

- (d) actions to recover any sum recoverable by virtue of any Ordinance or imperial enactment, other than a penalty or forfeiture or sum by way of penalty or forfeiture:

Provided that—

- (i) in the case of actions for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of provision made by or under any Ordinance or imperial enactment or independently of any contract or any such provision) where the damages claimed by the plaintiff for the negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to any person, this subsection shall have effect as if for the reference to six years there were substituted a reference to three years; and
- (ii) nothing in this subsection shall be taken to refer to any action to which section 6 applies.

(2) An action for an account shall not be brought in respect of any matter which arose more than six years before the commencement of the action.

(3) An action upon a specialty shall not be brought after the expiration of twelve years from the date on which the cause of action accrued:

Provided that this subsection shall not affect any action for which a shorter period of limitation is prescribed by any other provision of this Ordinance.

(4) An action shall not be brought upon any judgment after the expiration of twelve years from the date on which the judgment became enforceable, and no arrears of interest in respect of any judgment debt shall be recovered after the expiration of six years from the date on which the interest became due.

(5) An action to recover any penalty or forfeiture, or sum by way of penalty or forfeiture, recoverable by virtue of any Ordinance or imperial enactment shall not be brought after the expiration of two years from the date on which the cause of action accrued:

Provided that for the purposes of this subsection the expression "penalty" shall not include a fine to which any person is liable on conviction of a criminal offence.

(6) Subsection (1) shall apply to an action to recover seamen's wages, but save as aforesaid this section shall not apply to any cause of action within the Admiralty jurisdiction of the Supreme Court which is enforceable in rem.

(7) This section shall not apply to any claim for specific performance of a contract or for an injunction or for other equitable relief, except in so far as any provision thereof may be applied by the court by analogy in like manner as the corresponding enactment contained in the Limitation Act 1939 is applied in the English Courts.

(2 & 3 Geo. 6, c. 21).

5. (1) Where any cause of action in respect of the conversion or wrongful detention of a chattel has accrued to any person and, before he recovers possession of the chattel, a further conversion or wrongful detention takes place, no action shall be brought in respect of the further conversion or detention after the expiration of six years from the accrual of the cause of action in respect of the original conversion or detention.

Limitation in case of successive conversions and extinction of title of owner of converted goods.

(2) Where any such cause of action has accrued to any person and the period prescribed for bringing that action and for bringing any action in respect of such a further conversion or wrongful detention as aforesaid has expired and he has not during that period recovered possession of the chattel, the title of that person to the chattel shall be extinguished.

2 & 3 Geo. 6, c. 21, s. 3.

6. (1) Where under section 2 of the Tortfeasors Ordinance a tortfeasor (in this section referred to as "the first tortfeasor") becomes entitled after the commencement of this Ordinance to a right to recover contribution in respect of any damage from another tortfeasor, no action to recover contribution by virtue of that right shall (subject to subsection (3) of this section) be brought after the end of the period of two years from the date on which that right accrued to the first tortfeasor.

Time limit for claiming contribution between tortfeasors. 1963 c. 47, s. 4(1) and (2). (Cap. 28).

(2) For the purpose of this section the date on which a right to recover contribution in respect of any damage accrues to a tortfeasor (in this subsection referred to as "the relevant date") shall be ascertained as follows, that is to say—

- (a) if the tortfeasor is held liable in respect of that damage by a judgment given in any civil proceedings, or an award made on any arbitration, the relevant date shall be the date on which the judgment is given or the date of the award, as the case may be;
- (b) if, in any case not falling within paragraph (a), the tortfeasor admits liability in favour of one or more persons in respect of that damage the relevant date shall be the earliest date on

which the amount to be paid by him in discharge of that liability is agreed by or on behalf of the tortfeasor and that person or each of those persons, as the case may be;

and for the purposes of this subsection no account shall be taken of any judgment or award given or made on appeal in so far as it varies the amount of damages awarded against the tortfeasor.

Actions to recover land and rent.

Limitation of
actions to
recover land.

7. (1) No action shall be brought by the Crown to recover any land after the expiration of sixty years from the date on which the right of action accrued to the Crown or, if it first accrued to some person through whom the Crown claims, to that person.

(2) No action shall be brought by any other person to recover any land after the expiration of twenty years from the date on which the right of action accrued to him or, if it first accrued to some person through whom he claims, to that person:

Provided that, if the right of action first accrued to the Crown through whom the person bringing the action claims, the action may be brought at any time before the expiration of the period during which the action could have been brought by the Crown, or of twenty years from the date on which the right of action accrued to some person other than the Crown, whichever period first expires.

Accrual of
right of
action in case
of present
interests in
land.
2 & 3 Geo. 6,
c. 21, s. 5.

8. (1) Where the person bringing an action to recover land, or some person through whom he claims, has been in possession thereof, and has while entitled thereto been dispossessed or discontinued his possession, the right of action shall be deemed to have accrued on the date of the dispossession or discontinuance.

(2) Where any person brings an action to recover any land of a deceased person, whether under a will or on intestacy, and the deceased person was on the date of his death in possession of the land or, in the case of a rentcharge created by will or taking effect upon his death, in possession of the land charged, and was the last person entitled to the land to be in possession thereof, the right of action shall be deemed to have accrued on the date of his death.

(3) Where any person brings an action to recover land, being an estate or interest in possession assured otherwise than by will to him, or to some person through whom he claims by a person who, at the date when the assurance took effect, was in possession of the land or, in the case of a rentcharge created by the assurance, in possession of the land charged, and no person has been in possession of the land by virtue of the assurance, the right of action shall be deemed to have accrued on the date when the assurance took effect.

9. (1) Subject as hereafter provided in this section, the right of action to recover any land shall, in a case where the estate or interest claimed was an estate or interest in reversion or remainder or any other future estate or interest and no person has taken possession of the land by virtue of the estate or interest claimed, be deemed to have accrued on the date on which the estate or interest fell into possession by the determination of the preceding estate or interest.

Accrual of
right of
action in case
of future
interests.
2 & 3 Geo. 6,
c. 21, s. 6.

(2) If the person entitled to the preceding estate or interest, not being a term of years absolute, was not in possession of the land on the date of the determination thereof, no action shall be brought by the person entitled to the succeeding estate or interest after the expiration of twenty years from the date on which the right of action accrued to the person entitled to the preceding estate or interest, or six years from the date on which the right of action accrued to the person entitled to the succeeding estate or interest, whichever period last expires:

Provided that, where the Crown is entitled to the succeeding estate or interest, the foregoing provisions of this subsection shall have effect with the substitution for the reference to twenty years of a reference to sixty years, and for the reference to six years or a reference to twenty years.

(3) No person shall bring an action to recover any estate or interest in land under an assurance taking effect after the right of action to recover the land had accrued to the person by whom the assurance was made or some person through whom he claimed or some person entitled to a preceding estate or interest, unless the action is brought within the period during which the person by whom the assurance was made could have brought such an action.

(4) Where any person is entitled to any estate or interest in land in possession and, while so entitled, is also entitled to any future estate or interest in that land, and his right to recover the estate or interest in possession is barred under this Ordinance, no action shall be brought by that person, or by any person claiming through him, in respect of the future estate or interest, unless in the meantime possession of the land has been recovered by a person entitled to an intermediate estate or interest.

10. (1) Subject to the provisions of subsection (1) of section 20, the provisions of this Ordinance shall apply to equitable interests in land, including interests in the proceeds of the sale of land held upon trust for sale, in like manner as they apply to legal estates, and accordingly a right of action to recover the land shall, for the purposes of this Ordinance but not otherwise, be deemed to accrue to a person entitled in possession to such an equitable interest in the like manner and circumstances and on the same date as it would accrue if his interest were a legal estate in the land.

Provisions in
case of land
held on trust.
2 & 3 Geo. 6,
c. 21, s. 7.

(2) Where any land is held upon trust, including a trust for sale, and the period prescribed by this Ordinance has expired for the bringing of an action to recover the land by the trustees, the estate of the trustees shall not be extinguished if and so long as the right of action to recover the land of any person entitled to a beneficial interest in the land or in the proceeds of sale either has not accrued or has not been barred by this Ordinance, but if and when every such right of action has been so barred, the estate of the trustee shall be extinguished.

(3) Where land is held upon trust, including a trust for sale, an action to recover the land may be brought by the trustees on behalf of any person entitled to a beneficial interest in possession in the land or in the proceeds of sale whose right of action has not been barred by this Ordinance, notwithstanding that the right of action of the trustees would apart from this provision have been barred by this Ordinance.

11. A right of action to recover land by virtue of a forfeiture or breach of condition shall be deemed to have accrued on the date on which the forfeiture was incurred or the condition broken:

Provided that, if such a right has accrued to a person entitled to an estate or interest in reversion or remainder and the land was not recovered by virtue thereof, the right of action to recover the land shall not be deemed to have accrued to that person until his estate or interest fell into possession, as if no such forfeiture or breach of condition had occurred.

12. (1) A tenancy at will shall, for the purposes of this Ordinance, be deemed to be determined at the expiration of a period of one year from the commencement thereof, unless it has previously been determined, and accordingly the right of action of the person entitled to the land subject to the tenancy shall be deemed to have accrued on the date of such determination.

(2) A tenancy from year to year or other period, without a lease in writing, shall, for the purposes of this Ordinance, be deemed to be determined at the expiration of the first year or other period, and accordingly the right of action of the person entitled to the land subject to the tenancy shall be deemed to have accrued at the date of such determination:

Provided that, where any rent has subsequently been received in respect of the tenancy, the right of action shall be deemed to have accrued on the date of the last receipt of rent.

(3) Where any person is in possession of land by virtue of a lease in writing by which a rent of not less than twenty dollars is reserved, and the rent is received by some person wrongfully claiming to be entitled to the land in reversion immediately expectant on the

Accrual of right of action in case of forfeiture or breach of condition.
2 & 3 Geo. 6, c. 21, s. 8.

Accrual of right of action in case of certain tenancies.
2 & 3 Geo. 6, c. 21, s. 9.

determination of the lease, and no rent is subsequently received by the person rightfully so entitled, the right of action of the last-named person to recover the land shall be deemed to have accrued at the date when the rent was first received by the person wrongfully claiming as aforesaid and not at the date of the determination of the lease.

(4) Subsections (1) and (3) shall not apply to any tenancy at will or lease granted by the Crown.

13. (1) No right of action to recover land shall be deemed to accrue unless the land is in the possession of some person in whose favour the period of limitation can run (hereafter in this section referred to as adverse possession) and where under the foregoing provisions of this Ordinance any such right of action is deemed to accrue on a certain date and no person is in adverse possession on that date, the right of action shall not be deemed to accrue unless and until adverse possession is taken of the land.

Right of action not to accrue or continue unless there is adverse possession.
2 & 3 Geo. 6, c. 21, s. 10.

(2) Where a right of action to recover land has accrued and thereafter, before the right is barred, the land ceases to be in adverse possession, the right of action shall no longer be deemed to have accrued and no fresh right of action shall be deemed to accrue unless and until the land is again taken in adverse possession.

(3) For the purposes of this section—

- (a) possession of any land subject to a rentcharge by a person (other than the person entitled to the rentcharge) who does not pay the rent shall be deemed to be adverse possession of the rentcharge; and
- (b) receipt of rent under a lease by a person wrongfully claiming, in accordance with subsection (3) of section 12, the land in reversion shall be deemed to be adverse possession of the land.

14. When a mortgagee of land has been in possession of any of the mortgaged land for a period of twenty years, no action to redeem the land of which the mortgagee has been so in possession shall thereafter be brought by the mortgagor or any person claiming through him.

Limitation of redemption actions.
2 & 3 Geo. 6, c. 21, s. 12.

15. For the purposes of this Ordinance, no person shall be deemed to have been in possession of any land by reason only of having made a formal entry thereon, and no continual or other claim upon or near any land shall preserve any right of action to recover the land.

No right of action to be preserved by formal entry or continual claim.
2 & 3 Geo. 6, c. 21, s. 13.

Administra-
tion to date
back to death.
2 & 3 Geo. 6,
c. 21, s. 15.

16. For the purposes of the provisions of this Ordinance relating to actions for the recovery of land, an administrator of the estate of a deceased person shall be deemed to claim as if there had been no interval of time between the death of the deceased person and the grant of the letters of administration.

Extinction of
title after
expiration
of period.
2 & 3 Geo. 6,
c. 21, s. 16.

17. Subject to the provisions of section 10, at the expiration of the period prescribed by this Ordinance for any person to bring an action to recover land (including a redemption action), the title of that person to the land shall be extinguished.

Limitation of
actions to
recover rent.
2 & 3 Geo. 6,
c. 21, s. 17.

18. No action shall be brought, or distress made, to recover arrears of rent, or damages in respect thereof, after the expiration of six years from the date on which the arrears became due.

Actions to recover money secured by a mortgage or charge or to recover proceeds of the sale of land.

Limitation of
actions to
recover
money
secured by a
mortgage or
charge or
to recover
proceeds of
the sale of
land.
2 & 3 Geo. 6,
c. 21, s. 18.

19. (1) No action shall be brought to recover any principal sum of money secured by a mortgage or other charge on property, or to recover proceeds of the sale of land, after the expiration of twenty years from the date when the right to receive the money accrued.

(2) No foreclosure action in respect of mortgaged personal property shall be brought after the expiration of twenty years from the date on which the right to foreclose accrued:

Provided that if, after that date the mortgagee was in possession of the mortgaged property, the right to foreclose on the property which was in his possession shall not, for the purposes of this subsection, be deemed to have accrued until the date on which his possession discontinued.

(3) The right to receive any principal sum of money secured by a mortgage or other charge and the right to foreclose on the property subject to the mortgage or charge shall not be deemed to accrue so long as that property comprises any future interest or any life insurance policy which has not matured or been determined.

(4) Nothing in this section shall apply to a foreclosure action in respect of mortgaged land, but the provisions of this Ordinance relating to actions to recover land shall apply to such an action.

(5) No action to recover arrears of interest payable in respect of any sum of money secured by a mortgage or other charge or payable in respect of proceeds of the sale of land, or to recover damages in respect of such arrears, shall be brought after the expiration of six years from the date on which the interest became due:

Provided that—

(a) where a prior mortgagee or other incumbrancer has been in possession of the property charged, and an action is brought within one year of the discontinuance of such possession by the subsequent incumbrancer, he may recover by that action all the arrears of interest which fell due during the period of possession by the prior incumbrancer or damages in respect thereof, notwithstanding that the period exceeded six years;

(b) where the property subject to the mortgage or charge comprises any future interest or life insurance policy and it is a term of the mortgage or charge that arrears of interest shall be treated as part of the principal sum of money secured by the mortgage or charge, interest shall not be deemed to become due before the right to receive the principal sum of money has accrued or is deemed to have accrued.

(6) This section shall not apply to any mortgage or charge on a ship.

Actions in respect of trust property or the personal estate of deceased persons.

20. (1) No period of limitation prescribed by this Ordinance shall apply to an action by a beneficiary under a trust, being an action—

Limitation of
actions in
respect of
trust property.
2 & 3 Geo. 6,
c. 21, s. 19.

(a) in respect of any fraud or fraudulent breach of trust to which the trustee was a party or privy; or

(b) to recover from the trustee trust property or the proceeds thereof in the possession of the trustee, or previously received by the trustee and converted to his use.

(2) Subject as aforesaid, an action by a beneficiary to recover trust property or in respect of any breach of trust, not being an action for which a period of limitation is prescribed by any other provision of this Ordinance, shall not be brought after the expiration of six years from the date on which the right of action accrued:

Provided that the right of action shall not be deemed to have accrued to any beneficiary entitled to a future interest in the trust property, until the interest fell into possession.

(3) No beneficiary as against whom there would be a good defence under this Ordinance shall derive any greater or other benefit from a judgment or order obtained by any other beneficiary than he could have obtained if he had brought the action and this Ordinance had been pleaded in defence.

Limitation of actions claiming personal estate of a deceased person.
2 & 3 Geo. 6, c. 21, s. 20.

21. Subject to the provisions of subsection (1) of section 20, no action in respect of any claim to the personal estate of a deceased person or to any share or interest in such estate, whether under a will or on intestacy, shall be brought after the expiration of twelve years from the date when the right to receive the share or interest accrued, and no action to recover arrears of interest in respect of any legacy, or damages in respect of such arrears, shall be brought after the expiration of six years from the date on which the interest became due.

PART III.

EXTENSION OF LIMITATION PERIODS IN CERTAIN CASES.

Disability.

Extension of limitation period in case of disability.
2 & 3 Geo. 6, c. 21, ss. 22 & 31(2) & (3); 2 & 3 Eliz. 2, c. 36, s. 2(2).

22. (1) If on the date when any right of action accrued for which a period of limitation is prescribed by this Ordinance, the person to whom it accrued was under a disability, the action may be brought at any time before the expiration of six years from the date when the person ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period of limitation has expired:

Provided that—

- (a) this section shall not affect any case where the right of action first accrued to some person (not under a disability) through whom the person under a disability claims;
- (b) when a right of action which has accrued to a person under a disability accrued, on the death of that person while still under a disability, to another person under disability, no further extension of time shall be allowed by reason of the disability of the second person;
- (c) no action to recover land or money charged on land shall be brought by virtue of this section by any person after the expiration of thirty years from the date on which the right of action accrued to that person or some person through whom he claims;
- (d) this section shall not apply to any action to recover a penalty or forfeiture, or sum by way thereof, by virtue of any Ordinance or imperial enactment, except where the action is brought by an aggrieved party.

cf. 1963, c. 47, s. 4(3).

(2) In the case of actions for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of provision made by or under any Ordinance or imperial enactment or independently of any contract or any such provision) where the

damages claimed by the plaintiff for the negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to any person and in the case of actions to which section 6 applies—

(a) subsection (1) of this section shall have effect as if for the words "six years" there were substituted—

(i) as regards any action to which section 6 applies, the words "two years";

(ii) as regards any other action to which this subsection refers, the words "three years"; and

(b) this section shall not apply unless the plaintiff proves that the person under the disability was not, at the time when the right of action, or (as regards an action to which section 6 applies) the right to recover contribution, accrued to him, in the custody of a parent.

(3) For the purposes of this section, a person shall be deemed to be under a disability while he is an infant or of unsound mind, and, without prejudice to the generality of the foregoing provisions of this subsection, a person shall be conclusively presumed to be of unsound mind while he is detained in pursuance of any Ordinance or imperial enactment authorizing the detention of persons of unsound mind, including persons convicted of offences or awaiting trial, or while he is receiving treatment voluntarily under the provisions of the Mental Health Ordinance 1960.

(35 of 1960).

Acknowledgment and part payment.

23. (1) Where there has accrued any right of action (including a foreclosure action) to recover land or any right of a mortgagee of personal property to bring a foreclosure action in respect of the property, and—

Fresh accrual of action on acknowledgment or part payment.
2 & 3 Geo. 6, c. 21, s. 23.

- (a) the person in possession of the land or personal property acknowledges the title of the person to whom the right of action has accrued; or
- (b) in the case of a foreclosure or other action by a mortgagee, the person in possession as aforesaid or the person liable for the mortgage debt makes any payment in respect thereof, whether of principal or interest,

the right shall be deemed to have accrued on and not before the date of the acknowledgment of payment.

(2) Where a mortgagee is by virtue of the mortgage in possession of any mortgaged land and either receives any sum in respect of the principal or interest of the mortgage debt or acknowledges the title of the mortgagor, or his equity of redemption, an action to redeem the

land in his possession may be brought at any time before the expiration of twelve years from the date of the payment or acknowledgment.

(3) Where any right of action has accrued to recover any debt or other liquidated pecuniary claim, or any claim to the personal estate of a deceased person or to any share or interest therein, and the person liable or accountable therefor acknowledges the claim or makes any payment in respect thereof, the right shall be deemed to have accrued on and not before the date of the acknowledgment or the last payment:

Provided that a payment of a part of the rent of interest due at any time shall not extend the period for claiming the remainder then due, but any payment of interest shall be treated as a payment in respect of the principal debt.

24. (1) Every such acknowledgment as aforesaid shall be in writing and signed by the person making the acknowledgment.

(2) Any such acknowledgment or payment as aforesaid may be made by the agent of the person by whom it is required to be made under section 23, and shall be made to the person, or to an agent of the person, whose title or claim is being acknowledged or, as the case may be, in respect of whose claim the payment is being made.

25. (1) An acknowledgment of the title to any land or mortgaged personalty by any person in possession thereof shall bind all other persons in possession during the ensuing period of limitation.

(2) A payment in respect of a mortgage debt by the mortgagor or any person in possession of the mortgaged property shall, so far as any right of the mortgagee to foreclose or otherwise to recover the property is concerned, bind all other persons in possession of the mortgaged property during the ensuing period of limitation.

(3) Where two or more mortgagees are by virtue of the mortgage in possession of the mortgaged land, an acknowledgment of the mortgagor's title or of his equity of redemption by one of the mortgagees shall bind only him and his successors and shall not bind any other mortgagee or his successors, and where the mortgagee by whom the acknowledgment is given is entitled to a part of the mortgaged land and not to any ascertained part of the mortgage debt, the mortgagor shall be entitled to redeem that part of the land on payment, with interest, of the part of the mortgage debt which bears the same proportion to the whole of the debt as the value of the part of the land bears to the whole of the mortgaged land.

(4) Where there are two or more mortgagors, and the title or right to redemption of one of the mortgagors is acknowledged as aforesaid, the acknowledgment shall be deemed to have been made to all the mortgagors.

Formal provisions as to acknowledgments and part payments.

2 & 3 Geo. 6, c. 21, s. 24.

Effect of acknowledgment or part payment on persons other than the maker or recipient.

2 & 3 Geo. 6, c. 21, s. 25.

(5) An acknowledgment of any debt or other liquidated pecuniary claim shall bind the acknowledgor and his successors but not any other person:

Provided that an acknowledgment made after the expiration of the period of limitation prescribed for the bringing of an action to recover the debt or other claim shall not bind any successor on whom the liability devolves on the determination of a preceding estate or interest in property under a settlement taking effect before the date of the acknowledgment.

(6) A payment made in respect of any debt or other liquidated pecuniary claim shall bind all persons liable in respect thereof:

Provided that a payment made after the expiration of the period of limitation prescribed for the bringing of an action to recover the debt or other claim shall not bind any person other than the person making the payment and his successors, and shall not bind any successor on whom the liability devolves on the determination of a preceding estate or interest in property under a settlement taking effect before the date of the payment.

(7) An acknowledgment by one of several personal representatives of any claim to the personal estate of a deceased person, or to any share or interest therein, or a payment by one of several personal representatives in respect of any such claim shall bind the estate of the deceased person.

(8) In this section the expression "successor", in relation to any mortgagee or person liable in respect of any debt or claim, means his personal representatives and any other person on whom the rights under the mortgage or, as the case may be, the liability in respect of the debt or claim devolve, whether on death or bankruptcy or the disposition of property or the determination of a limited estate or interest in settled property or otherwise.

Fraud and mistake.

26. Where, in the case of any action for which a period of limitation is prescribed by this Ordinance, either—

- (a) the action is based upon the fraud of the defendant or his agent or of any person through whom he claims or his agent; or
- (b) the right of action is concealed by the fraud of any such person; or
- (c) the action is for relief from the consequences of a mistake,

the period of limitation shall not begin to run until the plaintiff has discovered the fraud or the mistake, as the case may be, or could with reasonable diligence have discovered it:

Postponement of limitation period in case of fraud or mistake.
2 & 3 Geo. 6, c. 21, s. 26.

Provided that nothing in this section shall enable any action to be brought to recover, or enforce any charge against, or set aside any transaction affecting, any property which—

- (i) in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know or have reason to believe that any fraud had been committed; or
- (ii) in the case of mistake, has been purchased for valuable consideration, subsequently to the transaction in which the mistake was made, by a person who did not know or have reason to believe that the mistake had been made.

*Special provisions applicable to certain actions
in respect of personal injuries.*

Extension of
time limit
for actions
in respect
of personal
injuries.
1963, c. 47,
s. 1.

27. (1) Subsection (1) of section 4 shall not afford any defence to an action to which this section applies, in so far as the action relates to any cause of action in respect of which—

- (a) the court has, whether before or after the commencement of the action, granted leave for the purposes of this section; and
- (b) the requirements of subsection (3) are fulfilled.

(2) This section applies to any action for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of provision made by or under any Ordinance or imperial enactment or independently of any contract or any such provision) where the damages claimed by the plaintiff for the negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to the plaintiff or any other person.

(3) The requirements of this subsection are fulfilled in relation to a cause of action if it is proved that the material facts relating to that cause of action were or included facts of a decisive character which were at all times outside the knowledge (actual or constructive) of the plaintiff until a date which—

- (a) either was after the end of the three-year period relating to that cause of action or was not earlier than twelve months before the end of that period; and
- (b) in either case, was a date not earlier than twelve months before the date on which the action was brought.

(4) For the purposes of subsection (3), reference to the three-year period relating to a cause of action is a reference to the period of three years from the date on which that cause of action accrued:

Provided that—

- (a) in relation to any cause of action in respect of which, by virtue of section 22, an action could have been brought after the end of the period of three years from the date on which that cause of action accrued, any such reference to the three-year period relating to that cause of action shall be construed as a reference to the period up to the end of which an action could, by virtue of that section, have been brought in respect thereof;
- (b) in relation to a cause of action in respect of which, by virtue of section 26, the period of limitation did not begin to run until a date after the cause of action accrued, any such reference to the three-year period relating to that cause of action shall be construed as a reference to the period of three years from the date on which, by virtue of that section, the period of limitation began to run.

(5) Nothing in this section shall be construed as excluding or otherwise affecting—

- (a) any defence which, in any action to which this section applies, may be available by virtue of any Ordinance or imperial enactment other than subsection (1) of section 4 of this Ordinance (whether it is an Ordinance or imperial enactment imposing a period of limitation or not) or by virtue of any rule of law or equity; or
- (b) the operation of any Ordinance or imperial enactment or of any rule of law or equity which, apart from this section, would enable such an action to be brought after the end of the period of three years from the date on which the cause of action accrued.

28. (1) Any application for the leave of the court for the purposes of section 27 shall be made *ex parte*, except in so far as rules of court may otherwise provide in relation to applications which are made after the commencement of a relevant action.

Application
for leave of
court.
1963, c. 47,
s. 2(1), (2),
(3) & (5).

(2) Where such an application is made before the commencement of any relevant action, the court shall grant leave in respect of any cause of action to which the application relates if, but only if, on evidence adduced by or on behalf of the plaintiff, it appears to the court that, if such an action were brought forthwith and like evidence were adduced in that action, that evidence would, in the absence of any evidence to the contrary, be sufficient—

- (a) to establish that cause of action, apart from any defence under subsection (1) of section 4; and

(b) to fulfil the requirements of subsection (3) of section 27 in relation to that cause of action.

(3) Where such an application is made after the commencement of a relevant action, the court shall grant leave in respect of any cause of action to which the application relates if, but only if, on evidence adduced by or on behalf of the plaintiff, it appears to the court that, if the like evidence were adduced in that action, that evidence would, in the absence of any evidence to the contrary, be sufficient—

(a) to establish that cause of action, apart from any defence under subsection (1) of section 4; and

(b) to fulfil the requirements of subsection (3) of section 27 in relation to that cause of action;

and it also appears to the court that, until after the commencement of that action, it was outside the knowledge (actual or constructive) of the plaintiff that the matters constituting that cause of action had occurred on such a date as (apart from section 27) to afford a defence under subsection (1) of section 4.

(4) In this section, "relevant action", in relation to an application for the leave of the court, means any action in connexion with which the leave sought by the application is required.

29. (1) In relation to any action to which section 27 applies, being an action in respect of one or more causes of action surviving for the benefit of the estate of a deceased person by virtue of section 2 of the Law Reform (Miscellaneous Provisions) Ordinance 1951, subsections (1), (3) and (5) of section 27, and section 28, of this Ordinance shall have effect subject to the provisions of subsections (4) and (5) of this section.

(2) Subsections (1), (3) and (5) of section 27, and section 28, of this Ordinance shall have effect, subject to the provisions of subsections (4) to (6) of this section, in relation to an action brought by virtue of the Fatal Accidents Ordinance for damages in respect of a person's death, as they have effect in relation to an action to which section 27 of this Ordinance applies.

(3) In subsections (4), (5) and (6) of this section, and in sections 27 and 28 of this Ordinance as modified by those provisions, "the deceased" means the person referred to in subsection (1) or (2) of this section, as the case may be.

(4) Subsection (1) of section 27 shall not have effect in relation to any action falling within subsection (1) or (2) of this section unless the action is brought before the end of the period of twelve months from the date on which the deceased died.

Application of ss. 27 & 28 to actions after death of injured person. 1963, c. 47, s. 3 (36 of 1951).

(Cap. 22).

(5) For the purpose of the application of subsection (3) of section 27 to an action falling within subsection (1) or (2) of this section—

(a) any reference in the said subsection (3) to the plaintiff shall be construed as a reference to the deceased; and

(b) the requirements of that subsection shall be taken to be fulfilled in relation to a cause of action if either the matters specified in that subsection (as modified by paragraph (a) of this subsection) are proved or it is proved that the material facts relating to that cause of action were or included facts of a decisive character which at all times until his death were outside the knowledge (actual or constructive) of the deceased;

and any reference to the requirements of the said subsection (3) shall, in relation to an action falling within subsection (1) or (2) of this section, be construed as a reference to the requirements of the said subsection (3) as modified by this subsection.

(6) In the application of sections 27 to 33 to an action brought by virtue of the Fatal Accidents Ordinance—

(Cap. 22).

(a) any reference to a cause of action to which an action relates shall be construed as a reference to a cause of action in respect of which it is claimed that the deceased could (but for his death) have maintained an action and recovered damages; and

(b) any reference to establishing a cause of action shall be construed as a reference to establishing that the deceased could (but for his death) have maintained an action and recovered damages in respect thereof.

30. In sections 27 and 29 any reference to material facts relating to a cause of action is a reference to any one or more of the following, that is to say—

(a) the fact that personal injuries resulted from the negligence, nuisance or breach of duty constituting that cause of action;

(b) the nature or extent of the personal injuries resulting from that negligence, nuisance or breach of duty;

(c) the fact that the personal injuries so resulting were attributable to that negligence, nuisance or breach of duty, or the extent to which any of those personal injuries were so attributable.

31. For the purposes of sections 27 and 29 any of the material facts relating to a cause of action shall be taken, at any particular time, to have been facts of a decisive character if they were facts which a reasonable person, knowing those facts and having obtained appropriate advice within the meaning of section 33 with respect to them, would have regarded at that time as determining, in relation to that cause of action,

Meaning of "material facts relating to a cause of action". 1963, c. 47, s. 7(3).

Meaning of "facts of a decisive character". 1963, c. 47, s. 7(4).

that (apart from any defence under subsection (1) of section 4) an action would have a reasonable prospect of succeeding and of resulting in the award of damages sufficient to justify the bringing of the action.

When facts will be taken as outside the knowledge of a person.

1963, c. 47, s. 7(5) & (6).

32. (1) Subject to the provisions of subsection (2), for the purposes of sections 27 to 29 a fact shall, at any time, be taken to have been outside the knowledge (actual or constructive) of a person if, but only if—

- (a) he did not then know that fact;
- (b) in so far as that fact was capable of being ascertained by him, he had taken all such action (if any) as it was reasonable for him to have taken before that time for the purpose of ascertaining it; and
- (c) in so far as there existed, and were known to him, circumstances from which with appropriate advice within the meaning of section 33 that fact might have been ascertained or inferred, he had taken all such action (if any) as it was reasonable for him to have taken before that time for the purpose of obtaining appropriate advice as aforesaid with respect to those circumstances.

(2) In the application of subsection (1) to a person at a time when he was under a disability and was in the custody of a parent, any reference to that person in paragraph (a), (b) or (c) of that subsection shall be construed as a reference to that parent.

Meaning of "appropriate advice".

1963, c. 47, s. 7(8).

33. In sections 31 and 32 "appropriate advice", in relation to any fact or circumstances, means the advice of competent persons qualified, in their respective spheres, to advise on the medical, legal or other aspects of that fact or those circumstances, as the case may be.

PART IV.

GENERAL.

34. (1) This Ordinance and any other Ordinance or imperial enactment relating to the limitation of actions shall apply to arbitrations as they apply to actions in the Supreme Court.

(2) Notwithstanding any term in an arbitration agreement to the effect that no cause of action shall accrue in respect of any matter required by the agreement to be referred until an award is made under the agreement, the cause of action shall, for the purpose of this Ordinance and of any other such Ordinance or imperial enactment (whether in their application to arbitrations or to other proceedings), be deemed to have accrued in respect of any such matter at the time when it would have accrued but for that term in the agreement.

Application of Ordinance and other limitation enactments to arbitrations.

2 & 3 Geo. 6, c. 21, s. 27.

(3) For the purpose of this Ordinance and of any other such Ordinance or imperial enactment as aforesaid, an arbitration shall be deemed to be commenced when one party to the arbitration serves on the other party or parties a notice requiring him or them to appoint an arbitrator or to agree to the appointment of an arbitrator, or, where the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring him or them to submit the dispute to the person so named or designated.

(4) Any such notice as aforesaid may be served either—

- (a) by delivering it to the person on whom it is to be served; or
- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending it by post in a registered letter addressed to that person at his usual or last known place of abode;

as well as in any other manner provided in the arbitration agreement; and where a notice is sent by post in manner prescribed by paragraph (c), service thereof shall, unless the contrary is proved, be deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of post.

(5) Where the court orders that an award be set aside or orders, after the commencement of an arbitration, that the arbitration shall cease to have effect with respect to the dispute referred, the court may further order that the period between the commencement of the arbitration and the date of the order of the court shall be excluded in computing the time prescribed by this Ordinance or any such other Ordinance or imperial enactment as aforesaid for the commencement of proceedings (including arbitration) with respect to the dispute referred.

(6) This section shall apply to an arbitration under an Ordinance as well as to an arbitration pursuant to an arbitration agreement, and subsections (3) and (4) shall have effect, in relation to an arbitration under an Ordinance, as if for the references to the arbitration agreement there were substituted references to such of the provisions of the Ordinance or of any order, scheme, rules, regulations or by-laws made thereunder as relate to the arbitration.

35. For the purposes of this Ordinance, any claim by way of set-off or counterclaim shall be deemed to be a separate action and to have been commenced on the same date as the action in which the set-off or counterclaim is pleaded.

Provisions as to set-off or counterclaim.
2 & 3 Geo. 6, c. 21, s. 28.

36. Nothing in this Ordinance shall affect any equitable jurisdiction to refuse relief on the ground of acquiescence or otherwise.

Acquiescence.
2 & 3 Geo. 6, c. 21, s. 29.

Application
to the Crown.
2 & 3 Geo. 6,
c. 21, s. 30(1).

37. Save as in this Ordinance otherwise expressly provided and without prejudice to the provisions of section 40, this Ordinance shall apply to proceedings by or against the Crown in like manner as it applies to proceedings between subjects:

(26 of 1963).

Provided that this Ordinance shall not apply to any proceedings by the Crown for the recovery of any tax or duty or interest thereon or to any forfeiture proceedings under the Dutiable Commodities Ordinance 1963, or any Ordinance relating to duties of excise or to any proceedings in respect of the forfeiture of a ship.

Transitional
provisions
and provi-
sions as to
actions
already
barred.
1963, c. 47,
s. 6.

38. (1) Subject to the provisions of subsections (2) and (3), the provisions of sections 27 to 33 shall have effect in relation to causes of action which accrued before the commencement of this Ordinance (whether the action relating to any such cause of action was then already barred or not) as well as to causes of action which accrue after the commencement of this Ordinance, and shall have effect in relation to any cause of action which accrued before the commencement of this Ordinance notwithstanding that an action in respect thereof has been commenced and is pending at the commencement of this Ordinance.

(2) In the application of section 28 to an action which is pending at the commencement of this Ordinance, subsection (3) of that section shall have effect with the omission of the words "and it also appears" to the end of the subsection.

(3) For the purposes of subsection (1) an action shall not be taken to be pending at any time after a final order or judgment has been made or given therein, notwithstanding that an appeal is pending or that the time for appealing has not expired; and accordingly section 26 shall not have effect in relation to a cause of action in respect of which a final order or judgment has been made or given before the commencement of this Ordinance.

2 & 3 Geo. 6,
c. 21, s. 33.

(4) Save as aforesaid, nothing in this Ordinance shall—

- (a) affect any action or arbitration commenced before the commencement of this Ordinance or the title to any property which is the subject of any such action or arbitration; or
- (b) enable any action to be brought which, immediately before the commencement of this Ordinance, was then barred by the provision of any imperial enactment or Ordinance which ceases to apply in the Colony by virtue of or, as the case may be, is repealed by section 39, except in so far as the cause of action or right of action may be revived by an acknowledgment or part payment made in accordance with the provisions of this Ordinance.

2 & 3 Eliz. 2,
c. 36, s. 7(1).

(5) Subject to the provisions of section 6 and subsection (4) of this section, the time for bringing proceedings in respect of a cause of

action which accrued before the commencement of this Ordinance shall, if it has not then already expired, expire at a time when it would have expired apart from the provisions of this Ordinance or at any time when it would have expired if the provisions of this Ordinance had at all material times been in force, whichever is the later:

Provided that where a cause of action, for which a period of limitation is prescribed by this Ordinance, has accrued before the commencement of this Ordinance in any case in which, but for the provisions of this Ordinance, no time for bringing proceedings in respect thereof is limited, the time for bringing such proceedings, as limited by the provisions of this Ordinance, shall commence to run from the date of the coming into operation of this Ordinance.

39. (1) The imperial enactments set out in the first column of Part I of the Schedule shall, to the extent specified in the second column thereof, cease to apply in the Colony.

Repeals and
cessations of
application.
Schedule.

(2) The Ordinances set out in the first column of Part II of the Schedule are hereby repealed to the extent specified in the second column thereof.

40. This Ordinance shall not apply to any action or arbitration for which a period of limitation is prescribed by any other Ordinance or any imperial enactment, or to any action or arbitration to which the Crown is a party and for which, if it were between subjects, a period of limitation would be prescribed by any other enactment.

Saving.

SCHEDULE.

[s. 39.]

CESSATION OF APPLICATION AND REPEAL OF ENACTMENTS.

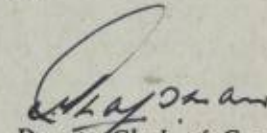
PART I.

Imperial enactments.	Extent of cessation of application.	
An Act concerning Informers.	Section 5.	(31 Eliz. c. 5).
The Limitation Act 1623.	Sections 3, 4 and 7.	(21 Jas. 1, c. 16).
An Act for the amendment of the Law and the better Advancement of Justice.	Sections 17 to 19.	(4 & 5 Ann. c. 3).
The Crown Suits Act 1769.	The whole Act.	(9 Geo. 3, c. 16).
The Statute of Frauds Amendment Act 1828.	Sections 1, 3, 4 and 8.	(9 Geo. 4, c. 14).
The Real Property Limitation Act 1833.	The whole Act.	(3 & 4 Will. 4, c. 27).
The Civil Procedure Act 1833.	Sections 3 to 7.	(3 & 4 Will. 4, c. 42).
The Real Property Limitation Act 1837.	The whole Act.	(7 Will. 4 & 1 Vict. c. 28).
The Limitations of Actions and Costs Act 1842.	Section 5.	(5 & 6 Vict. c. 97).

PART II.

	Ordinance.	Extent of repeal.
(Cap. 23).	Law Amendment (Miscellaneous Provisions) Ordinance.	Sections 3 and 12 to 17.
(Cap. 29).	Trustee Ordinance.	Section 110.
(22 of 1962).	District Court (Civil Jurisdiction and Procedure) Ordinance 1962.	Section 50.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 9th day of June, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

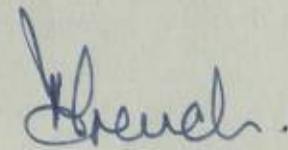

Deputy Clerk of Councils.

(Secretariat GR5/3281/55)

HONG KONG

No. 32 OF 1965.

I assent.



Governor.

24th June, 1965.

An Ordinance to amend the Rent Increases (Domestic Premises) Control Ordinance 1963.

[25th June, 1965.]

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 Rent Increases (Domestic Premises) Control (Amendment) Ordinance 1965. Short title.

2. Section 3 of the Rent Increases (Domestic Premises) Control Ordinance 1963 (hereinafter referred to as the principal Ordinance) is amended by— Amendment of section 3. (7 of 1963).

- (a) the deletion of paragraph (c) of subsection (5);
- (b) the insertion, after subsection (5), of the following new subsection—

“(5A) In addition to the tenancies and sub-tenancies excluded by virtue of subsection (5), this Ordinance shall not apply—

- (a) to a tenancy or sub-tenancy which is enjoying protection under section 3 of the Tenancy (Prolonged Duration) Ordinance 1952; or

(b) to a tenancy or sub-tenancy which is continuing, after ceasing to enjoy protection under section 3 of the Tenancy (Prolonged Duration) Ordinance 1952 (whenever it ceased or ceases to enjoy such protection), on the same terms and conditions (save in so far as the same may have been modified, added to or varied by any enactment) as those which applied when it was enjoying such protection, for so long as it continues on those terms and conditions."; and

(c) the insertion in subsection (6), after the words and figure "by virtue of subsection (5)", of the following—
"or (5A)".

Amendment
of section 6.

3. Section 6 of the principal Ordinance is amended by—

(a) the insertion in subsections (2) and (4), after the words "subject to subsections" in each case, of the following—
"(4A)."; and

(b) the insertion, after subsection (4), of the following new subsection—

"(4A) A notice to quit given under subsection (2) or (4) shall not be valid unless there are set out therein the provisions of subsection (5) and, where the notice to quit is given on the ground specified in paragraph (a) of subsection (2), the provisions of the proviso to subsection (6)."

Amendment
of section 24.

4. Section 24 of the principal Ordinance is amended by the deletion of the figures "1965" and the substitution therefor of the following—
"1966".

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 23rd day of June, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

[Signature]
Deputy Clerk of Councils.

(Secretariat CR9/3231/62)

HONG KONG

No. 33 OF 1965.

I assent.

[Signature]
Governor.

8th July, 1965.

An Ordinance to amend the Television Ordinance 1964.

[9th July, 1965.]

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 Television (Amendment) Ordinance 1965.

2. Section 8 of the Television Ordinance 1964 (hereinafter referred to as the principal Ordinance) is amended by the insertion, after subsection (3), of the following new subsection—

Amendment
of section 8.
(32 of 1964).

"(4) Notwithstanding the provisions of subsection (2) and section 11 a licence may be granted to a company—

- (a) which is a disqualified person,
- (b) in which a disqualified person exercises control, or
- (c) which is a disqualified person and in which another disqualified person exercises control,

and the licence may contain such conditions relating to the disqualified person and to the control exercised by him as the Governor in Council may see fit to impose under subsection (2)."

Amendment
of section 11.

3. Section 11 of the principal Ordinance is amended—

(a) in subsection (1), by the deletion of paragraph (d) and the substitution therefor of the following—

"(d) no disqualified person may exercise control in a licensee company, other than a disqualified person whose disqualification was disclosed in the application for the licence;

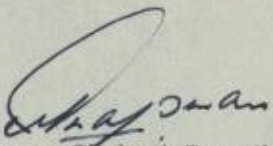
(e) no disqualified person who exercises control in a licensee company may increase such control either by reason of augmenting the percentage of voting shares of which he is the beneficial owner or by any change in the office held by him in the company.";

(b) by the deletion of subsection (2); and

(c) in subsection (3), by the deletion of "section" and the substitution therefor of the following—

"Ordinance".

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 7th day of July, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

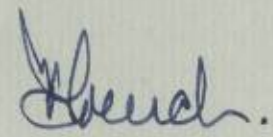

Deputy Clerk of Councils.

(Secretariat CR5/1056/60V)

HONG KONG

No. 34 OF 1965.

I assent.


Governor.

8th July, 1965.

An Ordinance further to amend the Telephone Ordinance 1951.

[9th July, 1965.]

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 Telephone (Amendment) Short title.
(No. 2) Ordinance 1965.

2. Section 3 of the Telephone Ordinance 1951 (hereinafter referred to as the principal Ordinance) is amended by the insertion, after the words and comma "outside the Colony," of the following—

Amendment
of section 3.
(18 of 1951).

"other than trunk line telephonic communication by means of the coaxial submarine cables from Hong Kong to Jesselton and to Guam landed and operated by Cable and Wireless Limited,".

Repeal and
replacement
of section 30.

3. Section 30 of the principal Ordinance is repealed and replaced by the following—

"Payment
for calls
outside the
company's
telephone
system.

30. The company may refuse to permit any person to make any call through its telephone system to any place outside the Colony or to any ship by way of a service operated by Cable and Wireless Limited unless such person shall have satisfied the reasonable requirements of the Company in regard to security for the due charges in respect of such calls."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 7th day of July, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

[Signature]
Deputy Clerk of Councils.

(Secretariat FR4/1026/57)

HONG KONG

No. 35 OF 1965.

I assent.

[Signature]
Governor.

8th July, 1965.

An Ordinance further to amend the Inland Revenue Ordinance.

[1st April, 1965.]

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

1. (1) This Ordinance may be cited as the Inland Revenue (Amendment) Ordinance 1965, and shall be deemed to have had effect as from the 1st day of April, 1965.

Short title,
commence-
ment and
application.

(2) The amendments to the Inland Revenue Ordinance (hereinafter referred to as the principal Ordinance) made by sections 2 to 10 inclusive, 12 to 15 inclusive, 17 to 20 inclusive, 22, 24 and 25 shall apply in relation to all assessments in respect of the year of assessment commencing on the 1st day of April, 1965 and subsequent years of assessments.

(Cap. 112,
1956 Reprint).

Amendment
of section 2.

2. Subsection (1) of section 2 of the principal Ordinance is amended by the deletion of the definition "business" and the substitution therefor of the following—

"“business” includes agricultural undertaking, poultry and pig rearing and the letting or sub-letting by any corporation to any person of any premises or portion thereof, and the sub-letting by any other person of any premises or portion of any premises held by him under a lease or tenancy other than from the Crown;”.

Amendment
of section 5.

3. Section 5 of the principal Ordinance is amended—

- (a) by the deletion of paragraphs (ba) and (bb) of the proviso thereto;
- (b) by being renumbered as subsection (1) thereof; and
- (c) by the insertion of the following new subsections—

“(2) (a) Notwithstanding subsection (1), any corporation carrying on a trade, profession or business in the Colony shall, on application made in writing to the Commissioner and on proof of the facts to the satisfaction of the Commissioner, be entitled to exemption from the property tax for any year of assessment in respect of any land or buildings or land and buildings owned by the corporation where the corporation would be entitled under section 25 to a set-off of the property tax which, if exemption were not granted under this subsection, would be paid by the corporation; and the property shall be and remain exempted from property tax for each year of assessment in which the circumstances, throughout the whole of that year, are such as to qualify the property for such exemption for the whole of that year.

- (b) Where the circumstances are such that the property does not qualify for exemption under this subsection for the whole of any year of assessment, then the property tax chargeable in respect thereof shall be reduced in the proportion which the number of days in such year during

which the property was so qualified bears to the whole of that year, and any excess tax paid shall be refunded.

- (c) Every corporation exempted from property tax under this subsection in respect of any land or buildings or land and buildings shall, within thirty days after the event, notify the Commissioner in writing of any change in the ownership or use thereof or in any other circumstances affecting such exemption.
- (3) Notwithstanding subsection (1)—
 - (a) in the case of any building or any part thereof owned by a sole owner and occupied solely by him exclusively for residential purposes throughout the whole of any year of assessment, property tax shall not be charged in respect thereof for that year of assessment, and any tax paid shall be refunded;
 - (b) in the case of any building or any part thereof owned by a sole owner and occupied solely by him exclusively for residential purposes during, but not throughout the whole of, any year of assessment, property tax in respect thereof for that year of assessment shall be reduced in the proportion in which the number of days during which it was occupied solely by the owner exclusively for residential purposes during that year bears to the number of days in that year, and any excess tax paid shall be refunded;
 - (c) in the case of any building or part thereof owned by more than one owner jointly or in common, the property tax which would, but for the provisions of this paragraph, be chargeable in respect thereof shall, for the purposes of determining what, if any, reduction in the amount of such tax is allowable under this paragraph, and for this purpose only, be treated as if apportioned—
 - (i) in the case of joint ownership, between the joint owners equally; and

(ii) in the case of ownership in common, between the owners in common each in proportion to his share in such ownership;

and in respect of any such owner who throughout the whole of any year of assessment solely occupied such building or part exclusively for residential purposes, his portion of the property tax for that year of assessment shall not be charged in respect of such building or part, and in respect of any such owner who, during, but not throughout the whole of, any year of assessment, solely occupied such building or part exclusively for residential purposes, his portion of the property tax for that year of assessment shall be reduced in the proportion in which the number of days during which such building or part was solely occupied by him exclusively for residential purposes during that year bears to the number of days in that year, and the total property tax in respect of such building or part shall be computed accordingly, and any excess tax paid shall be refunded.

(4) Where any building or part of any building in respect of which the property tax has not been charged or has been reduced in pursuance of any of the provisions of subsection (3) ceases to be occupied solely by the owner exclusively for residential purposes or, in the case referred to in paragraph (c) of that subsection, solely by any of the owners by reason of whose occupation the property tax was not charged or was reduced, such owner shall notify the Commissioner in writing within three months of his ceasing so to occupy the same.

(5) For the purposes of subsections (2), (3) and (4)—

(a) "owner" includes a beneficial owner, a tenant for life, a mortgagor and a person who is making payments to a co-operative society registered under the Co-operative Societies Ordinance for the purpose of purchasing a building or part

(Cap. 33).

thereof, and references to owners shall be construed accordingly;

- (b) occupation of any building or part by one of more than one owners shall not be taken to be occupation otherwise than solely by such owner merely by reason of the fact that another owner also occupied the same building or part during the same period;
- (c) references to a building or part thereof means only a building or a part of a building the rateable value of which is separately estimated under section 5 of the Rating Ordinance."

(Cap. 116).

4. Section 7A of the principal Ordinance is amended by the deletion of the definition "buildings" and the substitution therefor of the following— Amendment of section 7A.

"“buildings”, except for the purposes of subsections (2), (3), (4) and (5) of section 5, includes any part of a building;”.

5. Subsection (2) of section 8 of the principal Ordinance is amended— Amendment of section 8.

- (a) by the deletion of the full stop at the end of paragraph (h) and the substitution therefor of a semi-colon; and
- (b) by the insertion, after paragraph (h), of the following new paragraph—

“(i) any amount received by way of periodical payments in the nature of alimony or maintenance by a woman from her husband or former husband.”.

6. Subsection (2) of section 9 of the principal Ordinance is amended by the insertion, after the words “residence is provided”, of the following— Amendment of section 9.

“but not including any lump sum payment or gratuity paid or granted upon the retirement or termination of employment of the employee”.

7. Subsection (9) of section 11 of the principal Ordinance is repealed and replaced by the following— Amendment of section 11.

“(9) For the purposes of this section, income accrues to a person when he becomes entitled to claim payment thereof:

Provided that any payment made by an employer to a person after that person has left his employ which, if it had been made on the last day of that employment, would have been included in that person's assessable income for the year of assessment in which he ceased to derive income from that employment, shall be deemed to have accrued to that person on the last day of that employment."

Amendment
of section 12.

8. Subsection (2A) of section 12 of the principal Ordinance is amended by the deletion of the words "and may then be apportioned in relation to the extent to which the machinery or plant concerned is or has been used in the production of such assessable income" and the substitution therefor of the following—

"and shall then, where appropriate, be apportioned, in the case of an annual allowance, in relation to the extent to which the machinery or plant concerned is used in the production of such assessable income, or, in the case of a balancing allowance or charge, in relation to the extent to which the machinery or plant concerned has been used in the production of assessable income".

Amendment
of section 16.

9. Section 16 of the principal Ordinance is amended—

(a) by the deletion, in subsection (1), of the words "wholly and exclusively" and the substitution therefor of the following—

"to the extent to which they are";

(b) by the insertion, after paragraph (g) of subsection (1), of the following new paragraph—

"(ga) the payments and expenditure specified in sections 16B and 16C, as provided therein"; and

(c) by the deletion, in subsection (2), of the words "and may then be apportioned" and the substitution therefor of the following—

"and shall then, where appropriate, be apportioned".

Addition of
new sections
16B and 16C.

10. The principal Ordinance is amended by the addition, after section 16A, of the following new sections—

"Expenditure
on scientific
research.

16B. (1) Notwithstanding anything in section 17, in ascertaining the profits from any trade or business in respect of which a person is chargeable to tax under this Part for any year of assessment there shall, subject to subsection (2), be deducted the following payments made, and expenditure

incurred, by such person during the basis period for that year of assessment (other than any amount which is allowable as a deduction apart from this section), namely—

(a) payments to—

(i) an approved research institute for scientific research related to that trade or business; or

(ii) an approved research institute, the object of which is the undertaking of scientific research related to the class of trade or business to which that trade or business belongs; and

(b) expenditure on scientific research related to that trade or business, including capital expenditure except to the extent that it is expenditure on land or buildings or on alterations, additions or extensions to buildings.

(2) Where any payment or expenditure to which this section refers is made or incurred outside the Colony and the trade or business in relation to which it is so made or incurred is carried on partly in and partly out of the Colony, the deduction allowable under this section shall be such part of the amount which would otherwise be allowable as is reasonable in the circumstances.

(3) (a) Where any plant or machinery, representing scientific research expenditure of a capital nature which pursuant to paragraph (b) of subsection (1) has been allowed as a deduction in ascertaining the profits from a trade or business, ceases to be used by the person carrying on the trade or business for scientific research related to that trade or business and is then or thereafter sold by him, the proceeds of sale shall be treated as a trading receipt of the trade or business accruing at the time of the sale or, if the sale occurs on or after the date on which the trade or business is permanently discontinued, accruing immediately before the discontinuance.

(b) Where any such plant or machinery is destroyed, it shall for the purposes of paragraph (a) be

treated as if it had been sold immediately before the destruction thereof and any insurance moneys or other compensation of any description received by the person carrying on the trade or business in respect of the destruction and any money received by him in respect of the remains of the plant or machinery shall be treated as if they were proceeds of that sale.

- (c) The reference in paragraph (a) to the time of sale shall be construed as a reference to the time of completion or the time when possession is given, whichever is the earlier.

- (4) (a) In this section—

“an approved research institute” means any university, college, institute, association or organization which is approved in writing for the purposes of this section by the Director of Education as an institute, association or organization for undertaking scientific research which is or may prove to be of value to the Colony;

“scientific research” means any activities in the fields of natural or applied science for the extension of knowledge.

- (b) An approval for the purposes of paragraph (a) may—

(i) operate as from a date, whether before or after the date of approval, specified in the instrument of approval; and

(ii) be withdrawn at any time.

- (5) In this section—

- (a) references to expenditure incurred on scientific research do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research, but, save as aforesaid and subject to paragraph (b) of subsection (1), include all expenditure incurred for the prosecution of, or the provision of facilities for the prosecution of, scientific research; and

- (b) references to scientific research related to a trade or business or class of trade or business shall be read as including a reference to—

(i) any scientific research which may lead to or facilitate an extension, or an improvement in the technical efficiency, of that trade or business, or, as the case may be, of trades or businesses of that class; and

(ii) any scientific research of a medical nature which is of special relation to the welfare of workers employed in that trade or business or, as the case may be, in trades or businesses of that class.

- (6) For the purposes of this section—

- (a) expenditure shall not be regarded as incurred by a person in so far as it is, or is to be, met directly or indirectly by the Crown or by any government or public or local authority, whether in the Colony or elsewhere, or by any person other than the first-mentioned person; and

- (b) any expenditure of a capital nature incurred on scientific research related to any trade or business by a person about to carry on that trade or business shall be treated as if it had been incurred by that person on the first day upon which he does carry on that trade or business.

- (7) The same sums paid, or expenditure incurred, shall not be taken into account for any of the purposes of this section in relation to more than one trade or business.

Payments for
technical
education.

16C. (1) Notwithstanding anything in section 17, where a person carrying on a trade or business in the Colony makes any payment to be used for the purposes of technical education related to that trade or business at any university, university college, technical college or other similar institution which is approved in writing for the purposes of this section by the Director of Education (being an amount which is not otherwise allowable as a deduction under this Ordinance), the payment shall be deducted as an expense in ascertaining the profits from that trade or business for the year of assessment in the basis period of which the payment was made.

(2) For the purposes of this section, technical education shall be deemed to be related to a trade or business if, and only if, it is technical education of a kind specially

requisite for persons employed in the class of trade or business to which that trade or business belongs.

(3) An approval for the purposes of subsection (1) may—

(a) operate as from a date, whether before or after the date of approval, specified in the instrument of approval; and

(b) be withdrawn at any time.”.

Amendment
of section 18.

11. Subsection (6) of section 18 of the principal Ordinance is amended by the deletion of the word “appeal” and the substitution therefor of the following—

“objection to an assessment under section 64”.

Amendment
of sec-
tion 23B.

12. Subsection (1) of section 23B of the principal Ordinance is amended—

(a) by the insertion, after the words “goods shipped in the Colony” where they first occur therein, of the following—

“, in respect of outward towage undertaken from the Colony”; and

(b) by the insertion, after the words “livestock and goods” where they occur for the second time therein, of the following—

“, in respect of towage”.

Amendment
of sec-
tion 23C.

13. Section 23C of the principal Ordinance is amended—

(a) by the insertion, after the words “goods shipped in the Colony” where they first occur in subsection (1) of the following—

“, in respect of outward towage undertaken from the Colony”;

(b) by the insertion, after the words “livestock and goods” where they occur for the second time in subsection (1), of the following—

“, in respect of towage”; and

(c) by the insertion, after the words “goods shipped in the Colony” in subsection (2), of the following—

“, in respect of outward towage undertaken from the Colony”.

Amendment
of section 25.

14. Section 25 of the principal Ordinance is amended by the deletion, in paragraph (a) of the proviso thereto, of the words “by him for the purposes of his trade profession or business” and the substitution therefor of the following—

“or used by him for the purposes of producing profits in respect of which he is chargeable to tax under this Part”.

15. Section 28 of the principal Ordinance is amended—

Amendment
of section 28.

(a) by the deletion of the full stop at the end of paragraph (c) of the proviso thereto and the substitution therefor of a semi-colon; and

(b) by the insertion, after paragraph (c) of the proviso, of the following new paragraph—

“(d) any interest paid or payable to any person carrying on business in the Colony as a pawnbroker within the meaning of, and licensed in accordance with the provisions of, the Pawnbrokers Ordinance or as a money-lender within the meaning of, and registered in accordance with the provisions of, the Money-lenders Ordinance where such interest is paid or payable to him in the ordinary course of his business as a pawnbroker or money-lender.”.

(Cap. 166).

(Cap. 163).

16. Section 29 of the principal Ordinance is amended by the deletion of the word “recoverable” and the substitution therefor of the following—

Amendment
of section 29.

“payable”.

17. Section 34 of the principal Ordinance is amended—

Amendment
of section 34.

(a) by the deletion of the hyphenated words “one-tenth” in subsection (1) and the substitution therefor of the following—

“one-fifth”;

(b) by the deletion of the proviso to subsection (1) and the substitution therefor of the following—

“Provided that—

(a) no initial allowance shall be made for the eight successive years of assessment commencing on the 1st day of April in each of the years 1957 to 1964;

(b) where any initial allowance has been made in relation to capital expenditure on a building or structure under this subsection before such building or structure comes to be used and when it first comes to be used it is not an industrial building or structure, such allowance shall be disallowed and such additional assessments as may be necessary consequent thereon shall be made.”;

(c) by the deletion, in paragraph (a) of subsection (2), of the hyphenated words “one-fiftieth” and the substitution therefor of the following—

“one-twenty-fifth”; and

- (d) by the deletion of paragraph (b) of subsection (2) and the substitution therefor of the following—

“(b) Where the interest in a building or structure, which is the relevant interest in relation to any expenditure, is sold while the building or structure is an industrial building or structure the annual allowance, in the years of assessment the basis periods for which end after the time of that sale shall be computed by reference to the residue of expenditure immediately after the sale and shall be the fraction of the said residue the numerator of which is two, where the building or structure was first used before the commencement of the basis period for the year of assessment commencing on the 1st day of April, 1965, and one, where the building or structure was first used on or after the commencement of such basis period, and the denominator of which is the number of years of assessment comprised in the period which—

(i) begins with the first year of assessment for which the buyer is entitled to an annual allowance or would be so entitled if the building or structure had at all material times continued to be an industrial building or structure; and

(ii) ends with the year of assessment which, where the building or structure was first used before the commencement of the basis period for the year of assessment commencing on the 1st day of April, 1965, is the fiftieth year after the year in which the building or structure was first used, and, where the building or structure was first used on or after such basis period, is the twenty-fifth year after the year of assessment in which the building or structure was first used, and so on for any subsequent sales.”.

Amendment
of section 35.

18. Subsection (1) of section 35 of the principal Ordinance is amended by the deletion of the proviso thereto and the substitution therefor of the following—

“Provided that no balancing allowance shall be made to any person where the building or structure is demolished for purposes unconnected with or not in the ordinary course of conduct of the trade or business for the purposes of which the building or structure was used in circumstances qualifying for annual allowances under section 34.”.

19. Section 37 of the principal Ordinance is amended—

Amendment
of section 37.

- (a) by the insertion, after the word and comma “business,” in subsection (1), of the following—
“then, except where such expenditure is expenditure of a kind described in paragraph (b) of subsection (1) of section 16B,”;
- (b) by the deletion, in subsection (2), of the word “original”;
- (c) by the deletion, in paragraph (a) of subsection (2), of the word “granted” and the substitution therefor of the following—
“computed”;
- (d) by the deletion, in paragraph (b) of subsection (2), of the word “made” and the substitution therefor of the following—
“computed”; and
- (e) by the insertion, after subsection (2), of the following new subsection—

“(3) Nothing in subsection (2) shall apply in respect of any machinery or plant owned and used by a person for the purposes of his trade or business where such machinery or plant represents scientific research expenditure of a capital nature which pursuant to paragraph (b) of subsection (1) of section 16B has been allowed as a deduction in ascertaining the profits from such trade or business in respect of which such person is chargeable to tax under Part IV for any year of assessment.”.

20. Section 37A of the principal Ordinance is amended—

Amendment
of section
37A.

- (a) by the insertion, after the word “business” where it occurs for the second time in subsection (1), of the following—
“then, except where such expenditure is expenditure of a kind described in paragraph (b) of subsection (1) of section 16B,”;
- (b) by the deletion, in subsection (3), of the word “granted” and the substitution therefor of the following—
“computed”; and
- (c) by the insertion, after subsection (3), of the following new subsection—

“(4) Nothing in subsection (2) shall apply in respect of any machinery or plant used by a person for the purposes of his trade or business where such machinery or plant represents scientific research expenditure of a capital nature which pursuant to paragraph (b) of subsection

(1) of section 16B has been allowed as a deduction in ascertaining the profits from such trade or business in respect of which such person is chargeable to tax under Part IV for any year of assessment.”.

Amendment
of section 38.

21. Subsection (4) of section 38 of the principal Ordinance is amended by the insertion, after the words “prior to the date of cessation” in the proviso thereto, of the following—

“and notwithstanding the provisions of section 70 an assessor shall make any necessary correction to any assessment”.

Amendment
of section 40.

22. Section 40 of the principal Ordinance is amended—

(a) by the deletion of the definitions “commercial building or structure” and “industrial building or structure” and the substitution therefor of the following—

“commercial building or structure” means any building or structure or part of any building or structure used by the owner for the purposes of his trade, profession or business other than an industrial building or structure;

“industrial building or structure” means any building or structure or part of any building or structure used—

- (a) for the purposes of a trade carried on in a mill, factory or other similar premises; or
- (b) for the purposes of a transport, dock, water, gas or electricity undertaking or a public telephonic or public telegraphic service; or
- (c) for the purposes of a trade which consists of the manufacture of goods or materials or the subsection of goods or materials to any process; or
- (d) for the purposes of a trade which consists in the storage—
 - (i) of goods or materials which are to be used in the manufacture of other goods or materials; or
 - (ii) of goods or materials which are to be subjected in the course of a trade to any process; or
 - (iii) of goods or materials on their arrival into the Colony; or
- (e) for the purposes of the business of farming;
- (f) for the purposes of scientific research in relation to any trade or business,

and, in particular, the said expression includes any building or structure or part of any building or structure used by a person carrying on a trade, undertaking or business specified in paragraphs (a) to (e) of this definition and provided by him for the welfare of workers employed in his trade, undertaking or business and in use for that purpose:

Provided that—

- (i) where part of the whole of a building or structure is, and part thereof is not, an industrial building or structure, and the capital expenditure which has been incurred on the construction of the second mentioned part is not more than one-tenth of the total capital expenditure which has been incurred on the construction of the whole building or structure, the whole building or structure and every part thereof shall be treated as an industrial building or structure; and
 - (ii) subject to the provisions of paragraph (i) of this proviso but notwithstanding anything else contained in the foregoing provisions of this definition, the expression “industrial building or structure” shall not include any building or structure or part of any building or structure used as a dwelling house (other than as a dwelling house for the housing of manual workers), retail shop, showroom, hotel or office;”;
- (b) by the deletion of the proviso to the definition “residue of expenditure” and the substitution therefor of the following—
- “Provided that in computing the residue of expenditure there shall be written off, in respect of any year in which no initial or annual allowance fell to be made, an amount of one-fiftieth of the capital expenditure in the case of a year prior to the year of assessment commencing on the 1st day of April, 1965, and one-twenty-fifth of the capital expenditure in the case of such or any subsequent year of assessment, and for the purposes of this proviso “year” means the period which would have comprised a year of assessment in respect of which an initial or annual allowance would have fallen to be made if the building or structure had then been in use as an industrial building or structure and the provisions of section 34 had then been in force.”;
- (c) by being renumbered as subsection (1) thereof; and

(d) by the insertion of the following new subsection—

“(2) For the purposes of this Part, any capital expenditure incurred for the purposes of a trade, profession or business by a person about to carry on such trade, profession or business shall be treated as if it had been incurred by that person on the first day upon which he does carry on such trade, profession or business.”.

Amendment
of section 41.

23. Section 41 of the principal Ordinance is amended by the deletion of subsection (2) and the substitution therefor of the following—

“(2) Where an individual is deceased a duly appointed executor or administrator of his estate shall have the same right to elect for personal assessment on the total income of the deceased as the deceased would have if he were alive.”.

Amendment
of section 42.

24. Section 42 of the principal Ordinance is amended—

(a) by the insertion, after the word “shall” where that word first occurs in subsection (1), of the following—

“, subject to the provisions of subsection (3),”; and

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

“(3) For the purposes of this Part the total income of an individual for any year of assessment shall not include the profits or share of profits of that individual as a member of any company, association or partnership consisting, at any time in that year of assessment, of more than twenty persons.”.

Amendment
of section 42B.

25. Subsection (1) of section 42B of the principal Ordinance is amended—

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

“(b) an allowance of seven thousand dollars if at any time during the year of assessment the individual was married to a wife:

Provided that—

(i) where the wife is living apart from her husband the allowance shall be granted only where the husband is maintaining or supporting the wife and on due claim being made therefor by the husband;

(ii) where the allowance is granted in respect of a wife living apart from her husband, the wife shall be treated as being a wife not living apart from her

husband for the purposes of sections 10, 15B and 42A and subsection (4) of section 41;

(iii) any claim made under this paragraph in respect of a wife living apart from her husband may be revoked by the husband within the year of assessment in respect of which it was made or within six years after the expiration of that year;”; and

(b) by the deletion, in paragraph (c), of the words “and fourth child and two hundred dollars” and the substitution therefor of the following—

“, fourth, fifth and sixth child and five hundred dollars”; and

(c) by the deletion, in the proviso to paragraph (c), of the words “seven thousand” and the substitution therefor of the following—

“nine thousand five hundred”.

26. Section 51 of the principal Ordinance is amended—

Amendment
of section 51.

(a) by the deletion, in subsection (1), of the words and comma “a return of any sum assessable to property tax, salaries and annuities tax” and the substitution therefor of the following—

“any return which may be prescribed for property tax, salaries tax”; and

(b) by the deletion of subsection (4) and the substitution therefor of the following—

“(4) For the purposes of obtaining full information in regard to any particular matter which may affect any liability, responsibility or obligation of any person under this Ordinance—

(a) an assessor or an inspector may give notice in writing to such person, or to any other person whom he considers may be in possession of information or documents in regard to any such matter as aforesaid, requiring him within such reasonable time as is stated in the notice to furnish all information in his possession respecting any such matter, and to produce for examination any deeds, plans, instruments, books, accounts, trade lists, stock lists, vouchers, bank statements or other documents which the assessor or inspector giving the notice considers are or may be relevant for the purpose aforesaid:

Provided that in the case of a notice under this paragraph requiring the production of any account kept by a solicitor and relating to the affairs of any client or clients of his, production of a copy of all relevant entries therein respecting the particular matter upon which information is sought shall be a sufficient compliance with the aforesaid requirement of the notice if the copy is certified by the solicitor as being a correct copy of all relevant entries in such account respecting the particular matter aforesaid;

- (b) an assistant commissioner may give notice in writing to such person, or to such other person, requiring him, at a time and place to be named by the assistant commissioner, to attend and be examined, and upon such examination to answer truthfully all questions put to him, respecting any such matter as aforesaid.

(4A) For the avoidance of doubt it is hereby declared that the powers conferred by subsection (4) include the power to require information from, and to require the attendance for the purpose of being examined of,—

- (a) any person, or any employee of any person, who was a party to any particular land or property transaction;
- (b) any person, or any employee of any person, who has acted for or is acting for any party to any particular land or property transaction;
- (c) any person who either paid or received, directly or indirectly, any consideration, brokerage, commission or fee in respect of or in connexion with any particular land or property transaction; and
- (d) any person, or any employee of any person, who was concerned in the passing of any consideration, brokerage, commission or fee, or in the clearing or collection of any cheque or other instrument of exchange, respecting any particular land or property transaction,

as to any of the following matters, that is to say—

- (i) the full names (including aliases) and addresses of any of the persons referred to in paragraphs (a) to (d) and any other information in his possession which may be helpful in identifying or locating any such persons;

- (ii) any consideration, brokerage, commission or fee paid or received in respect of or in connexion with any such land or property transaction; and
- (iii) the terms and conditions of any such land or property transaction;

and the existence in respect of any communication, whether oral or written, of privilege from disclosure shall not constitute any excuse for the non-disclosure of information as to any of the matters specified in paragraphs (i) to (iii) where disclosure thereof is required from any of the persons referred to in paragraphs (a) to (d), but except as aforesaid nothing in subsection (4) shall require disclosure by counsel or solicitor of any privileged information or communication given or made to him in that capacity.

- (4B) (a) Any person who without reasonable excuse, the burden of proof whereof shall lie upon him, fails to comply with the requirements of a notice given to him under paragraph (a) of subsection (4) or fails to attend in answer to a notice issued under paragraph (b) of subsection (4) or having attended fails to answer any questions put to him, being questions which under that paragraph may be put to him, shall be liable to a penalty of two thousand dollars recoverable under section 75 as a civil debt due to the Crown:

Provided that—

- (i) the Commissioner may compound any such penalty and may before judgment in proceedings therefor stay or compound such proceedings, or may refuse to accept payment of such penalty or any part thereof except under a judgment of the court in proceedings for the recovery thereof;
- (ii) the court before which any proceedings for such penalty are brought may, if it thinks fit, give judgment for a less amount.
- (b) In addition to giving judgment for the penalty or any less amount as aforesaid, the court may order the person against whom the proceedings were brought to do, within a time specified in the order, the act which he has failed to do.”.

Amendment
of section 62.

27. Section 62 of the principal Ordinance is amended—

- (a) by the deletion, in subsection (1), of the words "An assistant commissioner" and the substitution therefor of the following—
"The Commissioner";
- (b) by the insertion, in subsection (2), after the word "accordingly" and again after the word "course", of the following—
"by the Commissioner"; and
- (c) by the deletion, in subsection (3), of the words "assistant commissioner" and the substitution therefor of the following—
"Commissioner".

Amendment
of sec-
tion 63A.

28. Section 63A of the principal Ordinance is amended by the insertion, in the proviso thereto, after the words "right of", of the following—

"objection or".

Repeal and
replacement
of section 64.

29. Section 64 of the principal Ordinance is repealed and replaced by the following—

"Objections.

64. (1) Any person aggrieved by an assessment made under this Ordinance may, by notice in writing to the Commissioner, object to the assessment; but no such notice shall be valid unless it states precisely the grounds of objection to the assessment and, in the case of an assessment other than a provisional assessment, is received by the Commissioner within one month after the date of the notice of assessment or, in the case of a provisional assessment, within one month after the date of the notice under subsection (2) of section 62 confirming or amending such assessment:

Provided that—

- (a) if the Commissioner is satisfied that owing to absence from the Colony, sickness or other reasonable cause, the person objecting to the assessment was prevented from giving such notice within such period, the Commissioner shall extend the period as may be reasonable in the circumstances;
- (b) where any assessment objected to has been made under subsection (3) of section 59 in the absence of any return required under section 51, no notice of objection against such assessment shall be valid unless, in addition to such notice being valid in accordance with the foregoing provisions of this subsection, the return required as aforesaid has been made within the period provided by this sub-

section for objecting to the assessment or within such further period as the Commissioner may approve for the making of such return;

- (c) where the assessment is an additional or amended assessment, the person so assessed shall have no further right of objection than he would have had if the additional or amended assessment had not been made, except to the extent to which by reason of the additional or amended assessment a fresh liability in respect of any particular is imposed on him or an existing liability in respect of any particular is increased.

(2) On receipt of a valid notice of objection under subsection (1) the Commissioner shall consider the same and within a reasonable time may confirm, reduce, increase or annul the assessment objected to, and for the purpose of discharging his functions under this subsection may, by notice in writing, require the person giving the notice of objection to furnish such particulars as the Commissioner may deem necessary with respect to the matters which are the subject of the assessment and to produce all books or other documents in his custody or under his control relating to such matters, and may summon any person who in his opinion is able to give evidence respecting the assessment to attend before him and may examine such person on oath or otherwise. Where the Commissioner proposes to examine any person on oath under this subsection, he shall, by prior notice in writing, afford a reasonable opportunity to the person giving the notice of objection or his authorized representative to be present at such examination.

(3) In the event of the Commissioner agreeing with any person assessed, who has validly objected to an assessment made upon him, as to the amount at which such person is liable to be assessed, any necessary adjustment of the assessment shall be made.

(4) In the event of the Commissioner failing to agree with any person assessed, who has validly objected to an assessment made upon him, as to the amount at which such person is liable to be assessed, the Commissioner shall, within one month after his determination of the objection, transmit in writing to the person objecting to the assessment his determination together with the reasons therefor and a statement of the facts upon which the determination was arrived at, and such person may appeal therefrom to the Board of Review as provided in section 66.

(5) The Commissioner shall for the purpose of this section have the powers granted under paragraph (a) of section 3 of the Commissioners Powers Ordinance, subject to the provisions of section 80 of this Ordinance.”

(Cap. 86).

(6) Any person, other than the person giving the notice of objection or his authorized representative, may be allowed by the Commissioner any reasonable expenses necessarily incurred by him in attending before the Commissioner under subsection (2).

Repeal of section 64A.

30. Section 64A of the principal Ordinance is repealed.

Amendment of section 65.

31. Subsection (1) of section 65 of the principal Ordinance is amended by the deletion of the word “twenty” and the substitution therefor of the following—

“forty”.

Repeal and replacement of section 66.

32. Section 66 of the principal Ordinance is repealed and replaced by the following—

“Right of appeal to Board of Review.

66. (1) Any person (hereinafter referred to as the appellant) who has validly objected to an assessment but with whom the Commissioner in considering the objection has failed to agree may, within one month after the transmission to him under subsection (4) of section 64 of the Commissioner’s written determination together with the reasons therefor and the statement of facts, either himself or by his authorized representative, give notice of appeal to the Board; but no such notice shall be entertained unless it is given in writing to the clerk to the Board and is accompanied by a copy of the Commissioner’s written determination together with a copy of the reasons therefor and of the statement of facts, and a statement of the grounds of appeal therefrom.

(2) The appellant shall at the same time as he gives notice of appeal to the Board serve on the Commissioner a copy of such notice and of the statement of the grounds of appeal.

(3) Save with the consent of the Board and on such terms as the Board may determine, an appellant may not at the hearing of his appeal rely on any grounds of appeal other than the grounds contained in his statement of grounds of appeal given in accordance with subsection (1).”.

Repeal of section 67.

33. Section 67 of the principal Ordinance is repealed.

34. Section 68 of the principal Ordinance is amended—

Amendment of section 68.

(a) by the deletion of subsection (4) and the substitution therefor of the following—

“(4) The onus of proving that the assessment appealed against is excessive or incorrect shall be on the appellant.”;

(b) by the deletion, in subsection (7), of the figure and brackets “(4)” and the substitution therefor of the following—

“(3)”;

(c) by the deletion of subsection (8) and the substitution therefor of the following—

“(8) (a) After hearing the appeal, the Board shall confirm, reduce, increase or annul the assessment appealed against or may remit the case to the Commissioner with the opinion of the Board thereon.

(b) Where a case is so remitted by the Board, the Commissioner shall revise the assessment as the opinion of the Board may require and in accordance with such directions (if any) as the Board, at the request at any time of the Commissioner, may give concerning the revision required in order to give effect to such opinion.”; and

(d) by the insertion, after subsection (9), of the following new subsection—

“(10) The Board shall for the purpose of this section have the powers granted under paragraph (a) of section 3 of the Commissioners Powers Ordinance, subject to the provisions of section 80 of this Ordinance.”.

(Cap. 86).

35. Section 70 of the principal Ordinance is amended—

Amendment of section 70.

(a) by the deletion of the figure and brackets “(2)” and the substitution therefor of the following—

“(3)”;

(b) by the deletion of the words “on appeal” where they twice occur, and the substitution therefor, in both places, of the following—

“on objection or appeal”.

36. Section 70A of the Principal Ordinance is amended—

Amendment of section 70A.

(a) by being renumbered as subsection (1) thereof; and

- (b) by the insertion of the following new subsection—

“(2) Where an assessor refuses to correct an assessment in accordance with an application under this section he shall give notice thereof in writing to the person who made such application and such person shall thereupon have the same rights of objection and appeal under this Part as if such notice of refusal were a notice of assessment.”.

Amendment
of section 71.

37. Section 71 of the principal Ordinance is amended—

- (a) by the deletion of the word “appellant” where it occurs in both subsection (3) and subsection (4), and the substitution therefor, in both places, of the following—

“person objecting or appealing”; and

- (b) by the deletion of the word “appeal” where it occurs in both subsection (3) and subsection (4), and the substitution therefor, in both places, of the following—

“objection or appeal”.

Amendment
of section 75.

38. Subsection (4) of section 75 of the principal Ordinance is amended by the deletion of the words “or under appeal” and the substitution therefor of the following—

“, subject to objection or under appeal, but nothing in this subsection shall be construed so as to derogate from the powers conferred by the proviso to paragraph (a) of subsection (4B) of section 51 to give judgment for a less sum in the case of proceedings for the penalty specified therein”.

Amendment
of section 79.

39. Subsection (1) of section 79 of the principal Ordinance is amended by the deletion, in the proviso thereto, of the word “appeal” and the substitution therefor of the following—

“objection, appeal”.

Amendment
of section 80.

40. Section 80 of the principal Ordinance is amended by the deletion of subsection (1) and the substitution therefor of the following—

- “(1) Any person who without reasonable excuse—

- (a) fails to comply with the requirements of a notice given to him under subsection (1) or (3) of section 51, subsection (1) or (2) of section 52 or subsection (2) of section 64; or
- (b) fails to attend in answer to a summons issued under subsection (2) of section 64 or subsection (6) of section 68, or having attended fails to answer any questions put to him, being questions which, under subsection (2) of section 64 or subsection (6) of section 68, as the case may be, may be put to him; or

- (c) fails to comply with the requirements of paragraph (c) of subsection (2) of section 5 or subsection (4) of section 5, section 30, subsection (2), (6) or (7) of section 51, subsection (4), (5) or (6) of section 52 or subsection (3) of section 76,

shall be guilty of an offence: Penalty a fine of two thousand dollars, and the court may order the person convicted within a time specified in the order to do the act which he has failed to do.

(1A) Any person who does not comply with an order of the Court under subsection (1) of this section or an order under paragraph (b) of subsection (4B) of section 51 shall be guilty of an offence: Penalty a fine of five thousand dollars.”.

41. Subsection (2) of section 85 of the principal Ordinance is amended—

Amendment
of section 85.

- (a) by the deletion of the full stop at the end of paragraph (b) and the substitution therefor of a semi-colon; and

- (b) by the insertion, after paragraph (b), of the following new paragraph—

“(c) for the purpose of any of the provisions of this Ordinance, prescribe what is or is deemed to be included in, or excluded from, the expression “machinery or plant” and the expression “implement, utensil or article.”.

42. Where a person who has been assessed to tax prior to the enactment of this Ordinance in respect of the year of assessment commencing on the 1st day of April, 1965 proves to the satisfaction of the Commissioner, within twelve months from the date of enactment of this Ordinance, that had he been assessed to tax for that year of assessment subsequently to the enactment of this Ordinance, the amount of tax charged on him for that year of assessment would have been less than the amount charged on him under the said assessment, the Commissioner shall, notwithstanding anything contained in this or the principal Ordinance, cancel the said assessment and make a fresh assessment under the principal Ordinance as amended by this Ordinance.

Assessments
for 1965/66
made prior
to enactment
of this
Ordinance.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 7th day of July, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

[Signature]
Deputy Clerk of Councils.

(Secretariat FR2/2301/47)

HONG KONG

No. 36 OF 1965.

I assent.



Handwritten signature in blue ink.

Governor.

29th July, 1965.

An Ordinance further to amend the Immigration (Control and Offences) Ordinance 1958.

[30th July, 1965.]

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 Immigration (Control and Offences) (Amendment) Ordinance 1965. Short title.

2. Section 39 of the Immigration (Control and Offences) Ordinance 1958 is amended by the deletion, in subsection (4), of the words "subject to which his entry has been permitted shall upon conviction" and the substitution therefor of the following— Amendment of section 39. (34 of 1958).

"imposed under section 14 or paragraph (a) of subsection (1) of section 15 shall, upon conviction and notwithstanding the provisions of the Deportation (British Subjects) Ordinance or of the Deportation of Aliens Ordinance,"

(Cap. 239).
(Cap. 240).

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 28th day of July, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

(Secretariat SCR45/64)

[Signature]
Deputy Clerk of Councils.



HONG KONG

No. 37 OF 1965.

I assent.

[Signature]
Governor.

29th July, 1965.

An Ordinance further to amend the Tenancy (Notice of Termination) Ordinance 1962.

[30th July, 1965.]

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 Tenancy (Notice of Termination) (Amendment) Ordinance 1965. Short title.

2. Section 3 of the Tenancy (Notice of Termination) Ordinance 1962 (hereinafter referred to as the principal Ordinance) is amended in subsection (4) by— Amendment of section 3. (14 of 1962).

(a) the insertion, after the words "month to month tenancy", of the following—

" , together with, in the absence of any express covenant for the payment of rent and condition for forfeiture, the covenant and condition implied in every tenancy by section 5A"; and

(b) the deletion of the second sentence therein.

Addition of
new section
5A.

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

"Covenant
to pay rent
to be
implied.

5A. In the absence of any express covenant for the payment of rent and condition for forfeiture, there shall be implied in every tenancy a covenant to pay the rent on the due date and a condition for forfeiture for non-payment within fifteen days of the due date."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 28th day of July, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

Deputy Clerk of Councils.

(Secretariat CR2/2321/62)

HONG KONG

No. 38 OF 1965.

I assent.

Grench.

Governor.

26th August, 1965.

An Ordinance further to amend the District Court Ordinance 1953.

[27th August, 1965.]

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

1. (1) This Ordinance may be cited as the District Court (Amendment) Ordinance 1965.

Short title
and com-
mencement.

(2) Section 2 shall be deemed to have had effect as from the 1st day of October 1954.

2. Section 5 of the District Court Ordinance 1953 (hereinafter referred to as the principal Ordinance) is amended—

Amendment
of section 5.
(1 of 1953).

(a) by the deletion of paragraph (b) of subsection (1) and the substitution therefor of the following—

"(b) since becoming so qualified he has for a period of or periods totalling not less than five years—

(i) practised as an advocate or solicitor in such a court; or

(ii) been a member of the Colonial Legal Service; or

(iii) been a member of the Legal Branch of Her Majesty's Overseas Civil Service; or

(iv) been a member of Her Majesty's Overseas Judiciary; or

(v) been a permanent magistrate appointed by warrant under section 5 of the Magistrates Ordinance; or

(vi) been a legal officer as defined in section 2 of the Legal Officers Ordinance; or

(vii) held any office specified in the Registrar General (Establishment) Ordinance appointment to which is restricted to persons holding one of the legal qualifications specified therein."; and

(b) by the insertion, after the words "falling within" in subsection (2), of the following—

"any of the sub-paragraphs of".

3. Section 10 of the principal Ordinance is amended—

(a) by the insertion, after the words "deputy registrars" in subsection (1), of the following—

" , assistant registrars";

(b) by the insertion, after the words and comma "deputy registrar," where the same twice occur in subsection (2), of the following—

"assistant registrar,";

(c) by the deletion, in subsection (3), of the words, figure and brackets "a deputy registrar of the Court or by any officer appointed under the style of Deputy Registrar General by virtue of section 3 of the Registrar General (Establishment) Ordinance" and the substitution therefor of the following—

"a deputy registrar or assistant registrar of the Court";
and

(d) by the insertion, after the words "deputy registrar" where the same twice occur in subsection (4), of the following—

" , assistant registrar".

Amendment
of section 10.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 25th day of August, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

Clerk of Councils.

(Secretariat GR20/3231/52)

HONG KONG

No. 39 OF 1965.



I assent.

Governor.

26th August, 1965.

An Ordinance to impose a tax on hotel accommodation charges.

[1st July, 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 Hotel Accommodation Tax Ordinance 1965 and shall come into operation on the 1st day of July, 1966.

Short title
and com-
mencement.

2. In this Ordinance, unless the context otherwise requires—
“accommodation” means any furnished room or suite of rooms hired by the proprietor of the hotel to guests, or for the use of guests, for lodging and includes such furnishings, appliances and fittings as are normally provided therein;

Interpreta-
tion.

“accommodation charge” means the sum payable by or on behalf of guests for accommodation received;

(Cap. 117).

"Collector" means the Collector of Stamp Revenue appointed under section 2 of the Stamp Ordinance or any person appointed by him for the purposes of this Ordinance to act as his deputy;

"hotel" means any establishment, the proprietor of which holds out to the extent of his accommodation that he will provide, without special contract, accommodation to any person presenting himself who is able and willing to pay a reasonable sum for the services and facilities provided and is in a fit state to be received;

"payment" means any payment in money or money's worth made by any person to the proprietor of a hotel for accommodation received whether by that person or by some other person and includes any credit, book entry, set off or any other act by which a debt due to the proprietor of a hotel for accommodation charges may be discharged;

"society" means any club, company, school, institute, association or other body of persons by whatever name called;

"tax" means the hotel accommodation charges tax imposed by this Ordinance.

Tax on accommodation charges.

3. (1) Subject to the provisions of this Ordinance, there shall be levied on all accommodation charges made a tax at the rate of two per cent.

(2) The rate of tax to be levied under this section may be varied by resolution of the Legislative Council.

(3) The tax payable under this section shall be recoverable from the proprietors of hotels as a debt due to the Crown.

Assessment of accommodation charges.

4. Where, in the opinion of the Collector, any account which has been paid or has become payable to the proprietor of a hotel by or on behalf of a guest includes a sum in respect of accommodation charges, the Collector may assess the account and apportion such part thereof to accommodation charges as he thinks reasonable.

Tax to be paid and returns made to Collector.

5. (1) The proprietor of every hotel shall pay to the Collector, within fourteen days after the 30th day of September, the 31st day of December, the 31st day of March and the 30th day of June in each year, the amount of the tax payable in respect of the three monthly periods ending on those dates and at the same time the manager of that hotel shall sign and send to the Collector a return setting out the total amount of accommodation charges made by the proprietor of the hotel during the period in respect of which the tax paid relates:

Provided that the Collector may require that tax be paid in respect of periods of less than three months and in such case the tax shall be paid within fourteen days after the expiry of such lesser periods.

(2) Any proprietor of a hotel who fails to pay tax to the Collector in accordance with subsection (1) commits an offence and shall be liable on summary conviction to a fine of two thousand dollars.

(3) Any person commits an offence who, being the manager of a hotel, fails to make a return within the period specified in subsection (1) or furnishes a return knowing the same to be false or incorrect in any material particular and shall be liable on summary conviction to a fine of two thousand dollars.

6. (1) The provisions of this Ordinance shall not apply to accommodation charges where the Collector is satisfied that—

- (a) the rate of the accommodation charge is less than fifteen dollars per day;
 - (b) the accommodation is provided by a society not established or conducted for profit; or
 - (c) the hotel contains less than ten rooms normally available for lodging guests.
- (2) The Legislative Council may, by resolution, vary—
- (a) the rate of the accommodation charge set out in paragraph (a) of subsection (1); or
 - (b) the number of rooms set out in paragraph (c) of subsection (1).

7. (1) Any person aggrieved by a decision of the Collector made under or in exercise of the powers vested in him by the proviso to subsection (1) of section 5 may, within one month of the day on which he received notification of such decision, appeal by way of petition to the Governor in Council.

Appeal against certain decisions of Collector.

(2) Upon any such appeal, the Governor in Council may confirm, reverse or vary the decision of the Collector.

(3) Any person aggrieved by a decision of the Collector made under or in exercise of the powers vested in him by section 4 or 6 may, within one month of the day on which he received notification of such decision, appeal against such decision to the District Court.

(4) The District Court may determine the practice and procedure on any appeal under subsection (3).

8. (1) The Collector may prescribe the form of the return to be furnished under subsection (1) of section 5.

Powers of the Collector.

(2) The Collector may require the manager of a hotel to keep adequate records relating to the occupancy of the accommodation of the hotel and to keep adequate accounts relating to accommodation charges.

(3) The Collector or any person authorized in writing by him may enter any hotel at any reasonable time and inspect the records of the

hotel that relate to accommodation charges or to the occupancy of the accommodation of the hotel or to the payment of tax under this Ordinance.

(4) The Collector or any person authorized in writing by him may require the manager of a hotel to produce any books or records of the hotel that relate to accommodation charges, the occupancy of the accommodation of the hotel, or the payment of tax under this Ordinance.

(5) Any person who, being the manager of a hotel, fails to comply with any requirement made under subsection (2) or subsection (4) by the Collector or by any person authorized by him commits an offence and shall be liable on summary conviction to a fine of five hundred dollars.

(6) The Collector may enter into such agreement as he thinks fit with the proprietor of any hotel for the payment of tax or to defer the time of payment of tax.

(7) Where the Collector is of the opinion that any person has committed an offence against any of the provisions of this Ordinance, he may send a notice to that person setting out particulars of the alleged offence and make an offer to compound the offence.

(8) The Collector may make an offer to compound an offence notwithstanding the commencement of proceedings against the alleged offender.

9. Where it can be shown to the satisfaction of the Collector that any accommodation charge has not been paid to the proprietor of a hotel, the Collector shall refund the tax paid in respect of that accommodation charge.

Refund of
tax to hotel
where ac-
commodation
charge is
not paid.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 25th day of August, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

[Signature]
Clerk of Councils.

(Secretariat CR2/2511/63)

HONG KONG

No. 40 OF 1965.



I assent.

[Signature]
Governor.

26th August, 1965.

An Ordinance further to amend the Buildings Ordinance 1955.

[27th August, 1965.]

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 Buildings (Amendment) Short title. Ordinance 1965.

2. Section 9C of the Buildings Ordinance 1955 (hereinafter referred to as the principal Ordinance) is amended by—

- (a) being renumbered as subsection (1) thereof;
- (b) the insertion in Column B of item 7 in the table thereto, after "that it will collapse", of the following—
"or be likely to collapse"; and

Amendment
of section 9C.
(68 of 1955,
1960 Reprint).

- (c) the insertion, after the table thereto, of the following new subsection—

“(2) Where the Building Authority approves plans of building works, or gives his consent to the commencement of building works, pursuant to the directions of a committee of review given under subsection (8) of section 34B, he shall impose such conditions as the committee of review may have required under that subsection.”.

Amendment
of section 9D.

3. Section 9D of the principal Ordinance is amended by the insertion, in subsection (6), of the following new paragraphs—

Third
Schedule.

- “(c) If a magistrate is satisfied by evidence on oath that the entry to a building of any person authorized to enter the same by or under paragraph (a) or (b) has been obstructed, he may upon application by or on behalf of the person authorized to enter such building under paragraph (a) issue a warrant in the form in the Third Schedule authorizing—

(i) each and every person authorized prior to the issue of the warrant to enter such building by or under paragraph (a) or (b); and

(ii) any police officer of or above the rank of inspector and any other police officer acting under his direction,

to enter such building on such occasion or occasions, and at such time or times, as may be necessary for the purpose for which the authorization under paragraph (a) was granted, and in the execution of such warrant any such police officer may use such force as may be necessary.

- (d) A copy, in the English language and in the Chinese language, of any warrant issued under paragraph (c) shall be posted in a conspicuous position on the building to which it relates.”.

Repeal and
replacement
of section 14.

4. Section 14 of the principal Ordinance is repealed and replaced by the following—

“Building
works, etc.
to cease on
order of
Building
Authority.

14. Where in the opinion of the Building Authority—

- (a) any building works, street works, lift works or escalator works are being carried out in contravention of any of the provisions of this Ordinance

or are connected with any building works that have been so carried out; or

- (b) any building works that are being carried out—
(i) will cause, or will be likely to cause, a total or partial collapse of any adjoining or other building, or

(ii) will render, or will be likely to render, any adjoining or other building so dangerous that it will collapse, or be likely to collapse, either totally or partially.

he may by order in writing served on the registered contractor, registered lift contractor, registered escalator contractor or other person carrying out such works, as the case may be, require that such works cease until the order is withdrawn.”.

5. Section 18 of the principal Ordinance is amended by—

Amendment
of section 18.

- (a) the deletion of “Seven” in paragraph (a) of subsection (2) and the substitution therefor of the following—

“Not less than seven”; and

- (b) the deletion of subsection (5) and the substitution therefor of the following—

“(5) (a) Save with the permission in writing of the Building Authority, no person, other than a public officer in the course of his duty, shall enter or be in a building at any time while a Closure Order is in force in respect of that building.

- (b) Where he thinks fit, the Building Authority may, subject to such conditions as he thinks fit, by notice in writing permit any person to enter and be in a building while a Closure Order is in force in respect of that building.

- (c) Any permission granted under paragraph (b) may be cancelled by the Building Authority at any time and for any reason.

(5A) Where a Closure Order is in force in respect of a building—

- (a) any police officer of or above the rank of inspector, with such assistance as may be

necessary, may remove therefrom any person who is in the building in contravention of paragraph (a) of subsection (5); and

- (b) the Building Authority may seal, or cause to be sealed, all or any of the entrances to or exits from the building.

(5B) The Building Authority may recover from the owner of the building the cost of any works that he carries out, or causes to be carried out, under paragraph (b) of subsection (5A)."

Amendment
of section 20.

6. Section 20 of the principal Ordinance is amended by—

- (a) the insertion, after subsection (4), of the following new subsection—

"(4A) Where in the opinion of the Building Authority a private street or access road has been rendered dangerous or liable to become dangerous and emergency has thereby arisen, he may carry out or cause to be carried out such work as may appear to him to be necessary, either without notice to the frontagers or before or after such notice. The decision of the Building Authority that the particular case is one of emergency shall be final and binding on all persons.";

- (b) the insertion in subsection (5), after "or of subsection (4)", of the following—

“, or the cost of any work carried out pursuant to the provisions of subsection (4A) so far as it is in his opinion attributable to the emergency.”.

Amendment
of section 27.

7. Section 27 of the principal Ordinance is amended—

- (a) by the insertion in subsection (2), after “for six months”, of the following—

“and in the case of an offence consisting of a failure to comply with an order of the Building Authority given under subsection (2) of section 16 shall be liable in addition to a fine of one hundred dollars for each day during which it is proved to the satisfaction of the court that the failure to comply with the order has continued”;

- (b) in the table set out therein—

(i) by the deletion, in item (1), of “subsection (5) of section 18—(Occupation of a building subject to a Closure Order).” and the substitution therefor of the following—

“subsection (5)(a) — (Entering or being in a building of section 18 while Closure Order in force).”; and

(ii) by the deletion of item (8) and the substitution therefor of the following—

“(8) The obstruction of the Building Authority or of any officer authorized by him or of any other public officer or of a committee of review appointed under section 34B or of any member of such a committee of review in the exercise of his or its powers under this Ordinance.”; and

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

“(2B) Any person who, after a copy of a warrant issued under paragraph (c) of subsection (6) of section 9D has been posted in accordance with paragraph (d) of the said subsection (6) of section 9D, obstructs the entry to the building specified in such warrant of any police officer or other person authorized by such warrant to enter the same shall be guilty of an offence and shall be liable to a fine of two thousand dollars and to imprisonment for six months.”.

8. Section 31 of the principal Ordinance is amended by the deletion of “Any” and the substitution therefor of the following—

Amendment
of section 31.

“Subject to section 33A, any”.

9. The principal Ordinance is amended by the addition, after section 33, of the following new section—

Addition
of new
section 33A.

“Certain
restrictions
on right to
appeal to
tribunal.

33A. A person shall not be entitled to appeal to the tribunal from a decision of the Building Authority—

- (a) if there has been an appeal from the decision to the panel under section 34B; or
- (b) if the decision was made in compliance with directions of a committee of review given under subsection (8) of section 34B.”.

Addition
of new
Part VIA.

10. The principal Ordinance is amended by the addition, after Part VI, of the following new Part—

“PART VIA.

Review of certain decisions of Building Authority.

Appointment
of panel.

34A. (1) The Governor may appoint such authorized architects as he thinks fit to be members of a panel (hereinafter referred to as the panel) from which committees of review may be appointed as necessary for the purposes of section 34B.

(2) A member of the panel may resign at any time by giving one month's notice in writing to the Building Authority of his intention to resign, and the Governor may at any time and for any reason whatsoever terminate the appointment of any authorized architect to be a member of the panel.

Appeal to
panel against
certain
decisions of
Building
Authority.

34B. (1) Subject to section 34C, any person prejudiced by the refusal of the Building Authority, in exercise of the powers conferred by paragraph (k) or (l) of subsection (1) of section 9B or subsection (4) or (5) of section 9B, to approve plans of building works or to consent to the commencement of building works, or prejudiced by conditions prescribed by the Building Authority in exercise of the power conferred by item 7 in the table to section 9C, may appeal to the panel, by notice in writing to the Building Authority stating the substance of the matter to which the appeal relates—

(40 of 1965).

- (a) at any time before the 1st day of January 1966 where the decision of the Building Authority was made before the commencement of the Buildings (Amendment) Ordinance 1965; or
- (b) Within fourteen days of the decision of the Building Authority where the decision was made after the commencement of the Buildings (Amendment) Ordinance 1965.

(2) Whenever an appeal is duly made under subsection (1), the Colonial Secretary shall, at the request of the Building Authority, appoint a committee of review consisting of three members of the panel (hereinafter referred to as a committee of review) to consider and

determine the appeal, and may appoint one of the members of the committee of review to be the chairman thereof.

(3) The Building Authority shall serve upon the owner of every building that he considers may be affected by the determination of a committee of review upon an appeal a notice informing him that the appeal has been made and calling upon him to notify the Building Authority, within three days, if he wishes to make representations to the committee of review.

(4) Subject to the provisions of this section, the procedure of a committee of review upon an appeal shall be such as the committee of review may determine, and neither the appellant nor the Building Authority nor any other person shall be represented in any proceedings of or before a committee of review by counsel or a solicitor.

(5) A committee of review shall afford to the appellant and the Building Authority and any other person who has duly notified the Building Authority that he wishes to make representations to the committee of review (each of whom is hereinafter referred to in this subsection as a party) an opportunity of making representations and of calling witnesses, and any party may put to a witness called by any other party such questions as the committee of review thinks fit, but no party shall be entitled to put questions to any witness examined by the committee of review, or any member of the committee of review, but not called by a party.

(6) Any question coming before a committee of review shall be determined by the vote of the majority of the members of the committee.

(7) For the purpose of exercising its functions under this section, a committee of review, and any member of a committee of review, may enter and inspect any premises that the committee of review considers necessary and may make such openings or take such reasonable samples as the committee of review or such member considers necessary, and any public officer acting on the directions of a committee of review, or a member of a committee of review, may remove anything in or about such premises that may obstruct the inspection by the committee of review or such member of the premises or any part thereof

and may make such openings or take such reasonable samples as the committee of review or such member considers necessary, and for any of those purposes may enter such premises or any part thereof.

(8) A committee of review may confirm the decision of the Building Authority from which an appeal is made or in any of the cases specified in subsection (10) may—

- (a) give such directions to the Building Authority as to the exercise of his powers under this Ordinance as may be necessary to give effect to its determination; and
- (b) require the imposition by the Building Authority under subsection (2) of section 9C of such conditions as it considers necessary.

(9) Subject to paragraph (d) of subsection (12), it shall be the duty of the Building Authority to comply with directions given to him by a committee of review under paragraph (a) of subsection (8) so far as the powers conferred on him by this Ordinance enable him to do so, notwithstanding that he may not agree with the determination of the committee of review.

(10) A committee of review may exercise the powers conferred by paragraphs (a) and (b) of subsection (8) in any of the following cases, that is to say—

- (a) if, in the case of an appeal from a decision of the Building Authority in exercise of the power conferred by paragraph (k) or (l) of subsection (1) of section 9B or subsection (4) of section 9B, the committee of review is satisfied that the demolition of the building or the carrying out of the piling works, excavation works or foundation works or the carrying out of the building works, as the case may be—
 - (i) will not cause, and will not be likely to cause, a total or partial collapse of any adjoining or other building; and
 - (ii) will not render, and will not be likely to render, any adjoining or other building so dangerous that it will collapse or be likely to collapse, either totally or partially; or

- (b) if, in the case of any such appeal as aforesaid, the committee of review is satisfied that—

- (i) the collapse, whether total or partial, of any adjoining or other building and the likelihood of such a collapse; and

- (ii) any danger that any adjoining or other building will be rendered, or will be likely to be rendered, so dangerous that it will collapse or be likely to collapse, either totally or partially, will be avoided; or

- (c) if, in the case of an appeal from a decision of the Building Authority in exercise of the power conferred by subsection (5) of section 9B or item 7 in the table to section 9C, the committee of review is satisfied, as the case may be, that adequate precautions have been or will be taken, or that the conditions prescribed by the Building Authority exceed what is necessary—

- (i) to prevent a collapse, whether total or partial, of any adjoining or other building and the likelihood of such a collapse; and

- (ii) to prevent any adjoining or other building becoming so dangerous, and the likelihood of any such building becoming so dangerous, that it will collapse or be likely to collapse, either totally or partially.

(11) The determination of a committee of review upon an appeal shall be final and shall not be liable to be set aside for irregularity or error in matter of form.

- (12) (a) The members of a committee of review shall be remunerated at such rate as the Governor may determine, and the remuneration payable to the members of any committee of review shall be paid by the appellant in accordance with paragraphs (b) and (c).
- (b) At the time an appeal is made under subsection (1), the appellant shall deposit with the Building Authority the sum of four thousand dollars, and an appeal shall not be duly made under subsection (1) unless such sum is so deposited with the Building Authority.
- (c) When, after the determination of an appeal, the Building Authority has ascertained the amount of

the remuneration payable under this subsection to the members of the committee of review, he shall—

(i) refund to the appellant the amount by which the sum deposited in accordance with paragraph (b) exceeds the amount of such remuneration; or

(ii) recover from the appellant the amount by which the amount of such remuneration exceeds the sum deposited in accordance with paragraph (b),

and shall thereupon pay to each member of the committee of review the remuneration payable to him under this subsection.

- (d) Where the amount of the remuneration payable under this subsection to the members of a committee of review exceeds the sum deposited in accordance with paragraph (b), the Building Authority shall not be obliged to comply with the directions, if any, given by the committee of review under subsection (8) until the appellant has paid to the Building Authority the amount to be recovered from him under sub-paragraph (ii) of paragraph (c).

(13) For the avoidance of doubt, it is hereby declared that neither the determination of a committee of review upon an appeal nor compliance by the Building Authority with directions given by a committee of review under subsection (8) shall affect or prejudice in any way the subsequent exercise by the Building Authority of the powers vested in him by section 14.

34C. A person shall not be entitled to appeal to the panel from a decision of the Building Authority if he has instituted an appeal from the decision to the tribunal under section 31 by giving notice in writing to the Building Authority.

34D. Nothing in this Part shall authorize the award or payment of compensation to any person.

34E. (1) Without prejudice to subsection (1) or (2) of section 25, no matter or thing done by all or any of the members of a committee of review, or by any public officer acting on the directions of a committee of review or any member of a committee of review, shall if it were done

Appeal to tribunal to be a bar to appeal to panel.

No compensation to be awarded.

Limitation on liability of members of committee of review.

bona fide for the purpose of executing this Part of this Ordinance subject any member of the committee of review, or any such public officer, personally to any liability or to any claim, demand or action whatsoever, and any liability which would but for this section have been a liability personally of any member of the committee of review or any such public officer shall be a liability of the Crown.

(2) Nothing in this section shall affect in any way any liability of the Crown which exists apart from this section."

11. The principal Ordinance is amended by the addition, after the Second Schedule, of the following new Schedule—

Addition of new Schedule.

"THIRD SCHEDULE.

[section 9D(6)(c).]

Form of warrant.

HONG KONG.

IN THE MAGISTRATE'S COURT AT

WHEREAS I, a magistrate of the Colony of Hong Kong, am satisfied by evidence on oath that

(here specify name(s) of person(s) authorized to enter the building under section 9D(6)(a) of the Buildings Ordinance 1955) has/have been authorized by the Building Authority to enter

(address of building) under section 9D(6)(a) of the Buildings Ordinance 1955:

AND WHEREAS I am also satisfied by evidence on oath that the entry to such building of a person authorized to enter the same by or under the said section 9D(6)(a) of the Buildings Ordinance 1955:

THESE are, therefore, to authorize the said

and his/their servants or agents and his/their agent's/agents' servants (being persons authorized prior to the issue of this warrant to enter the building aforesaid by or under section 9D(6)(a) or (b) of the Buildings Ordinance 1955) and any police officer of or above the rank of inspector and any other police officer acting under his direction to enter the building aforesaid on such occasion or occasions and at such time or times as may be necessary for the purpose for which the said

was/were authorized to enter the said building under section 9D(6)(a) of the Buildings Ordinance 1955.

[L.S.]

(Signed)
Magistrate. "

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 25th day of August, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

[Signature]
Clerk of Councils.

(Secretariat BL1/741/52III)

HONG KONG

No. 41 OF 1965.



I assent.

[Signature]

Governor.

16th September, 1965.

An Ordinance to make provision for the management of public libraries maintained by the Government in the urban area.

[17th September, 1965.]

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 Library Ordinance 1965. Short title.

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

“book” includes any book, documents, periodical, magazine, newspaper, pamphlet, music-score, gramophone record, picture, print, engraving, etching, deed, photograph, map, chart, plan, film, filmstrip, microfilm, slide or manuscript, and any other article or thing of a like nature, provided for the use of the public in any library, whether or not it is the property of the Government;

“librarian” means the Library Adviser;

“library” means any library the management of which is vested in the Urban Council by section 3;

"urban area" means the Colony excluding the New Territories except New Kowloon;

(14 of 1955). "Urban Council" means the Urban Council constituted under the Urban Council Ordinance 1955.

Management
of public
libraries.

3. The management of such libraries for the use of the public as may from time to time be maintained by the Government in the urban area is hereby vested in the Urban Council.

By-laws.

4. (1) The Urban Council may make by-laws for all or any of the following purposes—

- (a) the powers, duties and functions of the librarian;
- (b) fixing the hours during which any library shall be open to the public;
- (c) regulating admission to any library or the use of any library or any of the facilities provided in any library;
- (d) regulating the lending and borrowing of any of the books in any library;
- (e) requiring a guarantee or security to be given by any person borrowing books from a library;
- (f) prescribing fees, charges and penalties to be paid by any person in respect of books borrowed from any library;
- (g) regulating the conduct of persons in any library;
- (h) protecting any library and the fittings, furniture and books therein, and any other contents thereof, from damage;
- (i) the assessment of the amount to be paid in respect of the repair or replacement of any book which has been lost, damaged or destroyed or by way of compensation for the loss or damage sustained by the Government by reason of the fact that any book has been lost, damaged or destroyed, and the recovery of any such amount;
- (j) enabling any person to be refused the use of any library or any of the facilities provided in any library and the removal from a library of any person;
- (k) the terms on which articles may be deposited in a library for safe-keeping whilst any person is in the library.

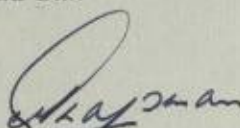
(2) By-laws made under paragraph (i) of subsection (1) may provide that, in a case where one of the books forming a set of books in a library has been lost, damaged or destroyed, the amount to be paid in respect of the replacement of that book may be assessed by reference to the cost of replacing all the books in the set and may authorize the

recovery, in addition to the amount to be paid in respect of the replacement of any book, of a surcharge not exceeding twenty per cent of such amount.

(3) By-laws made under this section may provide that contravention of any of the provisions of such by-laws shall constitute an offence and may prescribe penalties therefor not exceeding a fine of one hundred dollars.

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

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 15th day of September, 1965, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

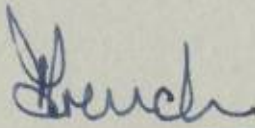
(Secretariat GR1/3231/64)

HONG KONG

No. 42 OF 1965.

I assent.




Governor.

16th September, 1965.

An Ordinance to amend the School Medical Service Board Incorporation Ordinance 1964.

[17th September, 1965.]

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 School Medical Service Board Incorporation (Amendment) Ordinance 1965. Short title.

2. Section 4 of the School Medical Service Board Incorporation Ordinance 1964 (hereinafter referred to as the principal Ordinance) is amended by the deletion of subsection (6) and the substitution therefor of the following— Amendment
of section 4.
(26 of 1964).

“(6) The Board may make standing orders—

- (a) for regulating the procedure at and in connexion with its meetings and the meetings of its select committees appointed under section 5; and

- (b) for the conduct of elections of members of the Board required to be elected under the provisions of section 3.”.

Amendment
of section 8.

3. Section 8 of the principal Ordinance is amended in subsection (1) by the deletion of “for every period of twelve months ending on the 31st day of August in each year,” and the substitution therefor of the following—

“for the period ending on the 30th day of September, 1965, and thereafter for every period of twelve months ending on the 30th day of September in each year.”.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 15th day of September, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

S. H. Chan
Deputy Clerk of Councils.

(Secretariat GR7/3921/47III)

HONG KONG

No. 43 OF 1965.

I assent.

Heuch
Governor.

30th September, 1965.

An Ordinance to amend the Chinese University of Hong Kong Ordinance 1963.

[1st October, 1965.]

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 Chinese University of Hong Kong (Amendment) Ordinance 1965.

2. The long title to the Chinese University of Hong Kong Ordinance 1963 (hereinafter referred to as the principal Ordinance) is amended by the deletion of the words “the Chinese University” and the substitution therefor of the following—

Amendment
of long title.
(28 of 1963).

“The Chinese University”.

3. Section 1 of the principal Ordinance is amended by the deletion of the words “the Chinese University” and the substitution therefor of the following—

Amendment
of section 1.

“The Chinese University”.

Amendment
of section 2.

4. Section 2 of the principal Ordinance is amended in the definition "University" by the deletion of the words "the Chinese University" and the substitution thereof of the following—

"The Chinese University".

Amendment
of section 4.

5. Section 4 of the principal Ordinance is amended by the deletion of the words "the Chinese University" and the substitution thereof of the following—

"The Chinese University".

Amendment
of section 9.

6. Section 9 of the principal Ordinance is amended in paragraph (c) by the deletion of the word "conferring" and the substitution thereof of the following—

"award".

Amendment
of section 11.

7. Section 11 of the principal Ordinance is amended by the deletion of paragraph (m) and the substitution thereof of the following—

"(m) after a date to be appointed by the Council, such number of members of the Convocation not exceeding three as shall be determined by the Council from time to time, to be elected by the Convocation in the manner determined by the Council."

Amendment
of section 17.

8. Section 17 of the principal Ordinance is amended by the deletion of subsection (1) and the substitution thereof of the following—

"(1) The Council shall establish—

(a) a Finance Committee; and

(b) an Administrative and Academic Planning Committee,

and the Council and the Senate may establish such other committees as they think fit."

Amendment
of section 19.

9. Section 19 of the principal Ordinance is amended in subsection (1) by the insertion after the word "Science" of the following—

", a Faculty of Commerce and Social Science".

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 29th day of September, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

[Signature]
Deputy Clerk of Councils.

(Secretariat CR12/2041/63II)

HONG KONG

No. 44 OF 1965.

I assent.

[Signature]
Governor.

30th September, 1965.

An Ordinance further to amend the Protection of Women and Juveniles Ordinance 1951.

[1st October, 1965.]

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 Protection of Women and Juveniles (Amendment) Ordinance 1965. Short title.

2. Section 2 of the Protection of Women and Juveniles Ordinance 1951 (hereinafter referred to as the principal Ordinance) is amended by the deletion of the definition "place of refuge" and the substitution thereof of the following— Amendment of section 2. (1 of 1951).

"place of refuge" means any place declared by the Governor under section 2A to be a place of refuge."

3. The principal Ordinance is amended by the addition, after section 2, of the following new section— Addition of new section 2A.

"Power of Governor to declare places of refuge.

2A. The Governor may by order declare any place to be a place of refuge for the purposes of this Ordinance."

Transitional
provisions.

4. (1) Notwithstanding the provisions of section 2 or 3, any place which is a place of refuge under the principal Ordinance at the commencement of this Ordinance shall continue by virtue of this subsection to be such a place of refuge until the declaration by the Governor in Council declaring such place to be a place of refuge is cancelled by the Governor under subsection (2).

(2) The Governor may by order cancel any declaration by the Governor in Council declaring any place to be a place of refuge under the principal Ordinance.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 29th day of September, 1965, and is found by me to be a true and correctly printed copy of the said Bill.

Deputy Clerk of Councils.

(Secretariat GR25/3231/50)

HONG KONG

No. 45 OF 1965.

I assent.

Governor.

14th October, 1965.

An Ordinance further to amend the Resettlement Ordinance 1958.

[]

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 Resettlement (Amendment) Ordinance 1965 and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*.

Short title
and com-
mencement.

2. Section 2 of the Resettlement Ordinance 1958 (hereinafter referred to as the principal Ordinance) is amended—

Amendment
of section 2.
(16 of 1958).

(a) by the insertion, after "such Part" in the definition "competent authority", of the following—

"and where the Commissioner for Resettlement has been so appointed such appointment shall be deemed to include any deputy and assistant commissioner for resettlement";

(b) by the insertion, after "occupation permit" in the definition "dependant", of the following—

"or in a licence granted under section 50C";

- (c) by the insertion, after the definition "public interest", of the following new definition—

"“public place” includes all areas (including walls of buildings) within a resettlement estate, a resettlement factory area or a cottage resettlement area, other than those parts subject to individual tenancies;” and

- (d) by the insertion, after the definition "resettlement estate", of the following new definition—

"“resettlement factory area” means an area which has been set aside or is deemed to have been set aside as a resettlement factory area by the Governor in exercise of the power conferred by section 24;”.

Amendment
of section 7.

3. Section 7 of the principal Ordinance is amended by the deletion of subsection (3) and the substitution therefor of the following—

"(3) Notwithstanding the provisions of any Ordinance to the contrary, the Governor may remit or reduce any fee, rent or other charge payable under this Ordinance.”.

Amendment
of section 9.

4. Section 9 of the principal Ordinance is amended by the insertion, after paragraph (a), of the following new paragraph—

"(aa) evict from any structure in an area set aside under section 50A any squatter;”.

Amendment
of section 10.

5. Section 10 of the principal Ordinance is amended, in subsection (1), by the deletion of "the date of coming into operation of this Ordinance" and the substitution therefor of the following—

"the 22nd day of October, 1965”.

Amendment
of section 15.

6. Section 15 of the principal Ordinance is amended by the deletion of subsection (2).

Amendment
of section 16.

7. Section 16 of the principal Ordinance is amended by the insertion, after "or chattels", of the following—

"in the possession”.

Repeal of
section 21.

8. Section 21 of the principal Ordinance is repealed.

Amendment
of Part IV.

9. Part IV of the principal Ordinance is amended by the deletion of the heading and the substitution therefor of the following—

"*Resettlement estates and resettlement factory areas.*”.

10. Section 24 of the principal Ordinance is amended—

Amendment
of section 24.

- (a) in subsection (1), by the insertion, after "resettlement estate", of the following—

"or a resettlement factory area”;

- (b) in subsection (2), by the deletion of "in the office of the District Commissioner" and the substitution therefor of the following—

"signed by the District Commissioner and deposited in the appropriate District Land Office"; and

- (c) in subsection (3)—

(i) by the deletion of ", dated the 29th of April, 1958;"; and

(ii) by the deletion of "office of the District Commissioner" and the substitution therefor of the following—

"appropriate District Land Office”.

11. Section 25 of the principal Ordinance is repealed and replaced by the following—

Repeal and
replacement
of section 25.

"Resettlement
factory areas.
Third
Schedule.

25. The areas listed in the Third Schedule shall be deemed to have been set aside by the Governor as resettlement factory areas.”.

12. Section 26 of the principal Ordinance is amended—

Amendment
of section 26.

- (a) by the deletion of subsection (1); and

- (b) by the deletion, in subsection (2), of "is in occupation of any such building at the date of coming into operation of this Ordinance" and the substitution therefor of the following—

" , at the date of the coming into operation of this Ordinance, is in occupation of any building which, at such date, is in an area designated in the First Schedule”.

13. Section 27 of the principal Ordinance is amended—

Amendment
of section 27.

- (a) in subsection (1)—

(i) by the insertion, after "tenancy card", of the following—
"or factory tenancy card”;

(ii) by the insertion, after "resettlement estate", of the following—

"or a resettlement factory area”;

- (b) in subsection (2), by the insertion, after "tenancy card", of the following—

"or a factory tenancy card”; and

- (c) in subsection (3), by the insertion, after "the dependants" in the first place where they occur, of the following—

"and to each factory tenancy card a photograph of the tenant,".

Amendment
of section 28.

14. Section 28 of the principal Ordinance is amended—

- (a) in subsection (1)—

(i) by the insertion, after "resettlement estate", of the following—

"or a resettlement factory area";

(ii) by the insertion, after "tenancy card", of the following—

"or factory tenancy card";

- (b) in subsection (2)—

(i) by the insertion, after "a tenancy card", of the following—

"or a factory tenancy card";

(ii) by the insertion, after "the tenancy card" wherever they occur, of the following—

"or the factory tenancy card";

- (c) in subsection (3)—

(i) by the insertion, after "a tenancy card", of the following—

"or a factory tenancy card";

(ii) by the insertion, after "the tenancy card" wherever they occur in proviso (ii), of the following—

"or the factory tenancy card"; and

- (d) by the deletion of subsection (4).

Amendment
of section 30.

15. Section 30 of the principal Ordinance is amended—

- (a) in subsection (1)—

(i) by the insertion, after "resettlement estate", of the following—

"or a resettlement factory area";

(ii) by the insertion, after "tenancy card", of the following—

"or the factory tenancy card"; and

- (b) in subsection (2)—

(i) by the deletion of the full stop and the substitution therefor of a colon; and

- (ii) by the insertion of the following new proviso—

"Provided that where a cash register system is in operation the tenant shall have the card printed with the official receipt for such payment of rent."

16. Section 31 of the principal Ordinance is amended by the insertion, after "tenancy card" wherever they occur, of the following—

Amendment
of section 31.

"or factory tenancy card".

17. Section 33 of the principal Ordinance is amended by the insertion, after "resettlement estate", of the following—

Amendment
of section 33.

"or a resettlement factory area".

18. Subsection (1) of section 34 of the principal Ordinance is amended by the insertion, after "resettlement estate", of the following—

Amendment
of section 34.

"or a resettlement factory area".

19. Section 35 of the principal Ordinance is amended—

Amendment
of section 35.

- (a) in subsection (1)—

(i) by the insertion, after "in any resettlement estate", of the following—

"or resettlement factory area"; and

(ii) by the insertion, after "the resettlement estate", of the following—

"or the resettlement factory area"; and

- (b) in subsection (2), by the insertion, after "the resettlement estate", of the following—

"or the resettlement factory area".

20. The principal Ordinance is amended by the addition, after section 35, of the following new sections—

Addition of
new sections
35A and 35B.

"Advance
payment
of rent.

35A. (1) This section applies to such persons or classes of persons as the Governor may determine.

(2) A competent authority may accept from any person to whom this section applies, by way of an advance payment of the rent that will become payable by such person as the tenant under such tenancy as may come to be granted to him under this Part of this Ordinance, such sum as the Governor may fix for the purposes of this subsection.

(3) Any sum accepted under subsection (2) by way of an advance payment of rent shall earn interest at the rate of three per cent per annum calculated from the first

day of the month next following the date of payment to the last day of the month preceding—

- (a) the day on which the person from whom such sum was accepted enters into occupation of the premises let to him under this Part of this Ordinance; or
- (b) the day on which the licence granted under subsection (1) of section 50C to the person from whom such sum was accepted is revoked; or
- (c) the day on which such sum is repaid under subsection (8),

as the case may be.

(4) The competent authority shall deduct from the first month's rent payable by any person as the tenant under the tenancy granted to him under this Part of this Ordinance, and from the rent for such succeeding months as may be necessary, the amount (if any) due to that person by way of interest under subsection (3).

(5) When all the interest due to any person under subsection (3) has been deducted in accordance with subsection (4), the competent authority shall, with effect from the next following month, reduce the monthly rent payable by such person as the tenant under any tenancy granted to him under this Part of this Ordinance by one one hundred and twenty-fifth part of the sum accepted from him under subsection (2) by way of an advance of rent until such sum is wholly refunded.

(6) If at any time before the whole of the sum accepted from any person under subsection (2) by way of an advance payment of rent has been refunded a tenancy granted under this Part of this Ordinance to such person is terminated, the competent authority shall, upon the termination of the tenancy, repay to such person that part of such sum not recovered by him under subsection (5) prior to the termination of the tenancy.

(7) Where a licence granted under subsection (1) of section 50C is revoked under paragraph (a) of subsection (5) of the said section, or is revoked under paragraph (b) of the said subsection (5) and the person to whom the licence was granted is neither granted a tenancy under this Part of this Ordinance nor granted another licence under subsection (1) of section 50C to occupy land in a Class I

area, then, if the person to whom the licence was granted is a person from whom a sum has been accepted under subsection (2) by way of an advance payment of rent, the competent authority shall, within seven days after the revocation of the licence, repay to such person the sum so accepted from him and pay to him the interest thereon due under subsection (3).

(8) Any person from whom a sum has been accepted under subsection (2) by way of an advance payment of rent may, by notice in writing to the competent authority given at any time prior to the grant to him of a tenancy under this Part of this Ordinance, demand repayment of the sum so accepted from him, and the competent authority shall repay to such person the sum so accepted from him and shall pay to him the interest thereon due under subsection (3).

Powers of competent authority in relation to cleaning of resettlement estates or resettlement factory areas.

35B. (1) The competent authority may require any person carrying on in a resettlement estate or a resettlement factory area any cleaning service, or any service for the disposal of refuse, by way of trade or for purposes of gain, other than a person providing such a service for the time being pursuant to a contract with the competent authority or carrying on such a service for the time being with the permission of the competent authority given under paragraph (a) of subsection (2), to cease carrying on such service.

(2) (a) Without prejudice to his power to enter into a contract with any person for the provision by such person in any resettlement estate or resettlement factory area of a cleaning service or a service for the disposal of refuse, the competent authority may give to any person who he thinks fit permission to carry on such a service in any resettlement estate or resettlement factory area.

(b) The competent authority may withdraw any permission given under paragraph (a) at any time and without notice.

(3) Any person who fails to comply with a requirement of the competent authority made under subsection (1) shall be guilty of an offence and on summary conviction shall be liable to a fine of one thousand dollars and to imprisonment for six months."