of—

- (a) any days, not exceeding one hundred and eighty days altogether, on which the seaman takes a holiday of which notice was given to the Superintendent in accordance with subsection (5) of section 38;
- (b) any period during which the registration of the seaman was suspended under paragraph (i) or (ii) of subsection (1) of section 18 or suspended for a further period under subsection (1) of section 29;
- (c) any period during which the seaman was unable, to the satisfaction of the Board of Reference, to attend at the Seamen's Recruiting Office to be supplied for selection for service in a foreign-going ship by reason of illness; or
- (d) any other period of which the Board of Reference considers no account ought to be taken.

27. (1) As soon as practicable, the Authority shall serve on the seaman by whom the appeal was made a statement in writing of the decision of the Board of Reference on an appeal under section 20, including, in the case of an appeal under that section by a seaman on the ground that he disputes the ground on which his registration was suspended by the Superintendent, its findings of fact and the evidence in support thereof.

(2) Where, pursuant to a direction of a Board of Reference given under subsection (2) of section 26, the Superintendent withdraws the suspension of the registration of a seaman whose name appears in Part IV of the register, whether or not the name of the seaman also

Seaman to be notified of decision of Board of Reference on appeal under section 20, and notice to be given to licensed company and Deputy Naval Store Officer in certain cases.

Majority decision to be decision of Board of Reference with certain exceptions.

Determination of appeal under section 20 by seaman.

appears in Part I of the register, he shall forthwith give notice in writing thereof to every person in respect of whom the name of the seaman appears in Part IV of the register.

(3) Where, on an appeal under section 20 by a seaman whose name appears in Part IV of the register, whether or not the name of the seaman also appears in Part I of the register, on the ground that the period for which his registration was suspended by the Superintendent is excessive, the Board of Reference directs that the seaman's registration shall be suspended for a shorter period, the Superintendent shall forthwith give notice in writing of the decision of the Board of Reference to every person in respect of whom the name of the seaman appears in Part IV of the register.

Determina-
tion by
Board of
Reference of
case referred
to Authority
under
section 17(3).

28. (1) If, on the hearing of a case referred to a Board of Reference by the Authority under section 21 following a reference of the case to the Authority by the Superintendent in accordance with subsection (3) of section 17, the Board of Reference is unanimously satisfied, as the case may be, that—

- (a) after the commencement of this Ordinance, the seaman has been convicted in the Colony or elsewhere of any offence involving the import, export, sale or other dealing in or with, or possession of any dangerous drug; or
- (b) the seaman has been convicted—
 - (i) of an offence against subsection (2) of section 73; or
 - (ii) of an offence against subsection (2) of section 3 of the Prevention of Corruption Ordinance in respect of any matter or transaction whatsoever, actual or proposed, in which the Seamen's Recruiting Office was concerned,

(Cap. 215).

the Board of Reference may, subject to section 30, confirm the removal of the name of the seaman from the register.

(2) If on the hearing of any such case the Board of Reference is not unanimously satisfied as to the relevant ground specified in subsection (1), the Board of Reference shall direct the Superintendent to restore the name of the seaman to the register.

(3) Notwithstanding that on the hearing of any such case the Board of Reference is unanimously satisfied as to the relevant ground specified in subsection (1), the Board of Reference may direct the Superintendent to restore the name of the seaman to the register.

Determina-
tion by
Board of
Reference of
case referred
to Authority
under section
18(1)(ii).

29. (1) If, on the hearing of a case referred to a Board of Reference by the Authority under section 21 following a reference of the case to the Authority by the Superintendent in accordance with paragraph (ii) of subsection (1) of section 18, the Board of Reference is unanimously satisfied, as the case may be, that—

- (a) after the commencement of this Ordinance, the seaman has deserted his ship, in the Colony or elsewhere;

- (b) after the commencement of this Ordinance, the seaman has been convicted in the Colony or elsewhere of any offence of such a nature as to render it undesirable that the seaman should continue to serve in foreign-going ships;
- (c) after the commencement of this Ordinance, the seaman has been guilty of misconduct on a ship of such a serious nature as to render it undesirable that the seaman should continue to serve in foreign-going ships, whether or not such misconduct constituted an offence, and, if it did constitute an offence, whether or not the seaman has been convicted of such offence;
- (d) without reasonable excuse, the seaman has failed to comply with any order, direction, requirement or request made, given or issued under or for the purposes of this Ordinance by the Superintendent or any other public officer; or
- (e) during any period of fifteen months during which the name of the seaman appeared at all times in Part I of the register, but did not at any time during such period appear in Part IV of the register, the seaman has neither been in service in a foreign-going ship nor been engaged for such service,

the Board of Reference may, subject to section 30—

- (i) direct the Superintendent to remove the name of the seaman from the register; or
- (ii) suspend the seaman's registration for such further period, not exceeding twelve months, as the Board of Reference thinks fit.

(2) If on the hearing of any such case the Board of Reference is not unanimously satisfied as to the relevant ground specified in subsection (1), the Board of Reference shall direct the Superintendent to withdraw the suspension of the seaman's registration.

(3) Notwithstanding that on the hearing of any such case the Board of Reference is unanimously satisfied as to the relevant ground specified in subsection (1), the Board of Reference may direct the Superintendent to withdraw the suspension of the seaman's registration.

(4) In calculating the period of fifteen months for the purpose of paragraph (e) of subsection (1), no account shall be taken of—

- (a) any days, not exceeding one hundred and eighty days altogether, on which the seaman takes a holiday of which notice was given to the Superintendent in accordance with subsection (5) of section 38;
- (b) any period during which the registration of the seaman was suspended under paragraph (i) or (ii) of subsection (1) of section 18 or suspended for a further period under subsection (1) of this section;

- (c) any period during which the seaman was unable, to the satisfaction of the Board of Reference, to attend at the Seamen's Recruiting Office to be supplied for selection for service in a foreign-going ship by reason of illness; or
- (d) any other period of which the Board of Reference considers no account ought to be taken.

30. Where on the hearing of a case referred to a Board of Reference by the Authority under section 21 the Board of Reference considers that it may exercise the power conferred on it by subsection (1) of section 28 or any of the powers conferred on it by subsection (1) of section 29, as the case may be, the chairman of the Board of Reference shall inform the seaman thereof and the seaman shall be entitled to make to the Board of Reference such representations with respect to the exercise of that power as he may wish.

31. (1) As soon as practicable, the Authority shall serve on a seaman whose case was referred by the Authority under section 21 to a Board of Reference a statement in writing of the decision of the Board of Reference on the case, including its findings of fact and the evidence in support thereof.

(2) Where, pursuant to a direction of a Board of Reference given under subsection (2) or (3) of section 28, the Superintendent restores the name of a seaman to Part IV of the register, whether or not the name of the seaman is also restored to Part I of the register, he shall forthwith give notice in writing thereof to every person in respect of whom the name of the seaman appears in Part IV of the register.

(3) Where, pursuant to a direction of a Board of Reference given under subsection (1) of section 29, the Superintendent has removed from the register the name of a seaman whose name appeared in Part IV of the register, whether or not the name of the seaman also appeared in Part I of the register, he shall forthwith give notice in writing thereof to every person in respect of whom the name of the seaman appeared in Part IV of the register.

(4) Where under subsection (1) of section 29 a Board of Reference suspends for a further period the registration of a seaman whose name appears in Part IV of the register, whether or not the name of the seaman also appears in Part I of the register, the Superintendent shall forthwith give notice in writing thereof to every person in respect of whom the name of the seaman appears in Part IV of the register, specifying the period for which the suspension is to continue.

(5) Where, pursuant to a direction of a Board of Reference given under subsection (2) or (3) of section 29, the Superintendent withdraws the suspension of the registration of a seaman whose name appears in

Right of seaman to make representations to Board of Reference with respect to exercise of Board's powers under section 28(1) or 29(1).

Seaman to be notified of decision of Board of Reference on referred case, and notice to be given to licensed company and Deputy Naval Store Officer in certain cases.

Part IV of the register, whether or not the name of the seaman also appears in Part I of the register, he shall forthwith give notice in writing thereof to every person in respect of whom the name of the seaman appears in Part IV of the register.

32. (1) A seaman whose case was referred by the Authority under section 21 to a Board of Reference and who is dissatisfied in point of law with a decision of the Board of Reference on the case may, within twenty-eight days after the service on him of the statement required to be served on him by subsection (1) of section 31, appeal to a judge of the Supreme Court.

Appeal to judge of Supreme Court on point of law.

(2) If on an appeal under subsection (1) the judge is of opinion that the decision of the Board of Reference was erroneous in point of law—

- (a) he may allow the appeal and give such directions in the matter as he thinks proper; or
- (b) he may remit the matter to the Board of Reference for determination in accordance with his decision on the point of law.

(3) The Chief Justice may make rules providing for the practice and procedure on any appeal under subsection (1).

(4) Subject to any rules made under subsection (3), the practice and procedure on an appeal under subsection (1) shall be such as the judge may determine.

33. Where—

- (a) an appeal by a seaman under section 32 is allowed and by reason thereof the Superintendent restores the name of the seaman to Part IV of the register, whether or not the name of the seaman is also restored to Part I of the register;
- (b) an appeal under section 32 by a seaman whose name appears in Part IV of the register, whether or not the name of the seaman also appears in Part I of the register, is allowed and by reason thereof the Superintendent withdraws the suspension of the registration of the seaman;
- (c) pursuant to the directions of a judge on an appeal by a seaman under section 32, the Superintendent restores the name of the seaman to Part IV of the register, whether or not the name of the seaman is also restored to Part I of the register; or
- (d) pursuant to the directions of a judge on an appeal under section 32 by a seaman whose name appears in Part IV of the

Licensed company and Deputy Naval Store Officer to be notified in certain cases following appeal under section 32.

register, whether or not the name of the seaman also appears in Part I of the register, the Superintendent withdraws the suspension of the registration of the seaman,

the Superintendent shall give notice in writing thereof to every person in respect of whom the name of the seaman appears in Part IV of the register.

PART V.

CONTROL OF RECRUITMENT, ENGAGEMENT AND SUPPLY OF SEAMEN FOR SERVICE IN FOREIGN-GOING SHIPS, AND PROCEDURE IN AND IN CONNEXION WITH SUPPLY OF SEAMEN BY SEAMEN'S RECRUITING OFFICE.

Control of recruitment, engagement and supply of seamen.

34. (1) Save as provided in subsection (8) of this section or subsection (1) of section 40 or subsection (3) of section 56 or subsection (3) of section 74 or save with the permission of the Superintendent, a person shall not recruit or engage any seaman for service in a foreign-going ship, other than a seaman supplied in accordance with the provisions of this Ordinance by a licensed company or the Deputy Naval Store Officer, except at or through the Seamen's Recruiting Office.

(2) Save as provided in subsection (8) of this section or subsection (3) of section 56 or subsection (3) of section 74, a person, other than a licensed company or the Deputy Naval Store Officer, shall not supply any seaman for service in a foreign-going ship.

(3) A person shall not receive or accept for service in a foreign-going ship any seaman if that person knows that the seaman has been recruited, engaged or supplied in contravention of this section.

(4) The master of a foreign-going ship shall not carry to sea any seaman if he knows that the seaman has been recruited, engaged or supplied in contravention of this section.

(5) Without prejudice to subsection (4), the master of a foreign-going ship shall not, save with the permission of the Superintendent, carry to sea any seaman, other than—

- (a) a seaman who has been recruited or engaged pursuant to and in accordance with subsection (8);
- (b) a seaman who has been re-engaged for service under and in accordance with section 40 or 64; or
- (c) a seaman who has been supplied for service in accordance with the provisions of this Ordinance by a licensed company or the Deputy Naval Store Officer,

who, having joined the ship in the Colony, has been recruited or engaged otherwise than at or through the Seamen's Recruiting Office.

(6) Any person who contravenes any of the provisions of subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on summary conviction—

- (a) in the case of a person other than a company, to a fine of twenty-five thousand dollars and to imprisonment for two years; or
- (b) in the case of a company, to a fine of fifty thousand dollars.

(7) In the event of a contravention of subsection (4) or (5), the master and the owner or charterer of the ship, and the agent of the master, owner or charterer, shall each be guilty of an offence and shall be liable on summary conviction—

- (a) in the case of a person other than a company, to a fine of twenty-five thousand dollars and to imprisonment for two years; or
- (b) in the case of a company, to a fine of fifty thousand dollars.

(8) In any case of emergency, a seaman whose name appears in Part I of the register and whose registration is not for the time being suspended under paragraph (i) or (ii) of subsection (1) of section 18 or suspended for a further period under subsection (1) of section 29 may be recruited or engaged for service in a foreign-going ship otherwise than at or through the Seamen's Recruiting Office or supplied for such service by any person if—

- (a) the Seamen's Recruiting Office is closed at the time the seaman comes to be recruited, engaged or supplied; and
- (b) the ship would be delayed if the recruitment or engagement of the seaman were postponed until the time when seamen may next be recruited or engaged at or through the Seamen's Recruiting Office.

(9) Where, in proceedings for an offence under this section, the defendant alleges that the case falls within subsection (8), it shall be on the defendant to prove that—

- (a) the case was one of emergency; and
- (b) the ship would have been delayed if the recruitment or engagement of the seaman had been postponed until the time when seamen might next have been recruited or engaged at or through the Seamen's Recruiting Office.

(10) Any permission granted by the Superintendent for the purposes of subsection (1) shall be subject to such conditions as the Superintendent may specify on the grant thereof.

Power of Director of Marine to refuse to issue port clearance, and detention of ship, in certain cases. (14 of 1953).

35. (1) Without prejudice to any provision of the Merchant Shipping Ordinance 1953, the Director of Marine may, for the purposes of this Ordinance, refuse to issue a port clearance in respect of any foreign-going ship if the Superintendent notifies the Director of Marine that he has reason to believe that a seaman who is about to be carried to sea in that ship may have been recruited, engaged or supplied for service in that ship in contravention of section 34.

(2) If any seaman in any foreign-going ship which is about to leave any port of the Colony has been recruited, engaged or supplied for service in that ship in contravention of section 34, the Director of Marine may detain such ship until he is satisfied that such seaman will not be carried to sea in that ship.

Supply of seamen by Seamen's Recruiting Office.

36. (1) A seaman shall not be supplied by the Seamen's Recruiting Office for selection for service in a foreign-going ship—

- (a) unless his name appears in Part I of the register and he has given notice to the Superintendent under subsection (1) of section 38 that he seeks to be engaged for such service; or
- (b) if his registration is for the time being suspended under paragraph (i) or (ii) of subsection (1) of section 18 or suspended for a further period under subsection (1) of section 29.

(2) The method used in the Seamen's Recruiting Office for mustering seamen whose names appear in Part I of the register to be supplied for selection for service in foreign-going ships shall be such as the Authority may determine after consultation with the Advisory Board.

Seamen may volunteer services if Superintendent permits.

37. Nothing in this Ordinance shall be deemed to require that seamen shall be supplied for selection for service in a foreign-going ship following a muster in accordance with the method determined by the Authority under subsection (2) of section 36 as the method to be used for mustering seamen to be supplied for selection for service in foreign-going ships, and, where the Superintendent thinks fit, he may permit seamen whose names appear in Part I of the register and whose registration is not for the time being suspended under paragraph (i) or (ii) of subsection (1) of section 18 or suspended for a further period under subsection (1) of section 29 to offer themselves for service or for selection for service in any particular post or posts in a foreign-going ship.

38. (1) When a seaman whose name appears in Part I of the register seeks to be engaged through the Seamen's Recruiting Office for service in a foreign-going ship, he shall give notice thereof to the Superintendent.

Procedure on supply of seamen through Seamen's Recruiting Office, etc., otherwise than in urgent cases.

(2) When, according to the method used in the Seamen's Recruiting Office for mustering seamen who have given notice to the Superintendent pursuant to subsection (1), a seaman is requested to attend at the Seamen's Recruiting Office to be supplied for selection for service in a foreign-going ship, a notice specifying the date on and time at which he is required to attend shall be served on him.

(3) Every seaman supplied by the Seamen's Recruiting Office for selection for service in a foreign-going ship, and every seaman offering himself for selection for service in a foreign-going ship when permitted to do so by the Superintendent under section 37, who is selected for service in that ship shall be issued by the Superintendent with an engagement card in the prescribed form and shall thereupon pay to the Superintendent a fee of four dollars.

(4) If such a seaman who has been selected for service in a foreign-going ship is not for any reason engaged for service in that ship, he shall forthwith return to the Superintendent the engagement card issued to him under subsection (3) and thereupon the fee paid by the seaman pursuant to that subsection shall be refunded to him.

(5) If, notwithstanding that he has given notice to the Superintendent under subsection (1) that he seeks to be engaged for service in a foreign-going ship, a seaman intends to take a holiday, he shall give notice thereof to the Superintendent, specifying the days on which he intends to take a holiday.

39. (1) When a seaman who has been selected for service in a foreign-going ship, other than a Royal Fleet Auxiliary ship, after he has been supplied for selection for service in that ship by the Seamen's Recruiting Office or after he has offered himself for selection for such service when permitted to do so by the Superintendent under section 37 signs the articles of agreement for service in that ship or enters into any other agreement (including an agreement known as a transit agreement) for service therein, there shall be produced to the Superintendent of the Mercantile Marine Office or the consular officer, as the case may be, at the time the seaman signs the articles of agreement or other agreement for service—

Procedure on engagement of seaman recruited through Seamen's Recruiting Office for service in a ship other than a Royal Fleet Auxiliary ship.

- (a) the engagement card issued to the seaman under subsection (3) of section 38; and

(b) the seaman's Hong Kong seaman's discharge book, and thereafter the seaman shall deliver the engagement card to the master, owner or charterer of the ship or the agent of the master, owner or charterer.

(2) If, at the time such a seaman who has been selected for service in a foreign-going ship, other than a Royal Fleet Auxiliary ship, signs the articles of agreement for service in that ship or enters into any other agreement (including an agreement known as a transit agreement) for service therein, the engagement card and the seaman's Hong Kong seaman's discharge book are not produced to the Superintendent of the Mercantile Marine Office or the consular officer in accordance with subsection (1), the master (if he was present at the time the articles of agreement or other agreement were signed) and the owner or charterer of the ship, and the agent of the master, owner or charterer, shall each be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(3) A seaman who without reasonable excuse fails or refuses to deliver the engagement card to the master, owner or charterer of the ship, or the agent of the master, owner or charterer, in accordance with subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

40. (1) If, at any time before a seaman whose name appears in Part I of the register is discharged from a foreign-going ship on the termination of his agreement, the master, owner or charterer of that ship, or the agent of the master, owner or charterer, has notified the Superintendent, by delivering to him a re-engagement card in the prescribed form containing such particulars as may be required thereby, that the seaman is to be re-engaged for service in that ship, then, within forty-five days after his discharge from that ship, the seaman may be re-engaged for service therein otherwise than at or through the Seamen's Recruiting Office if, at the time he is re-engaged, his name appears in Part I of the register and his registration is not for the time being suspended under paragraph (i) or (ii) of subsection (1) of section 18 or suspended for a further period under subsection (1) of section 29.

(2) Where a re-engagement card is delivered to the Superintendent pursuant to subsection (1), the Superintendent shall enter therein the date on which he received the same and return it to the master, owner or charterer of the ship or the agent of the master, owner or charterer, who may in his discretion retain it or deliver it to the seaman.

(3) When a seaman who is being re-engaged for service in a foreign-going ship pursuant to subsection (1) signs the articles of agree-

Re-engagement of seaman.

ment for service in that ship or enters into any other agreement (including an agreement known as a transit agreement) for service therein, there shall be produced to the Superintendent of the Mercantile Marine Office or the consular officer, as the case may be, at the time the seaman signs the articles of agreement or other agreement for service—

(a) the re-engagement card delivered to the Superintendent pursuant to subsection (1); and

(b) the seaman's Hong Kong seaman's discharge book,

and thereafter, if the re-engagement card was delivered to the seaman under subsection (2), the seaman shall deliver it to the master, owner or charterer of the ship or the agent of the master, owner or charterer.

(4) If, at the time a seaman who is being re-engaged for service in a foreign-going ship pursuant to subsection (1) signs the articles of agreement for service in that ship or enters into any other agreement (including an agreement known as a transit agreement) for service therein, the re-engagement card and the seaman's Hong Kong seaman's discharge book are not produced to the Superintendent of the Mercantile Marine Office or the consular officer in accordance with subsection (3), the master (if he was present at the time the articles of agreement or other agreement were signed) and the owner or charterer of the ship, and the agent of the master, owner or charterer, shall each be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(5) A seaman who without reasonable excuse fails or refuses to deliver the re-engagement card to the master, owner or charterer of the ship, or the agent of the master, owner or charterer, in accordance with subsection (3) shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

41. (1) When all the seamen who have been selected for service in a foreign-going ship, other than a Royal Fleet Auxiliary ship, after they have been supplied for selection for service in that ship by the Seamen's Recruiting Office or after they have offered themselves for selection for such service when permitted to do so by the Superintendent under section 37 have been engaged for such service, and all the seamen, if any, being re-engaged for service in that ship pursuant to subsection (1) of section 40 have been re-engaged, the owner or charterer of the ship, or the agent of the owner or charterer, shall, as soon as practicable thereafter and at the same time—

(a) deliver to the Superintendent—

(i) the engagement card issued under subsection (3) of section 38 to each such seaman engaged for service in that ship;

Return of engagement and re-engagement cards to Superintendent and payment of fees by ship-owner, etc.

(ii) the re-engagement card delivered to the Superintendent pursuant to subsection (1) of section 40 in respect of each seaman re-engaged for service in that ship, which shall contain, in addition to the particulars entered therein pursuant to the said subsection (1) of section 40, particulars of the date on which the seaman was so re-engaged; and

(iii) a notice in the prescribed form specifying the total number of such seamen engaged for service in that ship and containing such other particulars as may be required thereby; and

(b) pay to the Superintendent in respect of each such seaman engaged for service in that ship a fee of four dollars.

(2) In the event of a contravention of subsection (1), the owner or charterer of the ship, and the agent of the owner or charterer, shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

Procedure on engagement of seaman recruited through Seamen's Recruiting Office for service in Royal Fleet Auxiliary ship.

42. (1) When a seaman who has been selected for service in a Royal Fleet Auxiliary ship after he has been supplied for selection for service in a foreign-going ship by the Seamen's Recruiting Office or after he has offered himself for selection for such service when permitted to do so by the Superintendent under section 37 signs the articles of agreement for service in that ship or enters into any other agreement (including an agreement known as a transit agreement) for service therein, there shall be produced to the Superintendent of the Mercantile Marine Office at the time the seaman signs the articles of agreement or other agreement for service—

(a) the engagement card issued to the seaman under subsection (3) of section 38; and

(b) the seaman's Hong Kong seaman's discharge book,

and thereafter the seaman shall deliver the engagement card to the Deputy Naval Store Officer.

(2) When all the seamen who have been selected for service in a Royal Fleet Auxiliary ship after they have been supplied for selection for service in that ship by the Seamen's Recruiting Office or after they have offered themselves for selection for such service when permitted to do so by the Superintendent under section 37 have been engaged for such service, the Deputy Naval Store Officer shall, as soon as practicable thereafter and at the same time—

(a) deliver to the Superintendent—

(i) the engagement card issued under subsection (3) of section 38 to each such seaman engaged for service in that ship; and

(ii) a notice in the prescribed form specifying the total number of such seamen engaged for service in that ship and containing such other particulars as may be required thereby; and

(b) pay to the Superintendent in respect of each such seaman engaged for service in that ship a fee of four dollars.

(3) A seaman who without reasonable excuse fails or refuses to deliver the engagement card to the Deputy Naval Store Officer in accordance with subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

43. (1) When under section 37 the Superintendent permits a seaman to offer himself for service in a foreign-going ship, he shall issue the seaman with an emergency engagement card in the prescribed form, and thereupon the seaman shall, if so required by the Superintendent, pay to him a fee of four dollars.

Procedure where Superintendent permits seaman to offer himself for service in a foreign-going ship other than a Royal Fleet Auxiliary ship.

(2) When a seaman to whom an emergency engagement card has been issued under subsection (1) signs the articles of agreement for service in that ship or enters into any other agreement for service therein—

(a) there shall be produced—

(i) to the Superintendent of the Mercantile Marine Office or the consular officer, as the case may be; or

(ii) if the articles of agreement or other agreement for service are not signed by the seaman in the presence of the Superintendent of the Mercantile Marine Office or the consular officer, to the master of the ship,

at the time the seaman signs the articles of agreement or other agreement for service—

(iii) the emergency engagement card issued to the seaman under subsection (1); and

(iv) the seaman's Hong Kong seaman's discharge book; and

(b) the seaman shall pay to the master, owner or charterer of the ship, or the agent of the master, owner or charterer, a fee of four dollars, unless, pursuant to a requirement of the Superintendent under subsection (1), such fee has been paid to the Superintendent,

and thereafter the seaman shall deliver the emergency engagement card to the master, owner or charterer of the ship or the agent of the master, owner or charterer.

(3) As soon as practicable after a seaman to whom an emergency engagement card has been issued under subsection (1) has been engaged for service in that ship, the owner or charterer of the ship, or the agent of the owner or charterer, shall at the same time—

(a) deliver to the Superintendent—

(i) the emergency engagement card issued to the seaman under subsection (1); and

(ii) a notice in the prescribed form containing such particulars with respect to the engagement of the seaman as may be required thereby and, where the seaman was permitted under section 37 to offer himself for service in that ship at the request of the owner or charterer thereof or the agent of the owner or charterer, a statement of the reason for such request; and

(b) pay to the Superintendent in respect of the seaman a fee of eight dollars or, if pursuant to a requirement of the Superintendent under subsection (1) the seaman has paid to the Superintendent the fee of four dollars, a fee of four dollars.

(4) A notice delivered to the Superintendent pursuant to subparagraph (ii) of paragraph (a) of subsection (3) may be delivered in respect of more than one seaman.

(5) If, at the time a seaman to whom an emergency engagement card has been issued under subsection (1) signs the articles of agreement for service in that ship or other agreement for service therein, the emergency engagement card and the seaman's Hong Kong seaman's discharge book are not produced to the Superintendent of the Mercantile Marine Office or the consular officer or the master of the ship in accordance with subsection (2), then—

(a) if the articles of agreement or other agreement for service were signed in the presence of the Superintendent of the Mercantile Marine Office or the consular officer, the master (if he was present at the time the articles of agreement or other agreement were signed) and the owner or charterer of the ship, and the agent of the master, owner or charterer, shall each be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars; and

(b) if the articles of agreement or other agreement for service were not signed in the presence of the Superintendent of the Mercantile Marine Office or the consular officer, the master of the ship shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(6) In the event of a contravention of subsection (3), the owner or charterer of the ship, and the agent of the owner or charterer, shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(7) A seaman who—

(a) without reasonable excuse, fails or refuses to deliver the emergency engagement card to the master, owner or charterer of the ship, or the agent of the master, owner or charterer, in accordance with subsection (2); or

(b) fails or refuses to pay to the master, owner or charterer of the ship, or the agent of the master, owner or charterer, the fee of four dollars in accordance with paragraph (b) of subsection (2),

shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

(8) If a seaman to whom an emergency engagement card has been issued under subsection (1) is not for any reason engaged for service in that ship, he shall forthwith return the emergency engagement card to the Superintendent and thereupon, if pursuant to a requirement of the Superintendent under subsection (1) the seaman has paid the fee of four dollars, the same shall be refunded to him.

44. (1) When under section 37 the Superintendent permits a seaman to offer himself for service in a Royal Fleet Auxiliary ship, he shall issue the seaman with an emergency engagement card in the prescribed form, and thereupon the seaman shall, if so required by the Superintendent, pay to him a fee of four dollars.

(2) When a seaman to whom an emergency engagement card has been issued under subsection (1) signs the articles of agreement for service in that ship or enters into any other agreement for service therein—

(a) there shall be produced—

(i) to the Superintendent of the Mercantile Marine Office; or

(ii) if the articles of agreement or other agreement for service are not signed by the seaman in the presence of the Superintendent of the Mercantile Marine Office, to the master of the ship,

at the time the seaman signs the articles of agreement or other agreement for service—

(iii) the emergency engagement card issued to the seaman under subsection (1); and

(iv) the seaman's Hong Kong seaman's discharge book; and

Procedure where Superintendent permits seaman to offer himself for service in a Royal Fleet Auxiliary ship.

- (b) the seaman shall pay to the Deputy Naval Store Officer a fee of four dollars, unless, pursuant to a requirement of the Superintendent under subsection (1), such fee has been paid to the Superintendent,

and thereafter the seaman shall deliver the emergency engagement card to the Deputy Naval Store Officer.

(3) As soon as practicable after a seaman to whom an emergency engagement card has been issued under subsection (1) has been engaged for service in that ship, the Deputy Naval Store Officer shall, at the same time—

- (a) deliver to the Superintendent—

(i) the emergency engagement card issued to the seaman under subsection (1); and

(ii) a notice in the prescribed form containing such particulars with respect to the engagement of the seaman as may be required thereby and, where the seaman was permitted under section 37 to offer himself for service in that ship at the request of the Deputy Naval Store Officer, a statement of the reason for such request; and

- (b) pay to the Superintendent in respect of the seaman a fee of eight dollars or, if pursuant to a requirement of the Superintendent under subsection (1) the seaman has paid to the Superintendent the fee of four dollars, a fee of four dollars.

(4) A notice delivered to the Superintendent pursuant to subparagraph (ii) of paragraph (a) of subsection (3) may be delivered in respect of more than one seaman.

(5) If a seaman to whom an emergency engagement card has been issued under subsection (1) is not for any reason engaged for service in that ship, he shall forthwith return the emergency engagement card to the Superintendent and thereupon, if pursuant to a requirement of the Superintendent under subsection (1) the seaman has paid the fee of four dollars, the same shall be refunded to him.

- (6) A seaman who—

(a) without reasonable excuse, fails or refuses to deliver the emergency engagement card to the Deputy Naval Store Officer in accordance with subsection (2); or

(b) fails or refuses to pay to the Deputy Naval Store Officer the fee of four dollars in accordance with paragraph (b) of subsection (2),

shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

45. (1) Whenever a seaman is to be engaged for service in a foreign-going ship, other than a Royal Fleet Auxiliary ship, pursuant to subsection (8) of section 34, the owner or charterer of the ship, or the agent of the owner or charterer, shall complete in respect of that seaman an emergency engagement card in the prescribed form so as to contain the particulars required thereby, and in the discretion of the owner or charterer, or the agent of the owner or charterer, the card may be retained by him or delivered to the seaman.

Procedure on emergency engagement of seaman under section 34(8).

(2) When such seaman signs the articles of agreement for service in that ship or enters into any other agreement for service therein—

- (a) there shall be produced—

(i) to the Superintendent of the Mercantile Marine Office or the consular officer, as the case may be; or

(ii) if the articles of agreement or other agreement for service are not signed in the presence of the Superintendent of the Mercantile Marine Office or the consular officer, to the master of the ship,

at the time the seaman signs the articles of agreement or other agreement for service—

(iii) the emergency engagement card completed in respect of the seaman pursuant to subsection (1); and

(iv) the seaman's Hong Kong seaman's discharge book; and

- (b) the seaman shall pay to the master, owner or charterer of the ship, or the agent of the master, owner or charterer, a fee of four dollars,

and thereafter, if the emergency engagement card was delivered to the seaman under subsection (1), the seaman shall deliver it to the master, owner or charterer of the ship or the agent of the master, owner or charterer.

(3) As soon as practicable after such seaman has been engaged for service in that ship, the owner or charterer of the ship, or the agent of the owner or charterer, shall at the same time—

- (a) deliver to the Superintendent—

(i) the emergency engagement card completed in respect of the seaman pursuant to subsection (1); and

(ii) a notice in the prescribed form containing such particulars with respect to the engagement of the seaman as may be required thereby and a statement of the reason for the engagement of the seaman pursuant to subsection (8) of section 34; and

- (b) pay to the Superintendent in respect of the seaman a fee of eight dollars.

(4) A notice delivered to the Superintendent pursuant to subparagraph (ii) of paragraph (a) of subsection (3) may be delivered in respect of more than one seaman.

(5) If, at the time a seaman who is being engaged for service in a foreign-going ship pursuant to subsection (8) of section 34 signs the articles of agreement for service in that ship or other agreement for service therein, the emergency engagement card and the seaman's Hong Kong seaman's discharge book are not produced to the Superintendent of the Mercantile Marine Office or the consular officer or the master of the ship in accordance with subsection (2), then—

- (a) if the articles of agreement or other agreement for service were signed in the presence of the Superintendent of the Mercantile Marine Office or the consular officer, the master (if he was present at the time the articles of agreement or other agreement were signed) and the owner or charterer of the ship, and the agent of the master, owner or charterer, shall each be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars; and
- (b) if the articles of agreement or other agreement for service were not signed in the presence of the Superintendent of the Mercantile Marine Office or the consular officer, the master of the ship shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(6) In the event of a contravention of subsection (3), the owner or charterer of the ship, and the agent of the owner or charterer, shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(7) A seaman who—

- (a) without reasonable excuse, fails or refuses to deliver the emergency engagement card to the master, owner or charterer of the ship, or the agent of the master, owner or charterer, in accordance with subsection (2); or
- (b) fails or refuses to pay to the master, owner or charterer of the ship, or the agent of the master, owner or charterer, the fee of four dollars in accordance with paragraph (b) of subsection (2),

shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

46. (1) Whenever a seaman is to be engaged for service in a Royal Fleet Auxiliary ship pursuant to subsection (8) of section 34, the Deputy Naval Store Officer shall complete in respect of that seaman an emergency engagement card in the prescribed form so as to contain the particulars required thereby, and, in the discretion of the Deputy Naval Store Officer, the card may be retained by him or delivered to the seaman.

(2) When such seaman signs the articles of agreement for service in that ship or enters into any other agreement for service therein—

(a) there shall be produced—

- (i) to the Superintendent of the Mercantile Marine Office; or
- (ii) if the articles of agreement or other agreement for service are not signed in the presence of the Superintendent of the Mercantile Marine Office, to the master of the ship, at the time the seaman signs the articles of agreement or other agreement for service—

(iii) the emergency engagement card completed in respect of the seaman pursuant to subsection (1); and

(iv) the seaman's Hong Kong seaman's discharge book; and

(b) the seaman shall pay to the Deputy Naval Store Officer a fee of four dollars,

and thereafter, if the emergency engagement card was delivered to the seaman under subsection (1), the seaman shall return it to the Deputy Naval Store Officer.

(3) As soon as practicable after such seaman has been engaged for service in that ship, the Deputy Naval Store Officer shall at the same time—

(a) deliver to the Superintendent—

(i) the emergency engagement card completed in respect of the seaman pursuant to subsection (1); and

(ii) a notice in the prescribed form containing such particulars with respect to the engagement of the seaman as may be required thereby and a statement of the reason for the engagement of the seaman pursuant to subsection (8) of section 34; and

(b) pay to the Superintendent in respect of the seaman a fee of eight dollars.

(4) A notice delivered to the Superintendent pursuant to subparagraph (ii) of paragraph (a) of subsection (3) may be delivered in respect of more than one seaman.

(5) A seaman who—

- (a) without reasonable excuse, fails or refuses to deliver the emergency engagement card to the Deputy Naval Store Officer in accordance with subsection (2); or
- (b) fails or refuses to pay to the Deputy Naval Store Officer, the fee of four dollars in accordance with paragraph (b) of subsection (2),

shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

PART VI.

LICENSING AND CONTROL OF CREW DEPARTMENTS.

Licences to maintain crew departments.

47. (1) Save as provided in section 50, the Authority shall, on payment of a fee of five hundred dollars, grant a licence to maintain a crew department to any company—

- (a) whose objects as set forth in the company's memorandum of association include the carrying on of the business of shipowner or the business of managing ships or the business of acting as agent for a shipowner; and
- (b) which has been carrying on such a business at all times during the period of three years immediately preceding the application for such licence.

(2) Every licence granted under this section shall be valid for twelve months and, save as provided in section 50, shall, on payment of a fee of five hundred dollars, be renewed for a period of twelve months at any one time.

(3) Upon the grant or renewal of a licence under this section, the Authority may impose upon the licensed company such conditions as he thinks fit.

Application for grant or renewal of licence.

48. (1) An application for the grant or renewal of a licence under section 47 shall—

- (a) be in the prescribed form and contain the particulars required thereby;
- (b) be accompanied by such particulars, in the prescribed form, in relation to each person employed or to be employed in the crew department as may be required by such form; and
- (c) be accompanied by such other particulars, in the prescribed form, as may be required by such form.

(2) An application for the renewal of a licence under section 47 shall be made not less than three months before the expiry of the licence.

Authority may require company applying for grant or renewal of licence to furnish additional information.

49. In addition to the particulars supplied in accordance with subsection (1) of section 48, the Authority may require a company applying for the grant or renewal of a licence under section 47 to furnish to him such information as he may specify, being information that is required for the purposes of, or in connexion with, the exercise by the Authority of the powers vested in him by section 50.

50. (1) The Authority, after consultation with the Advisory Board, may refuse to grant or renew a licence under section 47—

Grounds on which grant or renewal of licence may be refused.

- (a) if the application therefor is not made in accordance with section 48;
- (b) if he is satisfied that any of the particulars set forth in the application therefor, or any of the particulars accompanying such application in accordance with subsection (1) of section 48, is false in a material particular;
- (c) if the company applying for the grant or renewal of the licence refuses or fails to furnish him with any information required to be furnished under section 49 or furnishes any such information which is false in a material particular;
- (d) unless he is satisfied that—

(i) the number of posts for which the crew department supplies or will supply seamen is not or will not be less than two hundred;

(ii) the person who is specified in the application therefor as the person who is or will be in charge of the crew department is a fit and proper person to be in charge thereof and every other person who is or will be employed in the crew department is a fit and proper person to be employed therein;

(iii) the staff of the crew department, the salary or wages paid to each member of such staff and the accommodation provided for the use of the crew department, together with the facilities available therein, are suitable and adequate;

(iv) suitable and adequate facilities and staff are or will be provided by the company applying for the grant or renewal of the licence for dealing with such allotments or remittances as may be made by seamen supplied by the crew department for service in foreign-going ships; and

(v) the terms on which seamen are engaged for service in all foreign-going ships for service in which the crew department supplies or will supply seamen are such as to induce seamen to continue to serve in such ships;

- (e) if any person who is or has been an officer or other employee of the company applying for the grant or renewal of the licence, or any person who, notwithstanding that he is not or was not an officer or other employee of such company, controls, directs or manages or has controlled, directed or managed, or takes or has taken any part in the management of, the business of such company, has at any time—

(i) owned, either wholly or together with other persons, or managed, or taken any part in the management of, any board-

ing house commonly used by seamen or any business by which any such boarding house is or was carried on or any business engaged in the recruitment or supply of seamen; or

(ii) been employed in any such boarding house or business or by any company carrying on any such business; or

- (f) if, where the company applying for the grant or renewal of the licence does not own, charter or manage any foreign-going ships, the Authority intends, in exercise of the power conferred by section 55, not to approve any person, in the case of that company, for the purposes of subsection (1) of the said section 55.

(2) In addition to the grounds specified in subsection (1), the Authority may, after consultation with the Advisory Board, refuse to grant a licence under section 47—

- (a) if the company applying for the licence has at any time engaged in the recruitment or supply of seamen; or
- (b) if in his opinion the interests of seamen, or of seamen who would or might be recruited by the crew department in respect of which the licence is applied for, will best be served by refusing to grant the licence.

(3) In addition to the grounds specified in subsection (1), the Authority may, after consultation with the Advisory Board, refuse to renew a licence under section 47—

- (a) if there is or has been a contravention of—
- (i) any of the provision of this Ordinance or any requirement of the Authority or the Superintendent under this Part; or
- (ii) any condition imposed under subsection (3) of section 47 on the grant or renewal of the licence;
- (b) if any person other than a member of the staff of the licensed company employed in the licensed crew department or an officer of the Seamen's Recruiting Office has taken any part whatsoever, or assisted in any way, in the recruitment or supply of any seamen supplied by the licensed company for service in a foreign-going ship;
- (c) if any person employed by the licensed company, by himself or by or in conjunction with any other person, has corruptly solicited or received, or agreed to receive, for himself or for any other person, any gift, loan, fee, reward or advantage whatsoever as an inducement to, or reward for, or otherwise on account of any person employed by the licensed company doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the licensed crew department was concerned; or

- (d) if any seaman has been supplied by the licensed company for service in any foreign-going ship other than such a ship owned, chartered or managed by the licensed company or by a person approved by the Authority, in the case of the licensed company, for the purposes of subsection (1) of section 55.

51. Where the Authority refuses to grant or renew a licence under section 47, he shall give notice in writing thereof to the company applying for the grant or renewal thereof.

Notice of refusal to grant or renew licence.

52. If a licensed company does not intend to apply for the renewal of its licence under section 47, notice thereof in writing shall be given to the Superintendent not less than three months before the expiry of the licence.

Licensed company to notify Superintendent of intention not to renew licence.

53. (1) A licence granted under section 47 may be cancelled by the Authority at any time, after consultation with the Advisory Board, in any of the following cases, that is to say—

Cancellation of licence.

- (a) if there is or has been a contravention of—

- (i) any of the provisions of this Ordinance or any requirement of the Authority or the Superintendent under this Part; or
- (ii) any condition imposed under subsection (3) of section 47 on the grant or renewal of the licence;

- (b) if he is not satisfied that the person in charge of the licensed crew department is a fit and proper person to be in charge thereof;

- (c) if any person who is or has been an officer or other employee of the licensed company, or any person who, notwithstanding that he is not or was not an officer or other employee of such company, controls, directs or manages or has controlled, directed or managed, or takes or has taken any part in the management of, the business of such company, has at any time—

- (i) owned, either wholly or together with other persons, or managed, or taken any part in the management of, any boarding house commonly used by seamen or any business by which any such boarding house is or was carried on or any business engaged in the recruitment or supply of seamen; or

- (ii) been employed in any such boarding house or business or by any company carrying on any such business;

- (d) if any person other than a member of the staff of the licensed company employed in the licensed crew department or an officer of the Seamen's Recruiting Office has taken any part whatsoever, or assisted in any way, in the recruitment or supply

of any seaman supplied by the licensed company for service in a foreign-going ship;

- (e) if any person employed by the licensed company, by himself or by or in conjunction with any other person, has corruptly solicited or received, or agreed to receive, for himself or for any other person, any gift, loan, fee, reward or advantage whatsoever as an inducement to, or reward for, or otherwise on account of any person employed by the licensed company doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the licensed crew department was concerned; or
- (f) if any seaman has been supplied by the licensed company for service in any foreign-going ship other than such a ship owned, chartered or managed by the licensed company or by a person approved by the Authority, in the case of the licensed company, for the purposes of subsection (1) of section 55.

(2) Whenever the Authority cancels any licence granted under section 47, he shall forthwith give to the company notice in writing of the cancellation, together with a statement of the ground on which the licence was cancelled, and the cancellation shall take effect upon the expiry of a period of twenty-eight days after the giving of such notice.

54. (1) Any company aggrieved by—

- (a) a refusal of the Authority to grant or renew a licence under section 47;
- (b) any condition imposed by the Authority under subsection (3) of section 47 on the grant or renewal of any such licence;
- (c) a refusal of the Authority to approve any person, in the case of that company, for the purposes of subsection (1) of section 55; or
- (d) the cancellation of its licence under section 47,

may—

- (i) in the first-mentioned case, within twenty-eight days after the giving of the notice under section 51;
- (ii) in the second-mentioned case, within twenty-eight days after the grant or renewal of the licence;
- (iii) in the third-mentioned case, within twenty-eight days after the giving of the notice under subsection (3) of section 55; or
- (iv) in the fourth-mentioned case, within twenty-eight days after the giving of the notice under subsection (2) of section 53,

or within such further period as the Governor in Council may allow in any such case, appeal by way of petition to the Governor in Council.

Appeal
against
certain
decisions of
Authority.

(2) Upon any such appeal, the Governor in Council may confirm, reverse or vary the decision of the Authority and may exercise any power which the Authority might have exercised.

55. (1) A licensed company may supply seamen for service in foreign-going ships that the company owns, charters or manages or for service in foreign-going ships that are owned, chartered or managed by such other persons as the Authority may think fit to approve on the grant of the licence and thereafter whenever the licence is renewed.

Restriction
on ships for
service in
which
licensed crew
department
may supply
seamen.

(2) Without prejudice to the discretion conferred on the Authority with respect to the approval of persons for the purposes of subsection (1), the Authority may refuse to approve any person unless he is satisfied that the terms on which seamen are engaged for service in all foreign-going ships that he owns, charters or manages are such as to induce seamen to continue to serve in such ships.

(3) Where the Authority refuses to approve any person for the purposes of subsection (1), he shall give notice in writing thereof to the licensed company.

56. (1) Save as provided in subsection (3), a seaman shall not be supplied by a licensed company for service in a foreign-going ship unless his name appears in the crew department list kept in the licensed crew department maintained by such company.

Restriction on
supply of
seamen by
licensed
company.

(2) After the Superintendent has given notice in writing to a licensed company under subsection (4) of section 18 or subsection (4) of section 31 that the registration of a seaman whose name appears in Part IV of the register in respect of the licensed company has been suspended or suspended for a further period, as the case may be, the licensed crew department maintained by such company shall not supply that seaman for service in a foreign-going ship at any time while his registration continues to be suspended.

(3) If, in any case of emergency—

- (a) a suitable seaman whose name appears in the crew department list kept in the licensed crew department is not available; and
- (b) the Seamen's Recruiting Office is closed at the time the seaman comes to be supplied; and
- (c) the ship would be delayed if the recruitment or supply of the seaman were postponed until the time when seamen may next be recruited or engaged at or through the Seamen's Recruiting Office,

a licensed company may, notwithstanding that the name of the seaman does not appear in the crew department list kept in the licensed crew department maintained by such company, supply for service in a foreign-going ship a seaman who has been recruited otherwise than

at or through the Seamen's Recruiting Office if the name of the seaman appears in Part I of the register and his registration is not for the time being suspended under paragraph (i) or (ii) of subsection (1) of section 18 or suspended for a further period under subsection (1) of section 29, and any person who in any such case recruits such seaman or supplies him to the licensed company shall not thereby contravene subsection (1) or subsection (2), as the case may be, of section 34.

Crew department lists.

57. (1) There shall be kept in a licensed crew department, in such form and manner as the Superintendent has approved, a list containing the names of all seamen whose names for the time being appear in Part IV of the register in respect of the licensed company by which the licensed crew department is maintained.

(2) The name of a seaman shall not be entered in the crew department list kept in a licensed crew department unless his name appears in Part IV of the register in respect of the licensed company by which the licensed crew department is maintained.

(3) A seaman may at any time give notice to a licensed company that he wishes to have his name removed from the crew department list kept in the licensed crew department maintained by such company and his name shall thereupon be removed from such list.

(4) A licensed company may at any time remove the name of a seaman from the crew department list kept in the licensed crew department maintained by such company.

(5) Whenever, under subsection (3) or (4), the name of a seaman is removed from the crew department list, the licensed company shall forthwith give notice thereof to the Superintendent, together with a statement of the ground on which it was removed.

(6) Where the Superintendent has given notice in writing to a licensed company under subsection (4) of section 17 or subsection (3) of section 31 that the name of a seaman whose name appeared in Part IV of the register in respect of that licensed company has been removed from the register, the licensed company shall forthwith remove the name of the seaman from the crew department list kept in the licensed crew department maintained by such company.

(7) Where the Superintendent has given notice in writing to a licensed company under subsection (2) of section 31 or under section 33 that the name of a seaman whose name appeared in Part IV of the register in respect of that licensed company has been restored to Part IV of the register, the licensed company shall forthwith restore the name of the seaman to the crew department list from which it was removed in accordance with subsection (6).

58. (1) If, after such inquiry as he thinks fit, the Superintendent considers that the name of a seaman was removed under subsection (4) of section 57 from the crew department list without any or any sufficient cause, the licensed company shall, if so required by the Superintendent, restore the name of the seaman to the list.

Superintendent may require seaman's name to be restored to crew department list.

(2) A decision of the Superintendent that the name of a seaman was so removed from a crew department list shall be final.

59. (1) There shall be kept in a licensed crew department, in such form and manner as the Superintendent has approved—

Records of seamen waiting to be supplied for service in foreign-going ships.

(a) a record containing the name of each seaman, being a seaman whose name appears in the crew department list, who is for the time being waiting to be supplied for service in a foreign-going ship owned, chartered or managed by the licensed company; and

(b) save as provided in subsection (2), a separate record in respect of each person approved in the case of the licensed company for the purposes of subsection (1) of section 55 containing the name of each seaman, being a seaman whose name appears in the crew department list, who is for the time being waiting to be supplied for service in a foreign-going ship owned, chartered or managed by that person.

(2) In lieu of the separate records in respect of each person approved in the case of a licensed company for the purposes of subsection (1) of section 55 required to be kept by paragraph (b) of subsection (1), there may, with the permission of the Authority, be kept in a licensed crew department, in such form and manner as the Superintendent has approved, one record containing the names of all seamen who are for the time being waiting to be supplied for service in foreign-going ships owned, chartered or managed by all persons approved in the case of that licensed company for the purposes of subsection (1) of section 55 or by such of those persons as the Authority may permit.

(3) The names of seamen shall be entered in a record kept pursuant to or under the provisions of this section by such method or in such manner as the Superintendent has approved.

(4) Any such record shall contain in respect of each seaman whose name appears therein such particulars as the Superintendent may require.

60. (1) Without prejudice to any other provision of this Ordinance, there shall at all times be displayed in a conspicuous position in a part of a licensed crew department to which seamen have access—

Certain notices and other documents to be displayed in licensed crew department.

(a) a notice or notices containing the name of each seaman, being a seaman whose name appears in the crew department list, who is for the time being waiting to be supplied for service in a

foreign-going ship owned, chartered or managed by the licensed company;

- (b) save as provided in subsection (2), a separate notice or separate notices in respect of each person approved in the case of the licensed company for the purposes of subsection (1) of section 55 containing the name of each seaman, being a seaman whose name appears in the crew department list, who is for the time being waiting to be supplied for service in a foreign-going ship owned, chartered or managed by that person;
- (c) a notice or notices specifying the wages paid to each rating of seamen by the owner or charterer of each foreign-going ship for service in which the licensed company supplies seamen;
- (d) a copy, in the English language and the Chinese language, of the articles of agreement, or other agreement for service, used in each foreign-going ship for service in which the licensed company supplies seamen;
- (e) a notice setting forth, in the English language and the Chinese language, the provisions of section 73; and
- (f) such other notices or documents as may be required by the Superintendent.

(2) In lieu of the separate notice or notices in respect of each person approved in the case of the licensed company for the purposes of subsection (1) of section 55 required by paragraph (b) of subsection (1) to be displayed in a licensed crew department, there may, with the permission of the Authority, be displayed in a licensed crew department, in such form and manner as the Superintendent has approved, a notice or notices containing the names of all seamen who are for the time being waiting to be supplied for service in foreign-going ships owned, chartered or managed by all persons approved in the case of that licensed company for the purposes of subsection (1) of section 55 or by such of those persons as the Authority may permit.

(3) The notice or notices displayed in a licensed crew department pursuant to paragraph (a) or (b) of subsection (1) or under subsection (2) shall be in such form as the Superintendent has approved and shall be in both the English language and the Chinese language.

(4) Any notice or other document displayed in a licensed crew department pursuant to paragraph (f) of subsection (1) shall be in the English language and, if so required by the Superintendent, in the Chinese language.

(5) The names of seamen shall be entered in the notice or notices displayed in a licensed crew department pursuant to paragraph (a) or (b) of subsection (1) or under subsection (2) by such method or in such manner as the Superintendent has approved.

(6) The notice or notices displayed in a licensed crew department pursuant to paragraph (a) or (b) of subsection (1) or under subsection (2) shall be deemed to contain the names of all seamen who are for the time being waiting to be supplied for service in such foreign-going ships as are referred to in the said paragraph (a) or (b) of subsection (1) or in the said subsection (2), as the case may be—

- (a) if the notice or notices contains or contain the names of all seamen waiting to be supplied for service in such ships on the day on which the notice or notices was or were first displayed and the notice or notices has not or have not been displayed for more than fourteen days; or
- (b) if the notice or notices has or have been revised within the preceding fourteen days so that it or they contains or contain the names of all seamen waiting to be supplied for service in such ships on the day on which the notice or notices was or were so revised.

(7) A notice displayed in a licensed crew department pursuant to paragraph (a) or (b) of subsection (1) or under subsection (2) shall have marked thereon—

- (a) the date on which it was first so displayed; and
- (b) if it has been revised, the date on which it was revised or last revised, as the case may be.

61. (1) The method or methods used in a licensed crew department to select seamen whose names are entered in the crew department list to be supplied—

Approval of methods used in licensed crew department to select seamen.

- (a) for service in foreign-going ships that are owned, chartered or managed by the licensed company; or
- (b) for service in foreign-going ships that are owned, chartered or managed by a person approved in the case of the licensed company for the purposes of subsection (1) of section 55.

shall be such as the Authority has approved.

(2) At all times, there shall be displayed in a conspicuous position in a part of a licensed crew department to which seamen have access a notice or notices, in the English language and the Chinese language, specifying the approved method or methods used in the licensed crew department to select seamen to be supplied for service in foreign-going ships for which the licensed company supplies seamen.

62. (1) Save as provided in subsection (1) of section 64, a licensed company shall pay to the Superintendent, in respect of every seaman supplied by it for service in a foreign-going ship and engaged for such service, a fee of eight dollars.

Fee payable on supply of seaman by licensed crew department.

(2) A licensed company may, before or after it has paid to the Superintendent the fee required to be paid by subsection (1), require any such seaman to pay to it, by way of a contribution to such fee, any sum not exceeding four dollars.

Procedure on supply of seaman by licensed company, etc., otherwise than in emergency.

63. (1) Whenever a seaman whose name appears in the crew department list is supplied by a licensed company for service in a foreign-going ship, an engagement card in the prescribed form shall be completed in respect of that seaman so as to contain the particulars required thereby, and, in the discretion of the licensed company, the card may be retained by the company or delivered to the seaman.

(2) When such seaman signs the articles of agreement for service in that ship or enters into any other agreement (including an agreement known as a transit agreement) for service therein, there shall be produced to the Superintendent of the Mercantile Marine Office or the consular officer, as the case may be, at the time the seaman signs the articles of agreement or other agreement for service—

(a) the engagement card completed in respect of the seaman pursuant to subsection (1); and

(b) the seaman's Hong Kong seaman's discharge book, and thereafter, if the engagement card was delivered to the seaman under subsection (1), the seaman shall return it to the licensed company.

(3) If, at the time such seaman signs the articles of agreement for service in that ship or enters into any other agreement (including an agreement known as a transit agreement) for service therein, the engagement card and the seaman's Hong Kong seaman's discharge book are not produced to the Superintendent of the Mercantile Marine Office or the consular officer in accordance with subsection (2), the licensed company shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(4) A seaman who without reasonable excuse fails or refuses to return the engagement card to the licensed company in accordance with subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

Re-engagement of seamen through licensed crew department.

64. (1) If, at any time before a seaman whose name appears in the crew department list kept in the licensed crew department maintained by a licensed company is discharged on the termination of his agreement from a foreign-going ship for service in which the licensed crew department is permitted by section 55 to supply seamen, the licensed company has notified the Superintendent, by delivering to him a re-engagement card in the prescribed form containing such particulars as may be required thereby, that the seaman is to be re-engaged for service in that ship, then, within forty-five days after his discharge from that ship, the seaman may be re-engaged for service therein without payment of any fee if, at the time he is re-engaged, the name of

the seaman appears in the crew department list and the Superintendent has not given notice in writing to the licensed company under subsection (4) of section 18 or subsection (4) of section 31 that the registration of the seaman has been suspended or suspended for a further period, as the case may be.

(2) Where a re-engagement card is delivered to the Superintendent pursuant to subsection (1), the Superintendent shall mark thereon the date on which he received the same and return it to the licensed company, which may, in its discretion, retain it or deliver it to the seaman.

(3) When a seaman who is being re-engaged for service in a foreign-going ship pursuant to subsection (1) signs the articles of agreement for service in that ship or enters into any other agreement (including an agreement known as a transit agreement) for service therein, there shall be produced to the Superintendent of the Mercantile Marine Office or the consular officer, as the case may be, at the time the seaman signs the articles of agreement or other agreement for service—

(a) the re-engagement card delivered to the Superintendent pursuant to subsection (1); and

(b) the seaman's Hong Kong seaman's discharge book, and thereafter, if the re-engagement card was delivered to the seaman under subsection (2), the seaman shall return it to the licensed company.

(4) If, at the time a seaman who is being re-engaged for service in a foreign-going ship pursuant to subsection (1) signs the articles of agreement for service in that ship or enters into any other agreement (including an agreement known as a transit agreement) for service therein, the re-engagement card and the seaman's Hong Kong seaman's discharge book are not produced to the Superintendent of the Mercantile Marine Office or the consular officer in accordance with subsection (3), the licensed company shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(5) A seaman who without reasonable excuse fails or refuses to return the re-engagement card to the licensed company in accordance with subsection (3) shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

65. (1) When all the seamen supplied by a licensed company for service in a foreign-going ship have been engaged for such service, and all the seamen being re-engaged for service in that ship under subsection (1) of section 64 have been re-engaged, the licensed company shall, as soon as practicable thereafter and at the same time—

(a) deliver to the Superintendent—

(i) the engagement card completed pursuant to subsection (1) of section 63 in respect of each such seaman engaged for service in that ship;

Licensed company to deliver engagement cards, etc. to Superintendent and payment of fees.

(ii) the re-engagement card delivered to the Superintendent pursuant to subsection (1) of section 64 in respect of each such seaman re-engaged for service in that ship, which shall contain, in addition to the particulars entered therein pursuant to the said subsection (1) of section 64, particulars of the date on which the seaman was so re-engaged; and

(iii) a notice in the prescribed form specifying the total number of such seamen supplied and engaged for service in that ship and containing such other particulars as may be required thereby; and

- (b) pay to the Superintendent in respect of each such seaman supplied and engaged for service in that ship the fee of eight dollars payable under subsection (1) of section 62.

(2) In the event of a contravention of subsection (1), the licensed company shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

Procedure on supply of seaman by licensed company pursuant to section 56(3).

66. (1) Whenever a seaman is supplied by a licensed company for service in a foreign-going ship pursuant to subsection (3) of section 56, an emergency engagement card in the prescribed form shall be completed in respect of that seaman so as to contain the particulars required thereby, and, in the discretion of the licensed company, the card may be retained by the company or delivered to the seaman.

(2) When such seaman signs the articles of agreement for service in that ship or enters into any other agreement for service therein, there shall be produced—

- (a) to the Superintendent of the Mercantile Marine Office or the consular officer, as the case may be; or
- (b) if the articles of agreement or other agreement for service are not signed by the seaman in the presence of the Superintendent of the Mercantile Marine Office or the consular officer, to the master of the ship,

at the time the seaman signs the articles of agreement or other agreement for service—

- (i) the emergency engagement card completed in respect of the seaman pursuant to subsection (1); and
- (ii) the seaman's Hong Kong seaman's discharge book,

and thereafter, if the emergency engagement card was delivered to the seaman under subsection (1), the seaman shall return it to the licensed company.

(3) As soon as practicable after a seaman who has been supplied by a licensed company for service in a foreign-going ship pursuant to

subsection (3) of section 56 has been engaged for service in that ship, the licensed company shall at the same time—

- (a) deliver to the Superintendent—

(i) the emergency engagement card completed in respect of the seaman pursuant to subsection (1); and

(ii) a notice in the prescribed form containing such particulars with respect to the engagement of the seaman as may be required thereby and a statement of the reason for the supplying of the seaman pursuant to subsection (3) of section 56; and

- (b) pay to the Superintendent in respect of the seaman the fee of eight dollars payable under subsection (1) of section 62.

(4) A notice delivered to the Superintendent pursuant to subparagraph (ii) of paragraph (a) of subsection (3) may be delivered in respect of more than one seaman.

(5) If, at the time a seaman who has been supplied by a licensed company for service in a foreign-going ship pursuant to subsection (3) of section 56 signs the articles of agreement for service in that ship or other agreement for service therein, the emergency engagement card and the seaman's Hong Kong seaman's discharge book are not produced to the Superintendent of the Mercantile Marine Office or the consular officer or the master of the ship in accordance with subsection (2), the licensed company shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(6) In the event of a contravention of subsection (3), the licensed company shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(7) A seaman who, without reasonable excuse, fails or refuses to return the emergency engagement card to the licensed company in accordance with subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

- 67.** (1) Whenever—

- (a) any person in relation to whom particulars were not supplied to the Authority, in accordance with paragraph (b) of subsection (1) of section 48, at the time of the application for the grant or renewal of a licence under section 47 commences to be employed in a licensed crew department; or

- (b) any person in relation to whom particulars were supplied to the Authority, in accordance with paragraph (b) of subsection (1) of section 48, at the time of the application for the grant or renewal of a licence under section 47 ceases to be employed in the licensed crew department,

Changes in staff of licensed crew department to be notified to Authority.

the licensed company shall notify the Authority forthwith, and where such notice is given in relation to a person referred to in paragraph (a) the licensed company shall supply to the Authority such particulars in relation to that person as the Authority may require on receipt of such notice.

(2) A notice under subsection (1) shall be signed by the person in charge of the licensed crew department.

(3) In the event of a contravention of any of the provisions of subsection (1) or of subsection (2), the licensed company shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

Particulars of seamen supplied by licensed company to be delivered to Superintendent.

68. (1) Within seven days after the last day of each month during the whole or part of which a licence under section 47 is in force, the licensed company shall deliver to the Superintendent a notice in the prescribed form containing such particulars in relation to seamen supplied by it for service in foreign-going ships during that month as may be required by such form.

(2) A notice under subsection (1) shall be signed by the person in charge of the licensed crew department.

(3) In the event of a contravention of subsection (1) or of subsection (2), the licensed company shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

Changes in particulars of licensed crew department to be notified to Authority.

69. (1) Within seven days after the last day of each quarter during the whole or part of which a licence under section 47 is in force, the licensed company shall deliver to the Authority a notice in the prescribed form—

- (a) setting out any changes in any of the particulars supplied to the Authority pursuant to subsection (1) of section 48, other than particulars in relation to persons employed in the licensed crew department, since the licence was granted or renewed or since the preceding notice delivered pursuant to this section was delivered, as the case may be; or
- (b) declaring that there have been no such changes.

(2) A notice under subsection (1) shall be signed by the person in charge of the licensed crew department.

(3) In the event of a contravention of any of the provisions of subsection (1) or of subsection (2), the licensed company shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars.

Display of names of crew department staff.

70. The Superintendent may by notice in writing require the names of such members of the staff of a licensed crew department as he considers necessary to be displayed in a conspicuous position in the place where such members of the staff are discharging their duties.

71. (1) The method or methods used by a licensed company to pay to persons in whose favour allotments or remittances are made by seamen supplied by it—

Approval of methods used by licensed company to pay allotments and remittances.

- (a) for service in foreign-going ships that are owned, chartered or managed by such company; or
- (b) for service in foreign-going ships that are owned, chartered or managed by a person approved in the case of such company for the purposes of subsection (1) of section 55,

shall be such as the Authority has approved.

(2) At all times, there shall be displayed in a conspicuous position in a part of a licensed crew department to which seamen have access and, where allotments and remittances are dealt with elsewhere than in the licensed crew department, in that part of the premises of the licensed company in which the same are dealt with—

- (a) a notice or notices specifying the approved method or methods used by the licensed company to pay allotments and remittances;
- (b) a notice specifying the days on and times at which allotments and remittances are dealt with;
- (c) such other notices relating to allotments and remittances as the Authority may require.

(3) Every notice displayed in a licensed crew department pursuant to subsection (2) shall be in the English language and the Chinese language.

72. Where an advance of wages is to be paid to a seaman supplied by a licensed company for service in a foreign-going ship and the law of the territory in which such ship is registered does not require that advances of wages shall be paid to seamen in the presence of either a government officer responsible for supervising the engagement of seamen or the consular officer representing such territory, then, the whole of such advance of wages, without any deduction therefrom, shall be paid to such seaman by the person in charge of the licensed crew department or by a person employed by the licensed company who has been appointed for the purpose by the person in charge of the licensed crew department.

Advances of wages.

73. (1) Any person employed by a licensed company who, by himself or by or in conjunction with any other person, corruptly solicits or receives, or agrees to receive, for himself or for any other person, any gift, loan, fee, reward or advantage whatsoever as an inducement to, or reward for, or otherwise on account of any person employed by the licensed company doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the

Corruption.

licensed crew department maintained by such company is concerned shall be guilty of an offence.

(2) Any person who, by himself or by or in conjunction with any other person, corruptly gives, promises or offers any gift, loan, fee, reward or advantage whatsoever to any person, whether for the benefit of that person or another person, as an inducement to or reward for or otherwise on account of any person employed by a licensed company doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the licensed crew department maintained by such company is concerned shall be guilty of an offence.

(3) Any person who commits an offence against subsection (1) or (2) shall be liable—

- (a) on summary conviction, to a fine of five thousand dollars and to imprisonment for two years; and
- (b) on conviction on indictment, to a fine of ten thousand dollars and to imprisonment for five years.

PART VII.

SUPPLY OF SEAMEN BY DEPUTY NAVAL STORE OFFICER FOR SERVICE IN ROYAL FLEET AUXILIARY SHIPS.

Restriction
on supply of
seamen by
Deputy Naval
Store Officer.

74. (1) Save as provided in subsection (3), a seaman shall not be supplied by the Deputy Naval Store Officer for service in a Royal Fleet Auxiliary ship unless his name appears in the crew department list kept by the Deputy Naval Store Officer.

(2) After the Superintendent has given notice in writing to the Deputy Naval Store Officer under subsection (4) of section 18 or subsection (4) of section 31 that the registration of a seaman whose name appears in Part IV of the register in respect of the Deputy Naval Store Officer has been suspended or suspended for a further period, as the case may be, the Deputy Naval Store Officer shall not supply that seaman for service in a Royal Fleet Auxiliary ship at any time while the registration of that seaman continues to be suspended.

(3) If, in any case of emergency—

- (a) a suitable seaman whose name appears in the crew department list kept by the Deputy Naval Store Officer is not available; and
- (b) the Seamen's Recruiting Office is closed at the time the seaman comes to be supplied; and
- (c) the ship would be delayed if the recruitment or supply of the seaman were postponed until the time when seamen may next

be recruited or engaged at or through the Seamen's Recruiting Office,

the Deputy Naval Store Officer may, notwithstanding that the name of the seaman does not appear in the crew department list kept by him, supply for service in a Royal Fleet Auxiliary ship a seaman who has been recruited otherwise than at or through the Seamen's Recruiting Office if the name of the seaman appears in Part I of the register and his registration is not for the time being suspended under paragraph (i) or (ii) of subsection (1) of section 18 or suspended for a further period under subsection (1) of section 29, and any person who in any such case recruits such seaman or supplies him to the Deputy Naval Store Officer shall not thereby contravene subsection (1) or subsection (2), as the case may be, of section 34.

75. (1) There shall be kept by the Deputy Naval Store Officer, in such form and manner as the Superintendent has approved, a list containing the names of all seamen whose names for the time being appear in Part IV of the register in respect of the Deputy Naval Store Officer.

Crew depart-
ment list to
be kept by
Deputy Naval
Store Officer.

(2) The name of a seaman shall not be entered in the crew department list kept by the Deputy Naval Store Officer unless his name appears in Part IV of the register in respect of the Deputy Naval Store Officer.

(3) A seaman may at any time give notice to the Deputy Naval Store Officer that he wishes to have his name removed from the crew department list kept by the Deputy Naval Store Officer and his name shall thereupon be removed from such list.

(4) The Deputy Naval Store Officer may at any time remove the name of a seaman from the crew department list kept by him.

(5) Whenever, under subsection (3) or (4), the name of a seaman is removed from the crew department list, the Deputy Naval Store Officer shall forthwith give notice thereof to the Superintendent, together with a statement of the ground on which it was removed.

(6) Where the Superintendent has given notice in writing to the Deputy Naval Store Officer under subsection (4) of section 17 or subsection (3) of section 31 that the name of a seaman whose name appeared in Part IV of the register in respect of the Deputy Naval Store Officer has been removed from the register, the Deputy Naval Store Officer shall forthwith remove the name of the seaman from the crew department list kept by him.

(7) Where the Superintendent has given notice in writing to the Deputy Naval Store Officer under subsection (2) of section 31 or under section 33 that the name of a seaman whose name appeared in Part IV of the register in respect of the Deputy Naval Store Officer has been

restored to Part IV of the register, the Deputy Naval Store Officer shall forthwith restore the name of the seaman to the crew department list kept by him.

Superintendent may require seaman's name to be restored to crew department list kept by Deputy Naval Store Officer.

76. (1) If, after such inquiry as he thinks fit, the Superintendent considers that the name of a seaman was removed under subsection (4) of section 75 from the crew department list without any or any sufficient cause, the Deputy Naval Store Officer shall, if so required by the Superintendent, restore the name of the seaman to that list.

(2) A decision of the Superintendent that the name of a seaman was so removed from the crew department list shall be final.

Record of seamen waiting to be supplied for service in Royal Fleet Auxiliary ships.

77. (1) There shall be kept by the Deputy Naval Store Officer, in such form and manner as the Superintendent has approved, a record containing the name of each seaman, being a seaman whose name appears in the crew department list, who is for the time being waiting to be supplied for service in a Royal Fleet Auxiliary ship.

(2) The names of seamen shall be entered in the record kept pursuant to subsection (1) by such method or in such manner as the Superintendent has approved.

(3) Such record shall contain in respect of each seaman whose name appears therein such particulars as the Superintendent may require.

Certain notices and other documents to be displayed in crew department managed by Deputy Naval Store Officer.

78. (1) Without prejudice to any other provision in this Part, there shall at all times be displayed in a conspicuous position in a part of the crew department managed by the Deputy Naval Store Officer to which seamen have access—

- (a) a notice or notices containing the name of each seaman, being a seaman whose name appears in the crew department list, who is for the time being waiting to be supplied for service in a Royal Fleet Auxiliary ship;
- (b) a notice or notices specifying the wages paid to each rating of seamen in service in Royal Fleet Auxiliary ships;
- (c) a copy, in the English language and the Chinese language, of the articles of agreement, or other agreement for service, used in Royal Fleet Auxiliary ships; and
- (d) such other notices or documents as may be required by the Superintendent.

(2) The notice or notices displayed pursuant to paragraph (a) of subsection (1) shall be in such form as the Superintendent has approved and shall be in both the English language and the Chinese language.

(3) Any notice displayed pursuant to paragraph (d) of subsection (1) shall be in the English language and, if so required by the Superintendent, in the Chinese language.

(4) The names of seamen shall be entered in the notice or notices displayed pursuant to paragraph (a) of subsection (1) by such method or in such manner as the Superintendent has approved.

(5) The notice or notices displayed pursuant to paragraph (a) of subsection (1) shall be deemed to contain the names of all seamen who are for the time being waiting to be supplied for service in Royal Fleet Auxiliary ships—

- (a) if the notice or notices contains or contain the names of all seamen waiting to be supplied for service in such ships on the day on which the notice or notices was or were first displayed and the notice or notices has not or have not been displayed for more than fourteen days; or
- (b) if the notice or notices has or have been revised within the preceding fourteen days so that it or they contains or contain the names of all seamen waiting to be supplied for service in such ships on the day on which the notice or notices was or were so revised.

(6) Every notice displayed pursuant to paragraph (a) of subsection (1) shall have marked thereon—

- (a) the date on which it was first displayed; and
- (b) if it has been revised, the date on which it was revised or last revised, as the case may be.

79. (1) The method or methods used in the crew department managed by the Deputy Naval Store Officer to select seamen whose names are entered in the crew department list to be supplied for service in Royal Fleet Auxiliary ships shall be such as the Authority has approved.

(2) At all times, there shall be displayed in a conspicuous position in a part of the crew department managed by the Deputy Naval Store Officer to which seamen have access a notice or notices, in the English language and the Chinese language, specifying the approved method or methods used in the crew department to select seamen to be supplied for service in Royal Fleet Auxiliary ships.

80. (1) Save as provided in subsection (1) of section 82, the Deputy Naval Store Officer shall pay to the Superintendent, in respect of every seaman supplied by him for service in a Royal Fleet Auxiliary ship and engaged for such service, a fee of eight dollars.

(2) The Deputy Naval Store Officer may, before or after he has paid to the Superintendent the fee required to be paid by subsection (1), require any such seaman to pay to him, by way of contribution to such fee, any sum not exceeding four dollars.

Approval of methods used to select seamen in crew department managed by Deputy Naval Store Officer.

Fees payable on supply of seamen by Deputy Naval Store Officer.

Procedure on supply of seaman by Deputy Naval Store Officer, etc., otherwise than in emergency.

81. (1) Whenever a seaman whose name appears in the crew department list kept by the Deputy Naval Store Officer is supplied by the Deputy Naval Store Officer for service in a Royal Fleet Auxiliary ship, an engagement card in the prescribed form shall be completed in respect of that seaman so as to contain the particulars required thereby, and, in the discretion of the Deputy Naval Store Officer, the card may be retained by him or delivered to the seaman.

(2) When such seaman signs the articles of agreement for service in that ship or enters into any other agreement (including an agreement known as a transit agreement) for service therein, there shall be produced to the Superintendent of the Mercantile Marine Office at the time the seaman signs the articles of agreement or other agreement for service—

(a) the engagement card completed in respect of the seaman pursuant to subsection (1); and

(b) the seaman's Hong Kong seaman's discharge book,

and thereafter, if the engagement card was delivered to the seaman under subsection (1), the seaman shall return it to the Deputy Naval Store Officer.

(3) A seaman who without reasonable excuse fails or refuses to return the engagement card to the Deputy Naval Store Officer in accordance with subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

Re-engagement of seamen through Deputy Naval Store Officer.

82. (1) If, at any time before a seaman whose name appears in the crew department list kept by the Deputy Naval Store Officer is discharged on the termination of his agreement from a Royal Fleet Auxiliary ship, the Deputy Naval Store Officer has notified the Superintendent, by delivering to him a re-engagement card in the prescribed form containing such particulars as may be required thereby, that the seaman is to be re-engaged for service in that ship, then, within forty-five days after his discharge from that ship, the seaman may be re-engaged for service therein without payment of any fee if, at the time he is re-engaged, the name of the seaman appears in the crew department list and the Superintendent has not given notice in writing to the Deputy Naval Store Officer under subsection (4) of section 18 or subsection (4) of section 31 that the registration of the seaman has been suspended or suspended for a further period, as the case may be.

(2) Where a re-engagement card is delivered to the Superintendent pursuant to subsection (1), the Superintendent shall mark thereon the date on which he received the same and return it to the Deputy Naval Store Officer, who may in his discretion retain it or deliver it to the seaman.

(3) When a seaman who is being re-engaged for service in a Royal Fleet Auxiliary ship pursuant to subsection (1) signs the articles of

agreement for service in that ship or enters into any other agreement (including an agreement known as a transit agreement) for service therein, there shall be produced to the Superintendent of the Mercantile Marine Office at the time the seaman signs the articles of agreement or other agreement for service—

(a) the re-engagement card delivered to the Superintendent pursuant to subsection (1); and

(b) the seaman's Hong Kong seaman's discharge book,

and thereafter, if the re-engagement card was delivered to the seaman under subsection (2), the seaman shall return it to the Deputy Naval Store Officer.

(4) A seaman who without reasonable excuse fails or refuses to return the re-engagement card to the Deputy Naval Store Officer in accordance with subsection (3) shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

83. When all the seamen supplied by the Deputy Naval Store Officer for service in a Royal Fleet Auxiliary ship have been engaged for such service, and all the seamen being re-engaged for service in that ship under subsection (1) of section 82 have been re-engaged, the Deputy Naval Store Officer shall, as soon as practicable thereafter and at the same time—

(a) deliver to the Superintendent—

(i) the engagement card completed pursuant to subsection (1) of section 81 in respect of each such seaman engaged for service in that ship;

(ii) the re-engagement card delivered to the Superintendent pursuant to subsection (1) of section 82 in respect of each such seaman re-engaged for service in that ship, which shall contain, in addition to the particulars entered therein pursuant to the said subsection (1) of section 82, particulars of the date on which the seaman was so re-engaged; and

(iii) a notice in the prescribed form specifying the total number of such seamen supplied and engaged for service in that ship and containing such other particulars as may be required thereby; and

(b) pay to the Superintendent in respect of each such seaman supplied and engaged for service in that ship the fee of eight dollars payable under subsection (1) of section 80.

84. (1) Whenever a seaman is supplied by the Deputy Naval Store Officer for service in a Royal Fleet Auxiliary ship pursuant to subsection (3) of section 74, an emergency engagement card in the prescribed form shall be completed in respect of that seaman so as to contain the particulars required thereby, and, in the discretion of the Deputy Naval

Deputy Naval Store Officer to deliver engagement cards, etc. to Superintendent and payment of fees.

Procedure on supply of seaman by Deputy Naval Store Officer pursuant to section 74(3).

Store Officer, the card may be retained by him or delivered to the seaman.

(2) When such seaman signs the articles of agreement for service in that ship or enters into any other agreement for service therein, there shall be produced—

- (a) to the Superintendent of the Mercantile Marine Office; or
- (b) if the articles of agreement or other agreement for service are not signed by the seaman in the presence of the Superintendent of the Mercantile Marine Office, to the master of the ship,

at the time the seaman signs the articles of agreement or other agreement for service—

- (i) the emergency engagement card completed in respect of the seaman pursuant to subsection (1); and
- (ii) the seaman's Hong Kong seaman's discharge book,

and thereafter, if the emergency engagement card was delivered to the seaman under subsection (1), the seaman shall return it to the Deputy Naval Store Officer.

(3) As soon as practicable after a seaman who has been supplied by the Deputy Naval Store Officer for service in a Royal Fleet Auxiliary ship pursuant to subsection (3) of section 74 has been engaged for service in that ship, the Deputy Naval Store Officer shall at the same time—

- (a) deliver to the Superintendent—
 - (i) the emergency engagement card completed in respect of the seaman pursuant to subsection (1); and
 - (ii) a notice in the prescribed form containing such particulars with respect to the engagement of the seaman as may be required thereby and a statement of the reason for the supplying of the seaman pursuant to subsection (3) of section 74; and
- (b) pay to the Superintendent in respect of the seaman the fee of eight dollars payable under subsection (1) of section 80.

(4) A notice delivered to the Superintendent pursuant to subparagraph (ii) of paragraph (a) of subsection (3) may be delivered in respect of more than one seaman.

(5) A seaman who, without reasonable excuse, fails or refuses to return the emergency engagement card to the Deputy Naval Store Officer in accordance with subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

85. Within seven days after the last day of each month, the Deputy Naval Store Officer shall deliver to the Superintendent a notice in the prescribed form containing such particulars in relation to seamen supplied by him for service in Royal Fleet Auxiliary ships during that month as may be required by such form.

Particulars of seamen supplied by Deputy Naval Store Officer to be delivered to Superintendent.

86. (1) The method or methods used in the crew department managed by the Deputy Naval Store Officer to pay to persons in whose favour allotments or remittances are made by seamen supplied by the Deputy Naval Store Officer for service in Royal Fleet Auxiliary ships shall be such as the Authority has approved.

Approval of methods used in crew department managed by Deputy Naval Store Officer to pay allotments and remittances.

(2) At all times, there shall be displayed in a conspicuous position in a part of the crew department managed by the Deputy Naval Store Officer to which seamen have access and, where allotments and remittances are dealt with elsewhere than in the crew department, in the place where the same are dealt with—

- (a) a notice or notices specifying the approved method or methods used to pay allotments and remittances;
- (b) a notice specifying the days on and times at which allotments and remittances are dealt with; and
- (c) such other notices relating to allotments and remittances as the Authority may require.

(3) Every notice displayed pursuant to subsection (2) shall be in the English language and the Chinese language.

PART VIII.

SUPPLEMENTARY AND MISCELLANEOUS.

87. (1) The Authority, the Superintendent, any public officer authorized in writing for the purposes of this section by the Superintendent either generally or in any particular case, and any police officer may—

Entry to premises, etc. and power to search, seize, etc.

- (a) at any time, using such force as may be necessary, enter any premises or place which he is authorized to enter by a warrant issued under subsection (2);
- (b) at any time, using such force as may be necessary, enter any premises or place occupied by a licensed company, being premises or a place which appear to him to be used for the purposes of the business of the licensed crew department maintained by such company;

- (c) search any premises or place which he is empowered by this section to enter;
 - (d) board, using such force as may be necessary, and search any foreign-going ship in which he knows or has reason to believe there is or may be—
 - (i) any seaman who has been recruited, engaged or supplied in contravention of section 34; or
 - (ii) anything which is or contains, or is likely to be or to contain, evidence of the commission of an offence against this Ordinance;
 - (e) remove anything which obstructs any entry or search which he is empowered by this section to make;
 - (f) detain any person found in any premises or place, or in any foreign-going ship, which he is empowered by this section to search, while such premises or place or ship are or is searched;
 - (g) inspect any books, records or other documents belonging to or in the possession of a licensed company, being books, records or documents kept or used for the purposes of the business of the licensed crew department maintained by such company or in connexion with the payment of allotments or remittances; and
 - (h) inspect, seize and detain anything which is or appears to him to be or to contain, or to be likely to be or to contain, evidence of the commission of an offence against this Ordinance.
- (2) If a magistrate is satisfied by evidence on oath that—
- (a) an offence against this Ordinance is being or has been committed in any premises or place; or
 - (b) there is or may be in any premises or place anything which is or contains, or is likely to be or to contain, evidence of the commission of an offence against this Ordinance,

he may issue a warrant authorizing the Authority, the Superintendent, any public officer authorized in writing for the purposes of this section by the Superintendent and any police officer to enter such premises or place.

Power of Authority to prescribe forms.

88. The Authority may prescribe the form of any notice or document required by this Ordinance to be in the prescribed form and the form of such other notices or documents required for the purposes of this Ordinance as he thinks fit.

Delegation of powers, etc. by Superintendent.

89. The Superintendent may in writing delegate to any public officer by name, either generally or for a particular occasion, or to the holder for the time being of any public office such of his powers, functions and duties under this Ordinance as he thinks fit, other than

the powers, functions or duties conferred or imposed by the provisions of this Ordinance specified in the Schedule:

Schedule.

Provided that no delegation made hereunder shall preclude the Superintendent from exercising or performing at any time any of the powers, functions or duties so delegated.

90. Any notice or document required by this Ordinance to be served on a seaman shall be deemed to have been duly served if the same is—

Service of notices and documents on seamen.

- (a) delivered to the seaman personally; or
- (b) sent by post to the seaman at his registered address.

91. (1) Any person who in any form required by, under or for the purposes of this Ordinance, or in any notice or document given, issued or made pursuant to or for the purposes of this Ordinance, makes any statement or furnishes any information which he knows or reasonably ought to know to be false in a material particular shall be guilty of an offence.

False statement or information.

(2) Any person who furnishes any information required to be furnished under section 49, or supplies any particular required to be supplied under subsection (1) of section 67, which he knows or reasonably ought to know to be false in a material particular shall be guilty of an offence.

(3) Any person who signs any form required by, under or for the purposes of this Ordinance, or any notice or document given, issued or made pursuant to or for the purposes of this Ordinance, in which any statement or information which he knows or reasonably ought to know to be false in a material particular is made or furnished shall be guilty of an offence.

(4) Any person who is guilty of an offence against this section shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

SCHEDULE.

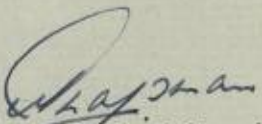
[s. 89.]

SPECIFIED PROVISIONS FOR PURPOSES OF SECTION 89.

Item.	Provision of Ordinance.
1.	Subsection (3) of section 7.
2.	Subsection (2) of section 10.
3.	Subsection (2) of section 13.
4.	Subsection (1) of section 17.
5.	Subsection (1) of section 18.
6.	Subsections (1) and (10) of section 34.

Item.	Provision of Ordinance.
7.	Subsection (1) of section 35.
8.	Subsection (1) of section 57.
9.	Subsection (1) of section 58.
10.	Subsection (1) of section 59.
11.	Paragraph (f) of subsection (1) of section 60.
12.	Subsection (2) of section 60.
13.	Subsection (3) of section 60.
14.	Subsection (1) of section 75.
15.	Subsection (1) of section 76.
16.	Subsection (1) of section 77.
17.	Paragraph (d) of subsection (1) of section 78.
18.	Subsection (2) of section 78.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 10th day of March, 1966, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

(Secretariat CR1/3051/48III)

HONG KONG

No. 8 OF 1966.



I assent.

Heuch
Governor.

10th March, 1966.

An Ordinance further to amend the Mining Ordinance 1954.

[11th March, 1966.]

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

1. This Ordinance may be cited as the Mining (Amendment) Short title.
Ordinance 1966.

2. Section 68 of the Mining Ordinance 1954 is amended by the insertion in paragraph (d) of subsection (1), after "payment thereof", of the following—

Amendment
of section 68.
(33 of 1954).

“, or the determination of all or any of such matters by the Commissioner”.