

HONG KONG

No. 1 OF 1953.



I assent.

[Handwritten signature]
Governor.

15th January, 1953.

An Ordinance to establish a new court, having limited civil and criminal jurisdiction, to be known as the District Court of Hong Kong, and to make provision for the jurisdiction, procedure and practice thereof and for purposes connected with the matters aforesaid.

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

PART I.

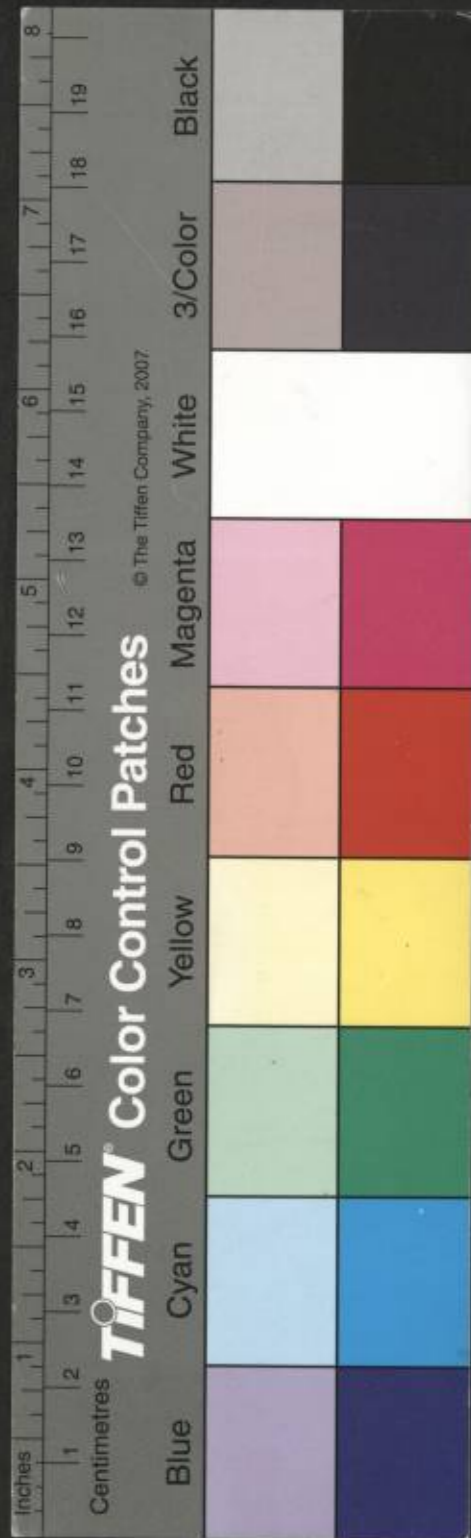
PRELIMINARY.

1. This Ordinance may be cited as the District Court Ordinance, 1953, and shall come into operation on a day to be appointed by the Governor by proclamation in the *Gazette*.

Short title and commencement.

2. In this Ordinance, unless the context otherwise requires—
“action” means a civil proceeding commenced by writ of summons or in such manner as may be prescribed by the District Court Civil Procedure Rules;

Interpretation.



- (Cap. 4). "cause" has the meaning attributed to it by section 2 of the Supreme Court Ordinance;
- "defendant" includes any person served with any writ of summons or process, or served with notice of, or entitled to attend, any proceedings;
- "functions" includes powers and duties;
- "matter" has the meaning attributed to it by section 2 of the Supreme Court Ordinance;
- "party" includes every person served with notice of or attending any proceeding, although not named in the record;
- "plaintiff" includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the proceeding is by action, suit, petition, motion, summons or otherwise.

PART II.

THE DISTRICT COURT.

Establishment of the District Court of Hong Kong, and general jurisdiction thereof.

3. (1) A court, to be known as the District Court of Hong Kong, is hereby established.

(2) The court shall be a court of record and shall have such civil and criminal jurisdiction as is conferred upon it by this Ordinance.

Constitution of the District Court.

4. (1) The court shall be constituted of two or more judges, to be known as District Judges.

(2) District Judges shall be appointed by the Governor by instrument under the Public Seal.

Qualifications for appointment as a District Judge.

5. (1) No person shall be appointed to be a District Judge under section 4 unless—

(a) he is qualified to practise as an advocate in a court in England, Scotland, Northern Ireland or some other part of the Commonwealth or the Republic of Ireland having unlimited civil or criminal jurisdiction in that country; and

(b) he has—

(i) practised as an advocate or solicitor in such a court for not less than five years; or

(ii) been a member of the Colonial Legal Service for not less than five years.

(2) For the purpose of calculating such period of five years, periods of less than five years falling within paragraph (b) of subsection (1) may be combined.

6. (1) Every proceeding in the court and all business arising thereout shall be heard and disposed of by a District Judge sitting alone.

Proceedings to be disposed of by a judge sitting alone.

(2) All proceedings in an action subsequent to the hearing or trial, down to and including the final judgment or order, shall, so far as is practicable and convenient, be taken before the judge before whom the trial or hearing took place.

(3) A District Judge may, subject to any rules or directions made or given under this Ordinance, exercise in court or in chambers all or any part of the jurisdiction vested in the court.

7. (1) Where the office of a District Judge is vacant by death or otherwise, the Governor may appoint a fit and proper person to fill such office until such time as a definitive appointment be made.

Power to make temporary appointments.

(2) In case of the temporary illness or absence of a District Judge, the Governor may appoint a fit and proper person to fill the office until such District Judge resumes the duties thereof.

(3) If in any other case the Governor considers it desirable so to do, he may appoint fit and proper persons to be temporary additional District Judges, and may terminate any such appointment as and when he considers it desirable.

(4) A judge temporarily appointed under this section shall be appointed by instrument under the Public Seal and shall have and may discharge all the functions given to a District Judge by this Ordinance and by any other enactment.

8. (1) Subject to any rules made under this Ordinance, the Chief Justice may give such directions as he thinks fit touching the distribution and disposal of the business of the court.

Distribution and disposal of business of the court.

(2) Subject to any such rules or directions and to the provisions of subsection (3), a District Judge shall sit for the disposal of business pending in the court at such places and times as he may think fit.

(3) Any proceedings may at any time and at any stage thereof, and either with or without application from any of the parties thereto, be transferred in such manner as any such directions, or the District Court Civil Procedure Rules or the District Court Criminal Procedure Rules, may direct, from one judge to another.

Seal of the court.

9. The District Court shall have a seal of a design (which shall incorporate a device and impression of the Royal Arms) approved by the Chief Justice, and all writs, judgments, orders and other process issuing out of the court shall be sealed therewith.

Officers of the court.

10. (1) The Governor may appoint a registrar of the District Court and such number of deputy registrars, bailiffs, clerks of the court, clerks, interpreters and other officers as he may think fit.

(2) Until such time as appointments are made under the provisions of subsection (1), the registrar, deputy registrars, bailiffs, clerks of the court, clerks, interpreters and other officers of the Supreme Court shall, in relation to the business and proceedings of the District Court, have and discharge functions similar to those vested in them respectively by or under the Supreme Court Ordinance and by or under the Supreme Court (Summary Jurisdiction) Ordinance immediately before the commencement of this Ordinance.

(Cap. 4).
(Cap. 5).

(3) In the discharge of his functions under this Ordinance, any person to whom this section applies shall be subject to the same liabilities and penalties and have the benefit of the same protection as attach by virtue of the provisions of the Supreme Court Ordinance to a person discharging similar functions under that Ordinance or under the Supreme Court (Summary Jurisdiction) Ordinance immediately before the commencement of this Ordinance.

Practitioners, and right of audience.

11. (1) Barristers and solicitors qualified to practise in the Supreme Court may practise as barristers and solicitors respectively in the District Court, and barristers and solicitors so qualified shall have a right of audience in both civil and criminal proceedings.

(2) In criminal proceedings in the court, any public officer or member of a class of public officers appointed by the Attorney General to act as public prosecutor, may conduct generally on behalf of the Attorney General any prosecution or specified class of prosecutions or any particular case before the District Court, and any public prosecutor so appointed may without any written authority appear before a District Judge upon any proceedings in any case of which he has charge.

12. No proceedings in error shall be taken upon any proceeding under the provisions of this Ordinance.

Prohibition of proceedings in error.

13. The Ordinances referred to in the first column of the Fourth Schedule are hereby amended to the extent and in the manner set out in the second column of the said Schedule.

Consequential amendments. Fourth Schedule.

PART III.

CIVIL JURISDICTION.

14. Subject to the provisions of this Ordinance, the District Court shall have the civil jurisdiction specified in the First Schedule.

Civil jurisdiction. First Schedule.

15. (1) In any civil proceedings, the court may call to its aid not more than two assessors specially qualified, and may dispose of such proceedings wholly or in part with the aid of such assessor or assessors, but the decision of the District Judge shall be the decision of the court.

Assessors in civil proceedings.

(2) The court may determine the remuneration (if any) to be paid to an assessor in respect of his services.

16. (1) Subject to the provisions of this Ordinance and of the District Court Civil Procedure Rules, the procedure and practice of the Supreme Court in the exercise of its summary jurisdiction which was in force immediately before the commencement of this Ordinance shall be the procedure and practice of the District Court.

Procedure and practice in civil proceedings.

(2) Nothing in this section shall be deemed to authorize trial by jury in any civil proceedings in the District Court.

17. (1) Where an action or matter commenced in the District Court involves matter beyond the jurisdiction of that court, any defendant may, within such time as may be prescribed by the District Court Civil Procedure Rules, give notice to the District Court that he objects to the action being tried in that court, and where such notice is given, a District Judge shall order that the action be transferred to the Supreme Court.

Transfer to the Supreme Court.

(2) A District Judge may, at any time of his own motion, order that any action referred to in subsection (1) be transferred to the Supreme Court.

Jurisdiction as to counter-claims.

18. (1) Where in any action or matter commenced in the District Court, any counter-claim, or set-off and counter-claim, involves matter beyond the jurisdiction of the District Court, any party may, within such time as may be prescribed by rules of the Supreme Court, apply to the Supreme Court for an order of transfer.

(2) A District Judge may, at any time of his own motion, report to the Supreme Court the facts and circumstances of or relevant to any action or matter referred to in subsection (1).

(3) On any application under subsection (1) or report under subsection (2), the Supreme Court may require—

- (a) that the whole proceedings be transferred from the District Court to the Supreme Court; or
- (b) that the whole proceedings be heard and determined in the District Court; or
- (c) that the proceedings on the counter-claim, or set-off and counter-claim, be transferred to the Supreme Court and that the proceedings on the plaintiff's claim and the defence thereto other than the set-off (if any) be heard and determined in the District Court:

Provided that, where an order is made under paragraph (c) of this subsection, and judgment on the claim is given for the plaintiff, execution thereon shall, unless the Supreme Court at any time otherwise orders, be stayed until the proceedings transferred to the Supreme Court have been concluded.

(4) If on an application under subsection (1) or report under subsection (2) it is ordered that the whole proceedings be heard and determined in the District Court, that court shall have jurisdiction to hear and determine the whole proceedings, notwithstanding any enactment to the contrary.

Transfer to the District Court.

19. (1) Where an action or matter commenced in the Supreme Court is within the jurisdiction of the District Court or has been brought within such jurisdiction by payment, admitted set-off or otherwise, the Supreme Court may, if it thinks fit, order the transfer of such action or matter to the District Court.

(2) If it appears to the Supreme Court that any proceeding in the Supreme Court by way of interpleader, in which the amount or value of the matter in dispute does not exceed the sum of five thousand dollars, may be more conveniently tried and determined in the District Court, the Supreme Court may at any time order that the proceedings be transferred to the District Court, and the District Court shall have jurisdiction and authority to proceed therein.

20. Where an action, counter-claim or matter is ordered to be transferred—

Costs in transferred cases.

- (a) from the Supreme Court to the District Court; or
- (b) from the District Court to the Supreme Court,

the costs of the whole proceedings both before and after the transfer shall, subject to any order made by the court which ordered the transfer be in the discretion of the court to which the proceedings are transferred, and the court to which the proceedings are transferred shall have power to make orders with respect thereto and the costs of the whole proceedings shall be taxed in that court.

21. Where a plaintiff in any action brought in the Supreme Court which might have been tried in the District Court is successful in that action, he shall be entitled to recover only such costs as he would have been entitled to recover had the action been brought in the District Court, unless the action has been so brought by leave of the Supreme Court or unless that court at any time otherwise orders.

Costs in certain cases.

22. (1) There shall be established a committee (to be known as the District Court Rules Committee) consisting of the Chief Justice, the registrar and the judges of the District Court, a barrister nominated by the Bar Association of Hong Kong, and a solicitor nominated by the Incorporated Law Society of Hong Kong, three of whom (if including either such barrister or solicitor) shall form a quorum at any meeting.

Civil Procedure Rules.

(2) The committee shall be convened by the Chief Justice.

(3) The committee may make rules (to be known as the District Court Civil Procedure Rules) touching the procedure and practice of the District Court in the exercise of its civil jurisdiction, and such rules may prescribe or provide for—

- (a) the procedure (including provisions for venue and the method of pleading) and the practice to be followed in the court in all causes and matters whatsoever in or with respect to which the court has for the time being civil jurisdiction (including the procedure and practice to be followed in the offices of the court), and any matters incidental to or relating to any such procedure or practice, including the manner in which, and the time within which, any applications which are to be made to the court shall be made;
- (b) the procedure in connexion with the transfer of proceedings from one judge to another or from and to the Supreme Court or to and from a magistrate;
- (c) those functions of a District Judge which may be discharged by the registrar;
- (d) the fees and percentages to be taken in the court and the fees of counsel and the costs of solicitors and the costs of proceedings in the court, and the forms to be used therein;
- (e) repealing any enactment which relates to matters with respect to which rules may lawfully be made under this section;
- (f) the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings or on any application in connexion with or at any stage of any proceedings;
- (g) in what cases the court may act upon the certificates of accountants, actuaries or scientific persons;
- (h) the joinder of parties, and in what cases persons absent, but having an interest in a cause or matter, shall be bound by any order made therein, and in what cases orders may be made for the representation of absent persons by one or more parties to a cause or matter;

- (i) the discovery of a judgment debtor's property in aid of the execution of any judgment, and the modes of enforcing any judgment;
- (j) the conduct of actions by or against firms, and of actions by or against paupers;
- (k) actions relating to immovable property;
- (l) in what cases and in what manner there may be submissions and references to arbitration or to special referees, how parties shall be bound thereby, and to what extent and with what consequences; and for the appointment, powers and duties of arbitrators and special referees; and for proceedings before such arbitrators and special referees;
- (m) arrest and attachment before judgment and interim attachment and temporary injunctions;
- (n) in what cases and in what manner receivers may be appointed, and their functions;
- (o) the procedure whereby the court may adjudicate or give an opinion on a special case either in a cause or matter or on the construction of an enactment or instrument or with regard to any title;
- (p) the forms for use in proceedings in the court;
- (q) the business and hours of the court and of the offices connected therewith;
- (r) the deposit, payment, delivery, and transfer in, into, and out of the court of money, securities, and movable property of suitors and the evidence of such deposit, payment, delivery, or transfer, and the investment of and other dealings with money, securities, and movable property in the court, and the execution of the orders of the court, and the powers and duties of the registrar with reference to such money, securities, and property, and, in particular, for doing all or any of the following things—
 - (i) regulating the placing on and withdrawal from deposit of money in court, and the payment or crediting of interest on money placed on deposit;

- (ii) determining the smallest amount of money on deposit on which interest is to be credited to an account to which money placed on deposit belongs;
- (iii) determining the time at which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest; and
- (iv) determining the cases in which interest on money placed on deposit and the dividends on any securities standing in the name of the registrar is or are to be placed on deposit.

(4) The power to make rules under this section shall include power to make rules as to proceedings by or against the Crown.

(5) Rules made under this section shall apply to all proceedings by or against the Crown only insofar as they expressly purport so to do.

Repeal and savings.
(Cap. 5).

23. (1) The Supreme Court (Summary Jurisdiction) Ordinance, except sections 1, 2, subsection (2) of section 32 and sections 33, 34 and 35 thereof, is hereby repealed.

(2) Notwithstanding the provisions of subsection (1), any action or other proceeding pending which has not been disposed of prior to the commencement of this Ordinance shall be disposed of and dealt with in like manner as if this Ordinance had not been passed.

(3) Subsection (2) of section 32 and sections 33, 34 and 35 of the Supreme Court (Summary Jurisdiction) Ordinance (which relate to appeals) shall apply to civil proceedings in the District Court with such verbal alterations and modifications not affecting the substance thereof as may be necessary to render the same conveniently applicable.

(4) The registrar shall have custody of the "Register of Civil Actions, Summary Jurisdiction" referred to in section 12 of the Supreme Court (Summary Jurisdiction) Ordinance, and all other records, files, documents and papers of the Supreme Court in its summary jurisdiction before the commencement of this Ordinance, and shall dispose of the same in accordance with any directions given by the Chief Justice.

PART IV.

CRIMINAL JURISDICTION.

24. The District Court shall have jurisdiction to hear and determine in accordance with the provisions of this Ordinance all such charges as the Attorney General may lawfully prefer under the provisions of section 25.

Criminal jurisdiction.

25. (1) Where a charge or complaint has been transferred to the District Court by a magistrate in accordance with the provisions of Part IIIA of the Magistrates Ordinance, the District Court shall have jurisdiction and powers over all proceedings in relation to the offence therein alleged similar to the jurisdiction and powers the Supreme Court would have had if the accused person had been committed to that court for trial on indictment for a similar offence, save that nothing in this section shall be deemed to give jurisdiction to hear and determine such charge or complaint.

Procedure upon transfer of charge or complaint. (Cap. 227).

(2) Where a charge or complaint has been transferred as aforesaid, the Attorney General shall, unless he enters a *nolle prosequi*, deliver to the registrar a charge sheet setting forth the charge or charges preferred in the name of Her Majesty against the accused person, and any such charge may allege the commission of any indictable offence not included in any of the categories specified in Part III of the Schedule to the Magistrates Ordinance.

(3) Such charge sheet shall be delivered within fourteen days after the date of the order of transfer or such longer period as the District Court may, in any particular case, allow on any application made by or on behalf of the Attorney General.

26. (1) Where a charge or complaint has been transferred as aforesaid, the Attorney General may, at any time before judgment enter a *nolle prosequi* by informing the District Court orally or in writing that the Crown intends that the proceedings shall not continue, and thereupon the accused person shall be discharged in respect of the charge for which the *nolle prosequi* is entered: Provided that such discharge shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

Nolle prosequi.

(2) Upon the entry of a *nolle prosequi* under this section, if the accused person has been committed to prison he shall be released, or if on bail all recognizances in respect of his person

shall be discharged, and, where the accused person is not before the District Court when such *nolle prosequi* is entered, the registrar or other proper officer of the court shall forthwith cause notice in writing of the entry of such *nolle prosequi* to be given to the officer in charge of the prison or other place in which the accused person may be detained, and such notice shall be sufficient authority to discharge the accused person or, if the accused be not in custody, shall forthwith cause such notice in writing to be given to the accused person and his sureties.

Signing and form of charge sheet.

27. (i) Every charge sheet shall be signed by a senior crown counsel or a crown counsel, and shall bear date on the day on which it is so signed.

Second Schedule.

(2) A charge sheet shall be in the form in the Second Schedule with such additions and modifications as may be necessary to adapt it to the circumstances of the particular case.

(3) Subject to the provisions of this Ordinance, a charge sheet shall not be open to objection in respect to its form or contents, if it is framed in accordance with the District Court Criminal Procedure Rules: Provided that the court may direct that further and better particulars of any charge shall be delivered.

(4) Every charge sheet, when so signed and dated as aforesaid, shall be delivered to the registrar and shall be filed by him in the court, and a copy thereof shall be served on the accused person in the manner hereinafter provided.

(5) Nothing in this section or in section 29 or 36 or in the District Court Criminal Procedure Rules shall affect the law or practice relating to the jurisdiction of the District Court nor prejudice or diminish in any respect the obligation to establish by evidence according to law any act, omission or intention which is legally necessary to constitute the offence with which the person accused is charged, nor otherwise affect the law of evidence in criminal cases.

Limitation on prosecutions.

28. Where by any enactment there is imposed a limit of time within which a prosecution on indictment for any offence may be commenced, such limit shall apply in the case of a prosecution for such offence in the District Court.

Procedure and practice of the

29. (1) Subject to the provisions of this Ordinance and to the District Court Criminal Procedure Rules, the procedure and practice for the time being in force in the Supreme Court in re-

lation to criminal proceedings therein shall, so far as the same may be applicable, be followed as nearly as may be in criminal proceedings in the District Court; and where it is necessary for the purpose of rendering such procedure and practice conveniently applicable, the expressions "indictment" and "count" shall be understood to refer to "charge sheet" and "charge" respectively.

court in its criminal jurisdiction.

(2) Notwithstanding the provisions of subsection (1), none of the provisions of the Criminal Procedure Ordinance in Part I of the Third Schedule particularized shall be applied to proceedings in the District Court. (Cap. 221). Third Schedule.

(3) The special provisions contained in Part II of the Third Schedule touching the procedure and practice of the District Court in the exercise of its criminal jurisdiction shall be applied to criminal proceedings in the court where the circumstances of such proceedings require their application. Third Schedule.

(4) Where any provision of the Criminal Procedure Ordinance is applicable to criminal proceedings in the District Court, such provision shall be read with such verbal alterations and modifications not affecting its substance as are necessary to render it conveniently applicable; and in particular, and without prejudice to the generality of the aforesaid,—

- (a) any such provision relating to a "jury" or a "verdict of a jury" shall be understood to refer to a District Judge and the functions of a District Judge as a judge of fact; and
- (b) where there occurs any reference to anything to be done before, at, at the termination of, or after, any session of the Supreme Court, such thing shall be done in the District Court from time to time and as often as that court may require.

- (5) Nothing in this section shall be taken to authorize—
 - (a) the institution of any criminal proceeding in the District Court save in accordance with the express provisions of this Part; or
 - (b) trial by jury in any criminal proceeding instituted under the provisions of this Part.

30. Before pronouncing judgment, a District Judge shall record his verdict and, at the same time or so soon thereafter as may be, shall also place on record a short statement of the reasons for the verdict. Verdict.

Penalties.

31. (1) Where the District Court sentences any person to undergo a term of imprisonment for an offence, and such person is already undergoing, or is at the same time sentenced to undergo, imprisonment for another offence, it shall be lawful for the court to direct that such imprisonment shall commence at the expiration of the term of imprisonment which such person is then undergoing or has been so previously sentenced to undergo as aforesaid.

(2) Notwithstanding the provisions of any enactment in force at the commencement of this Ordinance and notwithstanding that proceedings have not been taken by way of indictment, the District Court may impose any penalty and make any order provided by law for or in connexion with any offence of which it has cognizance: Provided that—

- (a) no sentence of imprisonment passed by the District Court shall exceed five years in respect of one offence and where two or more consecutive terms of imprisonment are imposed by the court under subsection (1), the aggregate of the said terms of imprisonment shall not exceed five years; and
- (b) any term of imprisonment imposed in default of payment of a fine shall be without hard labour and shall not exceed one year.

(3) Where the District Court has authority to impose imprisonment of any description for any offence, and has not authority to impose a fine therefor, the court may, if it thinks fit, impose a fine in lieu of imprisonment: Provided that—

- (a) any term of imprisonment imposed in default of payment of a fine shall be without hard labour;
- (b) no such term of imprisonment shall exceed the term to which the offender would be liable for the offence of which he stands convicted; and
- (c) no such term of imprisonment shall in any event exceed one year.

(4) Where by any enactment the Supreme Court is empowered to impose any punishment upon, or to do any other act or thing in relation to, a person who has been convicted on indictment of an offence, the District Court shall, subject to the provisions of this section, have like powers in relation to a person convicted of such offence under the provisions of this Part.

32. Sections 81 to 84 inclusive of the Criminal Procedure Ordinance (which relate to appeals) shall apply to criminal proceedings in the District Court with such verbal alterations and modifications not affecting the substance thereof as may be necessary to render the same conveniently applicable, and, in particular, any reference to the expression "indictment" shall be understood to refer to a charge sheet, and any reference to the expression "jury" shall be understood to refer to a District Judge as a judge of fact.

33. Sections 90 to 95 inclusive of the Criminal Procedure Ordinance (which relate to the law concerning accessories and abettors) shall apply to proceedings in the District Court with such verbal alterations and modifications not affecting the substance thereof as may be necessary to render the same conveniently applicable.

34. The District Court shall have all the powers conferred upon the Supreme Court by sections 103 to 107 inclusive of the Criminal Procedure Ordinance.

35. In addition to the powers conferred by this Ordinance, a District Judge shall have, *ex officio*, all the jurisdiction and powers of a permanent magistrate, but such jurisdiction and powers shall be exercised separately from his jurisdiction and powers as a judge.

36. The District Court Rules Committee may make rules (to be known as the District Court Criminal Procedure Rules) touching the procedure and practice of the District Court in the exercise of its criminal jurisdiction and such rules may prescribe or provide for—

- (a) forms to be used in the court, including in relation to charge sheets all such matters as may be prescribed in relation to indictments by rules made under section 17 of the Criminal Procedure Ordinance;
- (b) the times at or within which documents must be filed in the court or notices delivered to or served on the court or any person;
- (c) the functions in relation to criminal proceedings in the court of the various officers of the court;
- (d) the manner in which the right of audience shall be enjoyed and used, the order of addresses, and the form and practice of advocacy in the court;

Appeals.
(Cap. 221).

Accessories
and
abettors.

Seizure of
property.
(Cap. 221).

Magisterial
functions.

Criminal
Procedure
Rules.

- (e) the assigning of counsel and solicitors for the defence of paupers, and the fees and costs to be allowed therefor; and
- (f) generally for the better carrying into effect of the provisions of this Part.

Saving of prerogative of mercy.

37. Nothing in this Ordinance shall affect Her Majesty's prerogative of mercy or any prerogative of mercy vested in the Governor.

FIRST SCHEDULE. [s. 14]

1. All the summary jurisdiction exercisable by the Supreme Court immediately before the commencement of this Ordinance under the provisions of the Supreme Court (Summary Jurisdiction) Ordinance (except jurisdiction in Admiralty). (Cap. 5).

2. All other jurisdiction (except jurisdiction in Admiralty) conferred upon the Supreme Court in its summary jurisdiction under the Supreme Court (Summary Jurisdiction) Ordinance by any enactment (other than the Supreme Court (Summary Jurisdiction) Ordinance) in force immediately before the commencement of this Ordinance.

3. Any civil jurisdiction conferred upon the District Court by any other enactment.

SECOND SCHEDULE. [s. 27]

Form of Charge Sheet.

IN THE DISTRICT COURT OF HONG KONG.

HOLDEN AT

The Queen

against

A.

B.

The court is informed that the following charges are preferred against A. B. by the Attorney General.

Statement of Offence.

Particulars of Offence.

Dated this day of 19 .

(Signed)..... Crown Counsel for and on behalf of the Attorney General.

And if there are more charges than one, then the various charges shall be set out as follows—

(Begin as above), that the following charges are preferred against A. B. by the Attorney General.

First Charge. Statement of Offence.

Particulars of Offence.

Second Charge. Statement of Offence.

Particulars of Offence.

etc. etc.

Dated this day of 19 .

(Signed)..... Crown Counsel for and on behalf of the Attorney General.

THIRD SCHEDULE.


PART 1 [s. 29 (2)]

Provisions of the Criminal Procedure Ordinance not applicable to the (Cap. 221). procedure and practice of the District Court in its Criminal Jurisdiction.

Criminal Procedure Ordinance, section 4, subsection (1) of section 6, sections 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, subsections (2) and (3) of section 25, sections 28, 34, 36, 40, 42, 43, 44, subsection (2) of section 45, sections 50, 51, 52, 53, 54, 71, 73, 79, 80, 86, 87, 89, 116, 119, 120 & 121, and the First Schedule.

Ordinance	Amendment.
Landlord and Tenant Ordinance. (Chapter 255).	<p>In Form 10 in Part II of the Schedule delete the heading— “In the Supreme (sic) of Hong Kong Summary Jurisdiction.”; and substitute therefor the following heading— “In the District Court of Hong Kong, Holden at”</p> <p>Further delete the words— “The Registrar, Supreme Court.”; and substitute therefor the following words— “The Registrar of the District Court.”</p>

Passed the Legislative Council of Hong Kong, this 14th day of January, 1953.

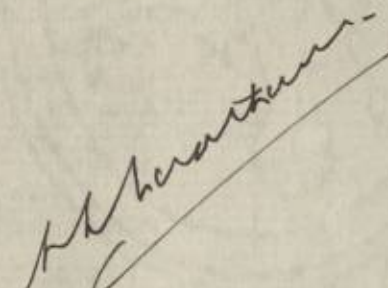

 Deputy Clerk of Councils.

HONG KONG

No. 2 OF 1953.



I assent.


 Governor.

15th January, 1953.

An Ordinance to amend the Magistrates Ordinance (Chapter 227).

[]

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

1. This Ordinance may be cited as the Magistrates (Amendment) Ordinance, 1953, and shall come into operation on the day appointed for the commencement of the District Court Ordinance, 1953.

Short title and commencement. (No. 1 of 1953).

2. Section 2 of the Magistrates Ordinance (hereinafter referred to as the principal Ordinance) is amended by the insertion therein immediately after the definition of the word “counsel” of the following expression and definition—

Amendment of section 2 of Cap. 227.

“ “District Court” means the District Court of Hong Kong established by the District Court Ordinance, 1953;”.

Addition
of new
Part IIIA
to Cap.
227.

3. The principal Ordinance is amended by the insertion after Part III of the following new Part—

“PART IIIA.

TRANSFER OF INDICTABLE OFFENCES TO THE
DISTRICT COURT.

Transfer
of certain
indictable
offences.

87A. (1) Notwithstanding anything contained in any other provision of this Ordinance, whenever any person is accused before a magistrate of any indictable offence not included in any of the categories specified in Part III of the Schedule, the magistrate shall, upon application made by or on behalf of the Attorney General, make an order transferring the charge or complaint to the District Court.

(2) An application under subsection (1) may be made either orally in open court or in writing.

Effect of
order of
transfer.

87B. (1) An order of transfer shall operate as a stay of proceedings before the magistrate touching the charge or complaint to which the order refers and all process relating to the transferred charge or complaint shall be transmitted to the District Court.

(2) An order of transfer shall not be subject to appeal.

Procedure
on making
an order of
transfer.

87C. (1) Upon making an order of transfer under section 87A, a magistrate shall—

(a) appoint a day whereon the accused person is to appear or be brought before the District Court;

(b) remand the accused person in prison custody or admit him to bail; and

(c) inform the accused person of the effect of the order of transfer.

(2) The provisions of section 78 (which relates to a magistrate's power to remand an accused person) shall apply, *mutatis mutandis*, in relation to the exercise by a magistrate of the powers conferred by paragraph (b) of subsection (1), but the application of such provisions shall be without prejudice to any

of the powers of the District Court to enforce the attendance of a person accused of an indictable offence in respect of which the charge or complaint has been transferred to that court.”

4. The Schedule to the principal Ordinance is amended by the addition after Part II of the following Part—

Amendment
of Schedule
to Cap.
227.

“PART III

[s. 87A.]

1. Any offence which is punishable with death.

(Caps. 210,
212 & 238).

2. Any offence which is punishable with imprisonment with hard labour for life, except an offence against section 40 or 42 of the Larceny Ordinance or section 17 of the Offences against the Person Ordinance or an offence punishable under section 29 of the Arms and Ammunition Ordinance.

(Cap. 218).

3. Any felony mentioned in the Suppression of Piracy Ordinance.


4. Misprision of treason.

5. Any offence against the Queen's title, prerogative, person or government.

6. Blasphemy and offences against religion.

7. Composing, printing or publishing blasphemous, seditious or defamatory libels.

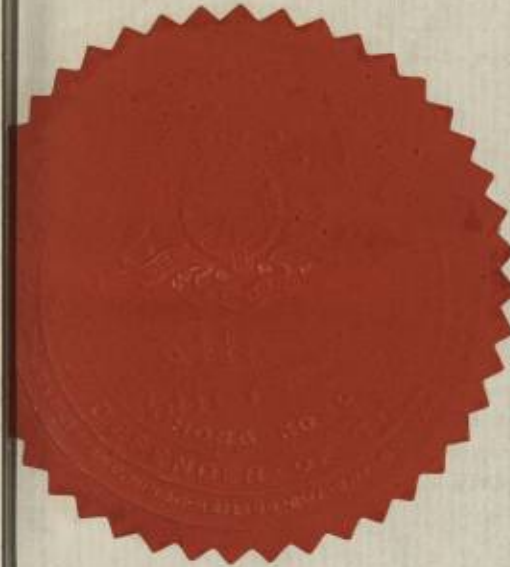
Passed the Legislative Council of Hong Kong, this 14th day of January, 1953.


Deputy Clerk of Councils.

HONG KONG

No. 3 OF 1953.

I assent.



John M. Lawrence
Governor.

15th January, 1953.

An Ordinance to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March, 1952.

[16th January, 1953.]

WHEREAS it has become necessary to make further provision for the public service of the Colony for the financial year ended the 31st day of March, 1952, in addition to the charge upon the revenue of the Colony authorized by the Appropriation for 1951-1952 Ordinance, 1951 :

(10 of
1951).

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

1. This Ordinance may be cited as the Supplementary Short title. Appropriation (1951-52) Ordinance, 1953.

Appropriation.

Schedule.

2. A sum of sixty million six hundred and eighty-eight thousand one hundred and fourteen dollars is hereby charged upon the revenue and other funds of the Colony for the service of the financial year ended the 31st day of March, 1952, the appropriation of the sum so charged being approved as specified in the Schedule.

SCHEDULE.

[s. 2.]

Number of Vote.	Head of Expenditure.	Amount of Vote.
		\$
1.	His Excellency the Governor	9,299
2.	Agriculture, Fisheries & Forestry Department	260,938
3.	Audit Department	63,935
4.	Civil Aviation Department	36,597
5.	Colonial Development & Welfare Schemes	116,858
6.	Colonial Secretariat and Legislature	283,813
7.	Commerce & Industry Department	356,506
8.	Custodian of Property	8,377
9.	Education Department	872,325
10.	Essential Services:	
	A—Essential Services Corps	32,953
	B—Civil Defence Planning Office	32,558
11.	Fire Brigade	109,737
12.	Hong Kong Defence Force:	
	C—Hong Kong Auxiliary Air Force	193,875
13.	Inland Revenue Department	249,315
15.	Labour Department	55,505
16.	Legal Department	58,330
17.	Magistracies:	
	A—Hong Kong Magistracy	53,755
	B—Kowloon Magistracy	45,399
19.	Medical Department	1,754,637
20.	Miscellaneous Services	38,496,173
21.	New Territories, District Administration	175,368
22.	Pensions	52,762
23.	Police Force	3,159,970
24.	Post Office	271,263
25.	Prisons Department	343,123
26.	Public Debt	5,147,283

Number of Vote.	Head of Expenditure.	Amount of Vote.
		\$
27.	Public Relations Office	
	B—Broadcasting	37,965
28.	Public Works Department	750,505
31.	Quartering Authority	11,239
32.	Rating and Valuation Department	16,566
33.	Registrar General's Department	95,413
34.	Royal Observatory	7,273
35.	Sanitary Department and Urban Council	2,195,261
36.	Secretariat for Chinese Affairs:	
	C—District Watch Force	103,997
37.	Statistical Department:	
	A—Statistical Department	11,879
	B—Registration Branch	260,993
38.	Stores Department	4,401,487
40.	Supreme Court	135,413
41.	Treasury	259,518
42.	Co-operatives and Marketing Department:	
	A—Co-operatives Department	6,574
	B—Marketing Department	19,667
43.	Printing Department	133,710
	TOTAL:	<u>\$60,688,114</u>

Passed the Legislative Council of Hong Kong, this 14th day of January, 1953.

D. D. D.
Deputy Clerk of Councils.

HONG KONG

No. 4 OF 1953.



I assent.

McCherintan
Governor.

15th January, 1953.

An Ordinance to restrict certain advertisements relating to medical matters.

[1st April, 1953.]

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 Undesirable Medical Advertisements Ordinance, 1953, and shall come into operation on the 1st day of April, 1953.

Short title
and com-
mencement.

2. In this Ordinance, unless the context otherwise requires—
“advertisement” includes any notice, poster, circular, label, wrapper or document, and any announcement made orally or by any means of producing or transmitting light or sound;
“medicine” includes any kind of medicament or other curative or preventive substance, and whether a proprietary medicine, a patent medicine, or purported natural remedy.

Inter-
pretation.

Prohibition of advertisements relating to certain diseases. Exceptions therefrom.

3. (1) No person shall take any part in the publication of any advertisement—

- (a) canvassing or referring to the sale or supply of any medicine or surgical appliance or offering the same for sale or supply; or
- (b) referring to the administration of any treatment or offering to administer treatment,

if such advertisement represents such medicine or surgical appliance or treatment whether directly or indirectly or by implication as being effective for the treatment of human beings for any of the purposes specified in the Schedule.

Schedule.

(2) Subsection (1) shall not apply to an advertisement published by or with the authority of the Director of Medical and Health Services or to an advertisement duly authorized by an officer of Her Majesty's forces for dissemination only amongst members of Her Majesty's forces.

Prohibition of advertisements relating to abortion.

4. No person shall take any part in the publication of any advertisement referring to any article, or articles of any description, in terms which are calculated to lead to the use of that article, or articles of that description, for procuring the miscarriage of women.

Certain defences. Provision as to native herbalists.

5. (1) In any proceedings for a contravention of section 3 or 4, it shall be a defence to prove that the advertisement to which the proceedings relate was made only in a publication of a technical character intended for circulation mainly amongst persons of the following classes, or of one or some of them—

- (a) medical practitioners registered under the Medical Registration Ordinance, or persons deemed to be medical practitioners under section 17 thereof;
- (b) pharmacists registered under the Pharmacy and Poisons Ordinance;
- (c) the professional staff of hospitals, nursing homes, leprosaria or mental hospitals;
- (d) persons of Chinese race practising medicine or surgery as herbalists according to purely Chinese methods in accordance with subsection (1) of section 3 of the Medical Registration Ordinance.

(Cap. 161).

(Cap. 138).

(2) Nothing in the provisions of section 3 of the Medical Registration Ordinance shall be taken to permit any native herbalist or other person to take any part in an advertisement infringing the provisions of this Ordinance, except to the extent of the defence provided for in subsection (1) hereof.

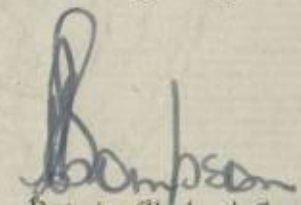
6. Any person who contravenes the provisions of section 3 or 4 shall be guilty of an offence and liable upon a first conviction to a fine of two thousand dollars and upon a second or subsequent conviction to a fine of five thousand dollars and imprisonment for one year. Penalty.

SCHEDULE

[s. 3

1. The prevention, relief or cure of any venereal disease, that is to say, syphilis, gonorrhoea, soft chancre, or other genito-urinary diseases in any of their forms.
2. The prevention, relief or cure of Bright's disease, cancer, consumption or tuberculosis, leprosy, lupus, diabetes, epilepsy or fits, locomotor ataxy, paralysis or infantile paralysis.
3. The prevention, relief or cure of arterio-sclerosis, septicaemia, diphtheria, dropsy, erysipelas, gallstones, kidney stones and bladder stones, goitre, heart disease, tetanus or lockjaw, pleurisy, pneumonia, scarlet fever, smallpox, trachoma, amenorrhoea, hernia or rupture, or blindness.
4. The prevention or cure of any structural or organic ailment of the auditory system.
5. The cure of any habit associated with sexual indulgence, or the prevention, relief or cure of any ailment associated with those habits or for the promotion of sexual virility, desire or fertility or for the restoration or stimulation of the mental faculties or of lost youth.

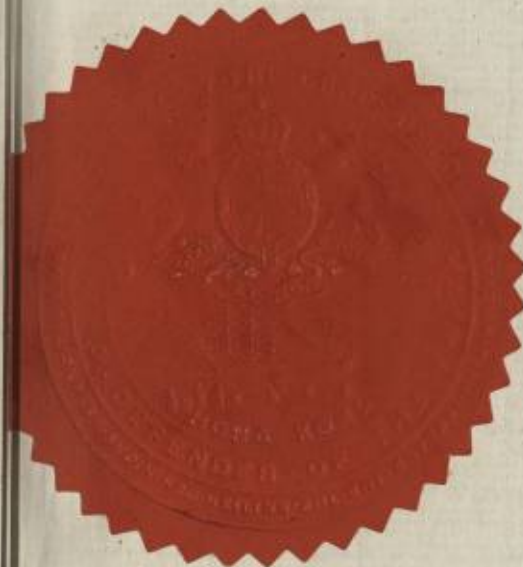
Passed the Legislative Council of Hong Kong, this 14th day of January, 1953.


Deputy Clerk of Councils.

HONG KONG

No. 5 OF 1953.

I assent.



W. H. M. Chan
Governor.

5th March, 1953.

An Ordinance to provide for the establishment of training centres for the training and reformation of offenders who have attained the age of fourteen years and have not attained the age of eighteen years, and for purposes connected with the matters aforesaid.

[6th March, 1953.]

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 Training Centres Short title. Ordinance, 1953.

2. In this Ordinance, unless the context otherwise requires— **Inter-**
"Commissioner" means the Commissioner of Prisons; **pretation.**
"court" means the Supreme Court or the District Court or a
permanent or special magistrate;
"functions" includes powers and duties;
"judge" includes a judge of the District Court.

Provision of training centres.

3. (1) The Governor may establish institutions (hereinafter referred to as training centres) for the training and reformation of offenders who have attained the age of fourteen years and have not attained the age of eighteen years.

(2) The Governor may declare that such places and buildings as he may deem fit shall be used for the purposes of a training centre, and any such declaration shall be published in the *Gazette*.

Sentence of detention in a training centre. [cf. 11 & 12 Geo. 6, c.58, s.20, s.s. (1) and (7) and Second Schedule.]

4. (1) Where a person is convicted of an offence punishable with imprisonment, then if on the day of his conviction he is in the opinion of the court not less than fourteen but under eighteen years of age, and the court is satisfied that it is in the interest of the community and that having regard to his character and previous conduct, and to the circumstances of the offence, it is expedient for his reformation and for the prevention of crime that he should undergo a period of training in a training centre, the court may, in lieu of any other sentence, pass a sentence of detention in a training centre.

(2) A person sentenced to detention shall be detained in a training centre for such period, not extending beyond three years from the date of his sentence, as the Commissioner may determine, and shall then be released: Provided that the Commissioner shall not release any such person before the expiration of nine months from the date of his sentence, unless required to do so by direction of the Governor.

(3) Before a sentence of detention is passed, the court shall consider any report or representations made by or on behalf of the Commissioner on the offender's physical and mental condition and his suitability for such sentence; and if the court is the District Court or a magistrate and has not received such a report or representations, it shall after conviction remand the offender into the custody of the Commissioner for such a period or periods, not exceeding three weeks in the case of any single period, as the court thinks necessary to enable the report or representations to be made.

Form 1.

Supervision.

5. (1) A person after his release from a training centre and until the expiration of four years from the date of his sentence may be subjected to supervision by such society or person as may be specified in a notice to be given him by the Commissioner on his release, and shall, while under supervision, comply with such requirements as may be so specified: Provided that the Commissioner may at any time modify or cancel any of the said requirements or order that a person who is under supervision as aforesaid shall cease to be under supervision.

Form 2.

(2) If the Commissioner is satisfied that a person under supervision has failed to comply with any requirement for the time being specified in the notice given to him under subsection (1), the Commissioner may by order recall such person to a training centre, and thereupon such person shall be liable to be detained in a training centre until the expiration of three years from the date of his sentence, or the expiration of six months from the date of his being taken into custody under the order, whichever is the later, and, if at large, such person shall be deemed to be unlawfully at large: Provided that—

Form 3.

- (a) any such order shall, at the expiration of four years from the date of sentence, cease to have effect unless the person to whom it relates is then in custody thereunder; and
- (b) the Commissioner may at any time release a person who is detained in a training centre under this subsection; and the foregoing provisions of this section shall apply in the case of a person so released as they apply in the case of a person released under subsection (2) of section 4.

(3) If any person while under supervision, or after his recall to a training centre as aforesaid, is sentenced by a court to detention in a training centre or to imprisonment, his original sentence of detention in a training centre shall cease to have effect.

6. (1) Any person sentenced to detention who is or is deemed to be unlawfully at large may be arrested by any police officer without warrant and taken to the place in which he is required by law to be detained.

Provisions as to arrest and further detention of persons unlawfully at large.

(2) Where any person sentenced to detention is unlawfully at large at any time during the period for which he is liable to be detained in pursuance of the sentence, then unless the Governor otherwise directs no account shall be taken in calculating the period for which he is liable to be so detained of any time during which he was absent from the training centre: Provided that this subsection shall not apply to any period during which any such person as aforesaid is detained in prison pursuant to the sentence of any court: Provided further that nothing contained in this subsection shall be construed as extending the period during which a person sentenced to detention is liable to supervision under section 5.

7. (1) If the Governor is satisfied that a person serving a sentence of imprisonment is under eighteen years of age and might with advantage be detained in a training centre, he may, after consultation where practicable with the judge or magistrate who passed the sentence, authorize the Commissioner to transfer

Transfers from prison to training centre and vice versa. [11 & 12 Geo. 6, c.58, s.59.] Form 4.

such person to a training centre; and the provisions of this Ordinance shall thereupon apply to such person as if he had on the date of the transfer been sentenced to detention in a training centre: Provided that if on that date the unexpired term of his sentence is less than three years, those provisions shall apply to him as if he had been sentenced to detention in a training centre three years before the expiration of that term.

(2) If a person detained in a training centre is reported to the Governor by the Commissioner to be incorrigible, or to be exercising a bad influence on the other inmates of the training centre, the Governor may commute the unexpired part of the term for which the said person is then liable to be detained in a training centre to such term of imprisonment as the Governor may determine, not exceeding the said unexpired part or the term to which the said person was liable for the offence of which he was convicted, whichever be the less; and for the purpose of this Ordinance, the said person shall be treated as if he had been sentenced to imprisonment for the term so determined by the Governor.

Form 5.

Application of Prisons Ordinance, Evidence Ordinance and other enactments. (Cap. 234).

8. (1) Subject to any rules made under section 10 of this Ordinance, the provisions of section 4, subsections (3), (4) and (5) of section 7, section 8, section 9, sections 14 to 19 inclusive and section 21 of the Prisons Ordinance and the Prison Rules shall apply to training centres and to the staff thereof and to persons sentenced to detention therein in like manner as if the persons so detained were prisoners and a training centre were a prison, and such provisions shall be read with such verbal alterations and modifications not affecting their substance as are necessary to render the same conveniently applicable: Provided that in the event of conflict between the provisions of this Ordinance and of any regulations made under section 10 on the one hand and the provisions of the Prisons Ordinance and the Prison Rules on the other, the provisions of this Ordinance and of any such regulations shall prevail.

(2) Nothing in subsection (1) or in section 10 shall be deemed to authorize the Governor in Council to augment the penalties for offences under the Prisons Ordinance in so far as such offences are also applicable to training centres by virtue of subsection (1).

(Cap. 8).

(3) Section 57 of the Evidence Ordinance shall apply to persons detained in a training centre by virtue of this Ordinance in like manner as if they were prisoners.

(4) In any enactment, other than the Deportation of Aliens (Cap. 240) Ordinance, enacted prior to the commencement of this Ordinance, the term "prison" shall be deemed to include a training centre and the term "prisoner" to include a person detained in a training centre: Provided that this subsection shall have no application if its application would lead to conflict between such enactment and any provision of this Ordinance or any regulation made under section 10.

9. (1) Where a court passes a sentence of detention in a training centre upon any person, it shall make an order in writing under the seal of the court in the prescribed form. Detention orders. Form 6.

(2) The court shall cause such order to be delivered with the person to whom it relates to the Commissioner, and such order shall be sufficient authority for the detention of such person in accordance with the provisions of this Ordinance.

10. (1) It shall be lawful for the Governor in Council to make regulations providing— Regulations.

- (a) for the regulation and management of training centres;
- (b) for the treatment, employment, discipline, control and welfare of the persons detained therein;
- (c) for the appointment of visiting justices and visiting committees and the functions of such justices and committees;
- (d) for forms to be used for the purposes of this Ordinance and any regulations made hereunder;
- (e) for the modification in relation to training centres or persons detained therein of any enactment which by virtue of section 8 would apply to training centres or persons detained therein, or that any such enactment shall cease to apply to training centres or persons detained therein; and
- (f) for the better carrying into effect of the provisions of this Ordinance.

(2) The regulations in the Schedule shall be deemed to have been made under subsection (1) and may be amended by any regulations made thereunder. (Schedule).

SCHEDULE.

[s. 10.]

Citation.	1. These regulations may be cited as the Training Centres Regulations, 1953.
Interpretation.	2. In these regulations, unless the context otherwise requires— "Superintendent" means an officer appointed by the Commissioner to assist him in the supervision of training centres; "officer-in-charge" means an officer appointed by the Commissioner to be in charge of a training centre; "officer" means any officer employed by or in the Prisons Department; "inmate" means a person detained or ordered to be detained under the provisions of the Ordinance.
Administration of training centres.	3. (1) Subject to the orders and directions of the Governor, the Commissioner shall have the general charge and superintendence of all training centres, and shall be assisted in their supervision by a Superintendent. (2) The Commissioner shall appoint for each training centre a fit and proper person to be officer-in-charge thereof, and such other officers as may be necessary.
Reception.	4. The Commissioner shall, upon the delivery to him of a detention order, cause to be made all necessary arrangements for the reception of the person named therein.
Medical examinations.	5. Every inmate shall, on the day of his admission or as soon as possible thereafter, be separately examined by the medical officer.
Keeping of records.	6. Every inmate shall, as soon as possible after his admission, be seen by the Superintendent who shall cause the fullest personal particulars obtainable to be entered in the inmate's record.
Appointment of a board to make recommendations for inmate's discharge.	7. (1) The Commissioner shall appoint for each training centre a board consisting of the Superintendent, the officer-in-charge and such other officers as he may select, to keep under review the progress of each inmate throughout the period of his detention and to make recommendations touching his discharge. (2) The board shall cause each inmate to be brought before it during the ninth month after the date of his sentence, and his case shall thereafter be reviewed by the board at monthly intervals.
Removal of unsuitable inmates to prison.	8. (1) If the Superintendent considers an inmate to be unsuitable for training in a training centre, he shall cause such inmate to be brought before the board. (2) The board shall examine the record of such inmate and afford him every opportunity of showing cause why he should remain in the training centre before it recommends to the Commissioner that the inmate be removed to prison under subsection (2) of section 7 of the Ordinance.
Notice of supervision. Form 2.	9. A person who is subjected to supervision after discharge from a training centre shall be given a notice of supervision in the prescribed form, and such notice shall be read to him and fully explained by the Superintendent.
Diet.	10. Every inmate shall be supplied with food in accordance with scales of diet approved by the Governor in Council.
Food.	11. No inmate shall receive or have in his possession any food other than that authorized except— (a) with the authority of the Superintendent; or (b) with the authority of the medical officer, if a variation of diet is desirable on medical grounds.

12. (1) Every inmate, unless excused by the medical officer on medical grounds, shall from the beginning of his sentence be employed on suitable work calculated to assist him in earning his livelihood on discharge.	Occupational training.
(2) No inmate shall be employed on any work unless he has been certified by the medical officer to be fit for work of that description.	
(3) In each training centre there may be a scheme approved by the Commissioner under which inmates may receive payment for work.	
13. Appropriate religious instruction shall, if practicable, be provided for all inmates.	Religious instruction.
14. Provision shall be made for educational classes for the benefit of all inmates.	Classes.
15. A library of books for the use of inmates shall be provided in each training centre, and every inmate shall be allowed to exchange books as often as may be possible.	Library.
16. The Commissioner shall classify all inmates, having regard to their character, previous history and other relevant circumstances and shall arrange for each inmate to receive his training at the training centre which is, in the opinion of the Commissioner, most suitable.	Classification.
17. Inmates shall be divided into such grades as the Commissioner may approve, and the privileges of each grade shall be arranged by the Commissioner.	Grades.
18. An inmate shall be guilty of an offence if he— (a) disobeys any order of the Commissioner or the Superintendent; (b) disobeys any order of any officer of a training centre; (c) is idle, careless or negligent at work, or refuses to work; (d) is indecent in language, act or gesture; (e) absconds from the training centre or from legal custody; (f) mutinies or incites other inmates to mutiny; (g) commits personal violence against any officer or servant of the training centre or any other inmate; (h) receives or attempts to obtain prohibited articles of any kind; (i) in any way offends against these regulations or the good order and discipline of the training centre; (j) attempts to commit any of the offences aforesaid.	Disciplinary offences.
19. (1) Every offence against discipline shall be reported forthwith and the Superintendent shall investigate every report of such an offence not later than the following day, unless that day is a Sunday or a public holiday.	Investigation of offences, and awards, by Superintendent.
(2) If upon investigation the Superintendent considers that the offence is proved, he shall make one or more of the following awards— (a) caution; (b) deprivation of privileges for a period not exceeding one month; (c) delaying promotion to a higher grade; (d) stopping letters and visits for a period not exceeding three months;	

FORM 3.

TRAINING CENTRES ORDINANCE, 1953. [s. 5(2)]
Order of Recall while under Supervision.

TO

Description of person under supervision
Description of Supervising Society or Person

Being satisfied that the said
..... a person released under the supervision of the
said has failed to comply with the
requirements of his Supervision Notice dated
I do hereby order the recall of the said
..... to Training
Centre.

Dated this day of , 19

.....
Commissioner of Prisons.

FORM 4.

TRAINING CENTRES ORDINANCE, 1953. [s. 7(1)]
*Authority for Transfer of a Prisoner from a
prison to a Training Centre.*

To
The Commissioner of Prisons.

WHEREAS I am satisfied that (1)
.....
is under eighteen years of age and may be detained with advantage
in a training centre, I hereby authorize and do order that the said
..... be transferred forthwith
from (2) to the
training centre.

Dated this day of 19

.....
Governor.

Note.

- (1) Describe person by name and prison number.
- (2) Name the prison.

FORM 5.

TRAINING CENTRES ORDINANCE, 1953. [s. 7(2)]
Report as to Incurrigibility.

- (a) Description of inmate
detained in Training Centre.
- (b) Offence for which convicted
- (c) Maximum term of imprisonment for said offence
- (d) Date of sentence to detention in Training Centre

REPORT.

.....
.....
.....
.....
.....
.....

Dated this day of 19

.....
Commissioner of Prisons.

It is hereby ordered that the unexpired part of the term for which
..... is liable to be detained in a
training centre be commuted to imprisonment.

Dated this day of 19

.....
Governor.

FORM 6.

TRAINING CENTRES ORDINANCE, 1953. [s. 9]

Detention Order.

In the { Supreme District Magistrates } Court holden at

TO each and all of the police officers of the Colony and to the Commissioner of Prisons (hereinafter called the Commissioner)

(hereinafter called the defendant) being in the opinion of the Court a person not less than fourteen but under eighteen years of age, having been born, so far as can be ascertained on the day of , 19 , has this day been duly convicted of an offence punishable with imprisonment, for that he on the day of , 19 , in the Colony did (1) contrary to (2) and it has been ordered that he be sentenced to detention in a training centre.

These are therefore to command you the said police officers to take the defendant and deliver him to the Commissioner together with this order; and you the said Commissioner to receive the defendant and keep him in your custody in accordance with the provisions of the said Ordinance, and for your so doing this shall be your sufficient warrant.

Dated this day of 19 .

Judge/District Court Judge/Magistrate.

[L. S.]

Note.

- (1) State the substance of the offence.
(2) Specify the Ordinance and the relevant section.

Passed the Legislative Council of Hong Kong, this 4th day of March, 1953.

Handwritten signature of the Deputy Clerk of Councils.

Deputy Clerk of Councils.

(Secretariat 5/4716/50)

HONG KONG

No. 6 OF 1953.



I assent.

Handwritten signature of the Governor.

Governor.

19th March, 1953.

An Ordinance to amend the Urban Council Ordinance, Chapter 101.

[20th March, 1953.]

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 Urban Council (Amendment) Ordinance, 1953. Short title.

2. Section 3 of the Urban Council Ordinance (hereinafter referred to as the principal Ordinance) is amended— Amendment of section 3. (Cap. 101).

(a) by the deletion in subsection (1) of the words "the Commissioner of Police" in the fourth and fifth lines and the remaining words to the end of the subsection and the substitution therefor of the following—

"the Social Welfare Officer, and not more than ten additional members.";

(b) by the deletion in the first line of subsection (2) of the word "Two" and the substitution therefor of the following—

"Four";

(c) by the addition after subsection (2) of the following new subsection—

"(2A) No person shall be eligible for election whose name at the time of nomination is not in either part of such register.";

(d) by the repeal of subsection (4) and the substitution therefor of the following—

"(4) (a) The second part of the register shall consist of persons qualified as hereinafter stated who have made due application to be included in the list.

(b) The persons qualified for inclusion in this part are all persons who would be liable for jury service save for exemption upon one or more of the following grounds—

(i) under section 5 of the Jury Ordinance;

(ii) on account of being over the age of sixty or of being afflicted with deafness, blindness or other such infirmity;

(iii) on account of exemption from jury service having been given by the Governor in Council or by the court:

Provided that the following shall not be qualified for inclusion—

(i) any person in the service of the Crown whose whole time is at the service of the Crown;

(ii) any salaried functionary of a foreign government who is not carrying on business in the Colony.

(c) The second part of the register shall be kept by the Registrar of the Supreme Court and shall be compiled anew after the 1st day of January in each year."

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

Addition
of a new
section 4A.

"Term of
office of
elected and
appointed
members.

4A. (1) The term of office of an elected member shall be from the date of notification in the *Gazette* of his election until the date of notification of the election of a member in his stead in the month of March in the next year but one after his election: Provided that in the case of the first election to be held in 1953 the *Gazette* notification shall separately specify the two candidates who are elected with the least number of votes and they shall thereupon hold office until the date of notification of the election of two members in their stead in the month of March, 1954: Provided also that an appointment by the Governor under the proviso to subsection (2) of section 3 in the absence of sufficient nominations shall be considered the election of a member for the purpose of this subsection.

(2) The notification of appointed members (except of an appointment in order to fill a casual vacancy) shall be made in the *Gazette* upon the same date as the notification of election of members.

(3) The term of office of an appointed member shall be until the date of notification of an appointed member in his stead in the next year but one after his appointment: Provided that in the case of the first appointments to be made after the enactment of this section the Governor shall cause to be separately specified three of the appointed members who shall thereupon hold office until the notification of three appointed members in their stead in the year 1954.

(4) Nothing herein contained shall prevent the re-appointment or re-election of a member upon the expiration of his term of office."

4. Section 12 of the principal Ordinance is amended by the repeal of subsection (3) and the substitution therefor of the following—


Amendment
of section
12.

"(3) The Council may make standing orders for regulating the procedure at its meetings and without prejudice to the generality of the foregoing such standing orders may make such provision for the preservation of order as the Council may deem necessary."

Saving.

5. Notwithstanding the provisions of this Ordinance or of the principal Ordinance, and notwithstanding any provision in the notifications of appointment or of election of the existing members of the Urban Council, the appointed members and the elected members in office in the Urban Council as constituted prior to the enactment hereof shall continue in office until the date of notification in the *Gazette* of appointed and elected members following the first election in 1953.

Passed the Legislative Council of Hong Kong, this 18th day of March, 1953.


Deputy Clerk of Councils.

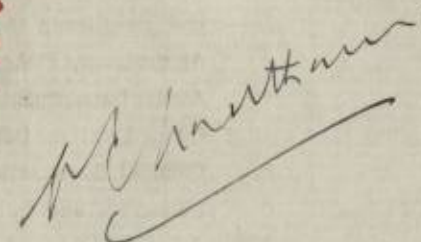
(Secretariat 2/1146/52c)

HONG KONG

No. 7 OF 1953.



I assent,



Governor.

26th March, 1953.

An Ordinance to apply a sum not exceeding three hundred and twenty-eight million one hundred and sixty-nine thousand eight hundred and eighteen dollars to the Public Service of the financial year ending the 31st day of March, 1954.

[27th March, 1953.]

WHEREAS the expenditure required for the service of this Colony for the financial year ending on the 31st day of March, 1954, has been estimated at the sum of three hundred and twenty-eight million one hundred and sixty-nine thousand eight hundred and eighteen dollars:

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

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

Appropriation from general revenues.

2. A sum not exceeding three hundred and twenty-eight million one hundred and sixty-nine thousand eight hundred and eighteen dollars shall be and the same is hereby charged upon the revenue and other funds of the Colony for the service of the financial year commencing on the 1st day of April, 1953, and ending on the 31st day of March, 1954, and the said sum so charged may be expended in the manner expressed in the Schedule.

Schedule.

SCHEDULE.

[s. 2

Number of Vote.	Head of Expenditure.	Amount of Vote.
		\$
1.	His Excellency the Governor	276,250
2.	Agriculture, Fisheries, and Forestry Department.	1,978,947
3.	Audit Department	492,170
4.	Civil Aviation Department	2,023,817
5.	Colonial Secretariat and Legislature	2,352,005
6.	Commerce and Industry Department	3,619,740
7.	Co-operatives and Marketing Department	372,952
Defence		
8A.	R.H.K.D.F. Headquarters & Hong Kong Regiment	2,680,465
8B.	Hong Kong Royal Naval Volunteer Reserve ...	554,059
8C.	Hong Kong Auxiliary Air Force	788,880
8D.	Essential Services Corps	201,789
8E.	Civil Aid Services	784,292
8F.	Registration of Persons	302,079
8G.	Miscellaneous Measures	22,988,000
9.	Education Department	10,665,838
10.	Fire Brigade	2,479,830
11.	Inland Revenue Department	2,017,017
12.	Judiciary	1,687,146
13.	Kowloon Canton Railway	8,411,888
14.	Labour Department	643,133
15.	Legal Department	694,759
16.	Marine Department	12,601,410
17.	Medical Department	23,860,262
18.	Miscellaneous Services	14,810,500
19.	New Territories, District Administration	599,427

Number of Vote.	Head of Expenditure.	Amount of Vote.
		\$
20.	Pensions	11,988,000
21.	Police Force	33,801,291
22.	Post Office	8,294,319
23.	Printing Department	1,689,608
24.	Prisons Department	6,341,443
25.	Public Debt	4,004,141
Public Relations Office		
26A.	Public Relations Division	451,424
26B.	Broadcasting Division	646,500
27.	Public Services Commission	27,746
28.	Public Works Department	17,670,966
29.	Public Works Recurrent	18,673,000
30.	Public Works Non-Recurrent	47,602,500
31.	Quartering	1,167,661
32.	Rating and Valuation Department	301,433
33.	Registrar General's Department	480,800
34.	Royal Observatory	946,003
Sanitary Department and Urban Council		
35A.	Sanitary Department	13,533,387
35B.	Resettlement of Squatters	4,764,484
35C.	Gardens Division	654,322
Secretariat for Chinese Affairs		
36A.	Secretariat for Chinese Affairs	290,524
36B.	Social Welfare Office	2,326,167
36C.	District Watch Force	262,557
37.	Stores Department	5,235,117
38.	Subventions	25,176,790
Treasury		
39A.	Treasury	1,594,877
39B.	Custodian of Property	45,303
40.	Colonial Development and Welfare Schemes	2,312,700
TOTAL:		<u>328,169,818</u>

Passed the Legislative Council of Hong Kong, this 26th day of March, 1953.


 Deputy Clerk of Councils.

(Secretariat 1/2291/53)

HONG KONG

No. 8 OF 1953.



McIntyre
I assent.

Governor.

26th March, 1953.

An Ordinance to amend the Bankruptcy Ordinance, Chapter 6.

[27th March, 1953.]

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 Bankruptcy Short
(Amendment) Ordinance, 1953. title.

2. Section 38 of the Bankruptcy Ordinance is amended by
the addition after subsection (1) of the following subsection— Amend-
ment of
section 38.
(Cap. 6).

“(1A) Where the receiving order in the case of a bankruptcy or the death in the case of a person dying insolvent occurs after the commencement of the Bankruptcy (Amendment) Ordinance, 1953, the sum of three thousand dollars shall be deemed to be substituted in each case for the sums of three hundred dollars and one hundred dollars referred to respectively in paragraphs (b) and (c) of subsection (1).”

Passed the Legislative Council of Hong Kong, this 26th day of March, 1953.



Deputy Clerk of Councils.

(Secretariat 5/3231/53)

HONG KONG

No. 9 OF 1953.



I assent.

Governor.

27th March, 1953.

An Ordinance to amend the Medical Registration Ordinance, Chapter 161.

[2nd April, 1953.]

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 Medical Short title, Registration (Amendment) Ordinance, 1953.

2. The Medical Registration Ordinance is hereby amended by the addition thereto, immediately after section 17, of the following section—

Addition of new section 17A to Cap. 161.

“Certain medical examinations may be exempted.

17A. (1) Notwithstanding that he is not entitled to be registered under this Ordinance, a national of a foreign country, who is registered as a medical practitioner in that country and who is employed by

the Government of that country, may, with the consent of the Governor, conduct medical examinations of applicants for admission into that country with a view to ascertaining their fitness for admission.

(2) Such consent may be given subject to such conditions as the Governor may think fit to impose and may be revoked at any time in the absolute discretion of the Governor.

(3) For the purposes of this section, the expression "foreign country" means any country outside the Commonwealth."

Passed the Legislative Council of Hong Kong, this 26th day of March, 1953.




[Signature]
Deputy Clerk of Councils.

(Secretariat L/M 89/53c)

HONG KONG

No. 10 OF 1953.



I assent,

[Signature]
Governor.

30th April, 1953.

An Ordinance to amend the Land Registration Ordinance, Chapter 128.

[1st May, 1953.]

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 Land Registration Short title. (Amendment) Ordinance, 1953.

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

Amendment
of section 2.
(Cap. 128).

(a) by the insertion in the first line, before the word "The" of the following—

"(1)"; and

(b) by the addition at the end thereof of the following—

"(2) For the purpose of this Ordinance, "judgments" includes judgments and orders both of the Supreme Court and of the District Court."

Amendment
of section
14.

3. Section 14 of the principal Ordinance is amended by the addition at the end thereof of the following—

“ : Provided that any cause or matter in the District Court which in the Supreme Court would be a *lis pendens* within the meaning of the said Acts shall be deemed to be a *lis pendens* for the purpose of this Ordinance.”

Passed the Legislative Council of Hong Kong, this 29th day of April, 1953.



Deputy Clerk of Councils.

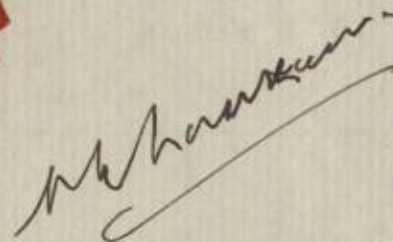
(Secretariat 8/741/52)

HONG KONG

NO. 11 OF 1953.



I assent.



Governor.

21st May, 1953.

An Ordinance to amend the Probate and Administration Ordinance, Chapter 10.

[22nd May, 1953.]

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 Probate and Administration (Amendment) Ordinance, 1953. Short title.

2. Section 14 of the Probate and Administration Ordinance is amended by the addition after subsection (2) of the following new subsection— Amendment of section 14. (Cap. 10).

“(3) (a) In the case of the death in the Colony of any citizen of the United States of America, the Official Administrator shall as soon as conveniently may be after the fact of such death has come to his knowledge inform the nearest

consular officer of the said United States of the fact, in order that the necessary information may be forwarded to persons interested.

(b) Such consular officer shall have the right to appear, either personally or by delegate, in all proceedings on behalf of the absent heirs or creditors until they are otherwise represented."

Passed the Legislative Council of Hong Kong, this 20th day of May, 1953.



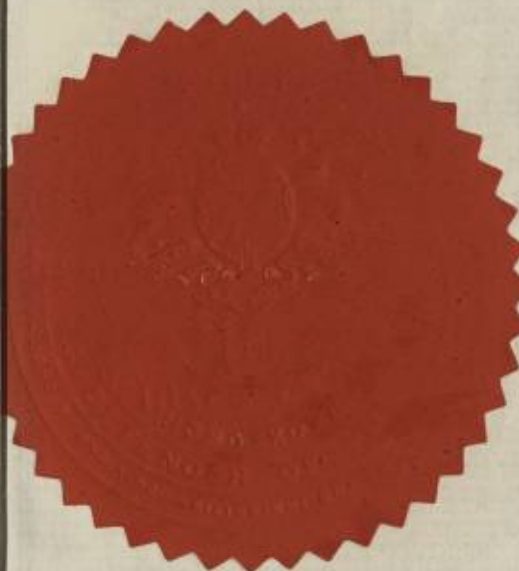
Deputy Clerk of Councils.

(Secretariat 16/1126/48c)

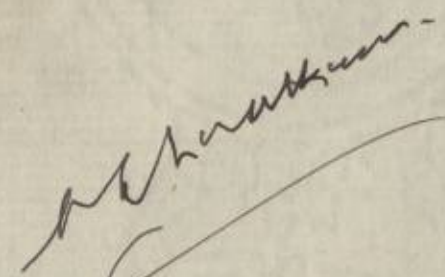


HONG KONG

No. 12 OF 1953.



I assent.



Governor.

21st May, 1953.

An Ordinance to amend the Births and Deaths Registration Ordinance, Chapter 174.

[22nd May, 1953.]

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 Births and Deaths Registration (Amendment) Ordinance, 1953. **Short title.**

2. Section 15 of the Births and Deaths Registration Ordinance is amended by the addition after subsection (2) of the following new subsection— **Amendment of section 15. (Cap. 174).**

“(3) In every case in which a registrar receives information of the death in the Colony of any citizen of the United States of America, he shall cause information of the fact to be

communicated to the Official Administrator, in order that the necessary information may be forwarded to the nearest consular officer of the said United States."

Passed the Legislative Council of Hong Kong, this 20th day of May, 1953.



Deputy Clerk of Councils.

(Secretariat 16/1126/48c)

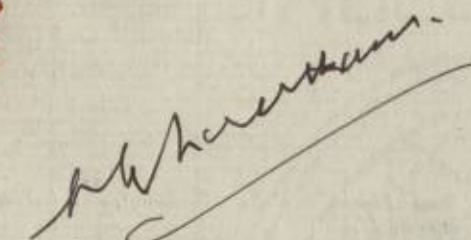


HONG KONG

No. 13 OF 1953.



I assent.



Governor.

11th June, 1953.

An Ordinance to amend the Police Force Ordinance, Chapter 232.

[12th June, 1953.]

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 Police Force Short title. (Amendment) Ordinance, 1953.

2. Section 3 of the Police Force Ordinance (hereinafter referred to as the principal Ordinance) is amended by the deletion of the definition "Commissioner" and the substitution therefor of the following—

Amendment
of section 3.
(Cap. 232).

" "Commissioner" means the Commissioner of Police of the Colony or a deputy commissioner;".

3. Section 13 of the principal Ordinance is amended by the insertion after subsection (1) of the following new subsection—

Amendment
of section
13.

“(1A) An inspector who has completed ten years service as a police officer but who has not been confirmed in his appointment as inspector may be reverted in rank by the Commissioner in accordance with the provisions of section 23.”

Amendment of section 21.

4. Section 21 of the principal Ordinance is amended as follows—

- (a) by the deletion from the last line of subsection (1) of the words “expiring on the last day of any month” and the substitution therefor of the following—
“or paying him one month’s salary in lieu of notice”; and
- (b) by the deletion from the third and fourth lines of subsection (2) of the words “expiring on the last day of any month” and the substitution therefor of the following—
“or, with the prior consent of the Commissioner, by paying into the Treasury one month’s salary in lieu of notice”.

Amendment of section 22.

5. Subsection (3) of section 22 of the principal Ordinance is amended by the deletion of the full stop at the end thereof, and the addition thereto of the following—

“or, with the prior consent of the Commissioner, by paying into the Treasury one month’s salary in lieu of notice.”.

Amendment of section 23.

6. Section 23 of the principal Ordinance is amended as follows—

- (a) by the deletion from the end of subsection (1) of the full stop and by the addition thereto of the following proviso—
“: Provided that where such inspector has completed ten years service as a police officer, he shall not be discharged under the provisions of this subsection, but the Commissioner may, at any time prior to the confirmation of such inspector as aforesaid, revert him to the rank which he held immediately before his appointment as inspector.”; and
- (b) by the deletion from the end of subsection (2) of the words “or paying into the Treasury one month’s salary in lieu of notice and notifying the Commissioner that he has resigned”, and the substitution therefor of the following—

“or, with the prior consent of the Commissioner, by paying into the Treasury one month’s salary in lieu of notice”.

7. The principal Ordinance is amended by the addition after section 26 of the following new section— Addition of new section 26A.

“Absence from duty.

26A. Whenever it is alleged that any non-commissioned officer or constable has been absent from duty without leave for a period of not less than twenty-one days, a board of two gazetted police officers to be appointed by the Commissioner shall inquire into the fact and circumstances of such absence, and if the board is satisfied that such person was absent from duty for a period of not less than twenty-one days without leave or other sufficient cause, it shall so declare, and such declaration shall for the purposes of section 31 be deemed to be a conviction under section 26.”

8. Subsection (5) of section 29 of the principal Ordinance is repealed and replaced by the following subsection— Amendment of section 29.

“(5) Upon any reference under subsection (3), the Governor may—

- (a) dismiss the inspector; or
- (b) if in all the circumstances of the case he considers justice so requires, set aside any finding of the tribunal, and may dismiss the inspector if in his opinion such punishment is warranted by any finding which has not been set aside; or
- (c) remit the case to the Commissioner and the Commissioner may thereupon award any punishment which he has power to award under subsection (1): Provided that where the Commissioner awards any punishment under this subsection the provisions of subsection (2) shall apply as if such punishment had been awarded under subsection (1).”

9. The principal Ordinance is amended by the addition after section 29 of the following new section— Addition of new section 29A.

"Disciplinary action in respect of an inspector convicted of an offence punishable with imprisonment.

29A. (1) An inspector convicted of any offence punishable with imprisonment may, unless the conviction is reversed on appeal, be dismissed or subjected to a lesser penalty by the Governor.

(2) In the event of an inspector being so convicted, the Commissioner shall forward to the Governor a report containing—

- (a) a certified true copy of the record of the proceedings;
- (b) the inspector's record of service; and
- (c) the Commissioner's recommendations.

(3) The Commissioner shall at the same time as he forwards such report inform the inspector that his case will be considered by the Governor, and the inspector shall have the same right to petition the Governor as is provided for in subsection (3) of section 29.

(4) The Governor's decision upon any reference under subsection (2) shall be communicated to the Commissioner and to the inspector by the Colonial Secretary."

Passed the Legislative Council of Hong Kong, this 10th day of June, 1953.

Deputy Clerk of Councils.

(Secretariat 44/3231/50)

HONG KONG

No. 14 OF 1953.



I assent.

Governor.

25th June, 1953.

An Ordinance to consolidate and amend the existing ordinances relating to merchant shipping, to remove anomalies and out-moded provisions therefrom, and incorporate therein amendments consequential upon the application to the Colony of the Merchant Shipping (Safety Convention) Act, 1949.

[]

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

1. This Ordinance may be cited as the Merchant Shipping Short title, Ordinance, 1953.

Inter-pretation. [cf. pr. Act, s. 742.]

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

“Director” means the Director of Marine and includes any person deputed or authorized by the Director to execute any power or perform any duty vested in or imposed upon him hereunder;

“international collision regulations” means the regulations made under section 418 of the principal Act;

“junk” includes lorcha and any vessel of Chinese or other Asiatic build, construction or rig whether such vessel is of a sea going type or not and whether mechanically propelled or not;

“lorcha” includes any vessel—

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

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

Principal Act, s. 742.

“master” includes every person (except a pilot) having command or charge of any ship;

“Merchant Shipping Acts” means the Merchant Shipping Acts, 1894 to 1952, and any enactment of the United Kingdom Parliament amending the same or in replacement thereof and includes all regulations made thereunder;

“Minister” means the Minister of Transport of the United Kingdom and includes the Board of Trade and any other body or person who carries out or has carried out functions similar to those carried out by the Minister of Transport under the Merchant Shipping Acts;

12, 13 & 14 Geo. 6, c.43, s.26.

“passenger” except for the purposes of Parts XIII and XIV, means any person carried in a vessel except—

(a) a person employed or engaged in any capacity on board the vessel on the business of the vessel;

(b) a person on board the vessel either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances that neither the master nor the owner could have prevented or forestalled, and

(c) a child under one year of age;

“Port Health Officer” includes the Director of Medical and Health Services and any officer for the time being performing the duties of Port Health Officer;

“port of the Colony”, and “port” where by the context a port out of the Colony is not indicated, mean a place declared to be such under section 58;

“principal Act” means the Merchant Shipping Act, 1894;

(57 & 58 Vict. c.60)

“river steamer” means any steamship regularly plying between the Colony and any place on the Canton River or the West River or any river in the provinces of Kwangtung and Kwangsi, or between the Colony and Macao;

“safety convention country” and “safety convention ship” bear the meanings attributed in section 36 of the Merchant Shipping (Safety Convention) Act, 1949, to “country to which the safety convention applies” and “safety convention ship” respectively;

(12, 13 & 14 Geo. 6, c.43)

“seaman” includes every person (except masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship;

Pr. Act, s. 742.

“ship” includes any description of vessel used in navigation not propelled by oars but excludes junks and lorchas whether mechanically propelled or not: Provided that a mechanically propelled junk or lorcha shall not be deemed by this provision to be excluded from the definition of “ship” for the purposes of the international collision regulations;

“steamer” or “steamship” includes any vessel propelled by steam, and subject to any modification that may be prescribed by regulation shall include a vessel propelled by electricity or other mechanical power;

“tons” and “tonnage” mean tons and tonnage as calculated according to British measurement of registered tonnage;

“vessel” includes any ship or boat or junk or any other description of vessel used in navigation.

Pr. Act, s.742.

PART I.

REGISTRATION AND LICENSING OF SHIPS.

Certificate or licence required by all ships trading in Colony.

3. (1) Every ship trading in or from the waters of the Colony must be provided with—

- (a) a certificate of registry in conformity with the Merchant Shipping Acts; or
- (b) a certificate of foreign registry or other document similar or equivalent to that required in the case of a British ship; or
- (c) in the case of a steamship not exceeding sixty tons a licence under section 94.

(2) Every register or certificate authorized or required by this section, may be proved either by the production of the original, or by a copy thereof purporting to be certified under the hand of the Registrar of Shipping, or Registrar of British ships appointed to act in the Colony under the Merchant Shipping Acts, or other person who may happen to have charge of the original, which certified copy he is hereby required to furnish to every person applying at a reasonable time for the same and paying therefor such fee as shall be prescribed by regulations. Every document when so proved shall be received as *prima facie* evidence of all matters therein recited, stated or appearing.

PART II.

COMPETENCY OF MASTERS AND CREW AND CERTIFICATES THEREOF.

Master, mate and engineer to possess certificate.

4. (1) The name of a master, first or second mate, or first or second engineer shall not be attached to the register or articles of agreement of any British ship, unless such master, mate, or engineer possesses a certificate of service or competency granted in the United Kingdom under the Merchant Shipping Acts, or a colonial certificate of competency declared by any Order of Her Majesty in Council to be of the same force as if it had been granted under the said Acts.

(2) Every officer on board a foreign passenger steamship who has received a certificate of competency granted by a competent authority of his country, which the Governor is satisfied is of corresponding value to any certificate of competency granted under this Ordinance, shall be deemed to be duly certificated

under this Ordinance in respect of such foreign steamship, provided that his certificate is of a grade appropriate to his station in the foreign steamship or of a higher grade.

5. (1) Every British ship, and every foreign ship holding a passenger certificate under Part VI shall, when leaving any port of the Colony, be provided with officers who possess certificates of competency of a grade appropriate to their stations in the ship or of a higher grade, according to the following scale—

Scale of certificated officers to be provided. Pr. Act, s.92.

- (a) in any case, with a duly certificated master;
- (b) if the ship is of one hundred tons or upwards, with at least one officer besides the master holding a certificate not lower than that of first mate, or of second mate in the case of a sailing ship of not more than two hundred tons;
- (c) if the ship carries more than one mate, with at least the first and second mates duly certificated;
- (d) if the ship is a steamship of one hundred nominal horsepower or upwards, with at least two engineers, one of whom shall be a first-class and the other a first-class or second-class engineer duly certificated; and
- (e) if the ship is a steamship of less than one hundred nominal horsepower, with at least one engineer who is a first-class or second-class engineer duly certificated:

Provided that every British river steamer exceeding sixty tons but not exceeding three hundred tons, if such river steamer does not carry more than twelve passengers, shall be provided with a duly certificated master and an engineer who possesses at least a local certificate of competency from the Director: Provided further that it shall be lawful for the Governor in Council to grant special exemption, which may be subject to any conditions he may impose, from all or any of the requirements of this subsection in the case of any ship regularly plying between the Colony and Dosing, Swabue (Shan Mei), Ping Hoi, Ma Kung, Sha Yu Chung, Nam O, Tip Fuk, O Tau or any other port if the master and mate shall have passed a special examination before the Director and shall be approved by him for service on such voyages. [4(3)]

(2) Every British river steamer not exceeding sixty tons and every ferry vessel as defined in Part XIII shall comply with the prescribed regulations, and shall be provided with a master who possesses a local certificate of competency from the Director and also with an engineer who possesses a like certificate. [4(6), (7)]

Regulations, Table 12.

[cf. pr. Act, s.103.]

(3) The master of a ship, on signing the agreement with the crew before the Superintendent of the Mercantile Marine Office, shall produce to him the certificates of competency which the master, mates and engineers of the ship are hereby required to hold. [4(17)]

(4) The master of any British or foreign ship to which this section applies, leaving or attempting to leave any port of the Colony without having on board, and entered on the register or articles of agreement, officers possessing the certificates required by this section shall be liable to a fine of one thousand dollars, and the Director may refuse a port clearance in case of non-compliance with the provisions of this section. [4(8)]

(5) If any ship to which this section refers leaves or attempts to leave any port of the Colony without a clearance, the master thereof shall be liable to a fine of two thousand five hundred dollars and to imprisonment for six months. [4(8)]

(6) Any person who, having been engaged in any of the capacities mentioned in this section in any such ship as aforesaid, goes to sea in that capacity without being entitled to and in possession of the required certificate, and any person who employs any person in any of the above capacities in such ship without ascertaining that he is entitled to or possessed of such certificate, shall be liable to a fine of five hundred dollars. [4(9)]

Certificates of competency. [cf. pr. Act, s. 94, & 4 & 5 Geo. 5, c.42.]

Rules, Tables 1 and 2.

6. (1) Examinations shall be conducted for persons who wish to obtain certificates of competency as masters, first or second mates or engineers in the mercantile marine, and the Governor shall by notification in the *Gazette* appoint an examiner or examiners for such purpose. [4(10)]

(2) The Governor in Council may by rules prescribe or provide for—

- (a) the procedure and method of such examination;
- (b) the necessary qualifications of applicants;
- (c) the subjects to be taken, or the manner in which such subjects are to be specified;
- (d) fees and forms;
- (e) the method of grant of certificates and copies thereof.

[4 (11), (16)]

(3) When any person wishes to obtain a certificate of competency hereunder he shall apply to the Director, from whom a copy of the rules made under this section may be obtained on payment of the prescribed fee. [4(12), (13)]

(4) The grant of a certificate of competency shall be subject to production of evidence of sobriety, experience, ability and general good conduct on board ship to the satisfaction of the Director, and the Director may refuse to accept an application for examination unless such evidence is first produced. [4(14)]

(5) Certificates granted under this section shall be subject to any regulations made under any Order of Her Majesty in Council, with respect to the use, issue, delivery, cancellation and suspension of colonial certificates of competency. [4(15)]

7. Any person who—

- (a) makes, assists in making or procures to be made any false representation for the purpose of procuring, either for himself or for any other person, a certificate of competency; or
- (b) fraudulently uses a certificate or copy of a certificate of competency which has been forged, altered, cancelled or suspended or to which he is not entitled; or
- (c) fraudulently lends his certificate of competency or allows it to be used by any other person,

Forgery etc. of certificate. Pr. Act, s. 104.

shall be liable to a fine of five thousand dollars or to imprisonment for three years. [4(18)]

8. Nothing in the previous sections or in any other enactment shall be deemed to prevent the employment, as master or officer of any grade in a British ship, of the subject of any such foreign state as may be specified by the Governor in Council, if the Governor shall have granted such person a written authority to act in such capacity. [4(19)]

Certain exemptions.

PART III.

ENGAGEMENT AND DISCHARGE OF CREW.

9. (1) The Governor may appoint a place to be called the Mercantile Marine Office, at which place shall be conducted all the business within the Colony connected with the engagement and discharge of seaman on board British ships and foreign ships whose flag is not represented by a consular officer resident in the Colony such ships being in the waters of the Colony. The Director shall be the Superintendent of the Mercantile Marine Office. [5(1)]

Mercantile Marine Office.

(2) No seaman shall, except with the sanction of the Director, be engaged to do duty on board a British ship, or any foreign ship whose flag is not represented by a consular officer resident in the Colony, elsewhere than at the Mercantile Marine Office. The Superintendent shall require the production of a certificate of discharge from such seaman's last ship, and failing production such seaman shall be bound to give a satisfactory explanation to the Director of the cause of such non-production. [5(2)]

Agreement to be made with seamen. [cf. pr. Act, s.113.]

10. (1) The master of every British ship, and of every foreign ship whose flag is not represented by a consular officer resident in the Colony, shall enter into an agreement with every seaman whom he engages in the Colony and carries to sea as one of his crew, in the form and manner provided by the Merchant Shipping Acts: Provided that such agreement may be made for a voyage or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and an agreement so made to extend over two or more voyages shall be referred to as a running agreement: Provided also that a running agreement shall not be for a longer period than six months or the first arrival of the ship at her port of destination in the Colony after the expiration of that period, or the discharge of cargo consequent on that arrival. [5(3)]

(2) The master of any such ship who carries any seaman to sea without entering into an agreement with him in accordance with this section shall be liable to a fine of five hundred dollars. [5(4)]

Fees upon engagement and discharge. Regulations, Table 3.

11. (1) The Governor in Council may by regulations prescribe the fees which shall be payable upon all engagements and discharges. [5(5)]

(2) The Superintendent shall cause a scale of such fees together with a copy of this section, to be conspicuously exhibited in the Mercantile Marine Office, and may require the payment of such fees before proceeding with any engagement or discharge. [5(5)]

(3) The master of a ship engaging or discharging any seaman at the Mercantile Marine Office shall pay to the Superintendent the whole of the requisite fees. [5(6)]

12. (1) No master shall discharge in the Colony any seaman from any ship, British or foreign, without the sanction of the Director or of the consular officer, if any, representing the nation to which such ship belongs, and unless due provision is made for the subsistence and maintenance of such seaman to the satisfaction of the Director in the case of a British ship or of a foreign ship whose flag is not represented in the Colony by a consular officer or to the satisfaction of such consular officer in the case of a foreign ship whose flag is so represented, and any master who discharges a seaman in contravention of this subsection shall be liable to a fine of two hundred dollars: Provided that no such provision shall be necessary in respect of any seaman who was engaged in the Colony, or any seaman who being a native of Hong Kong or South China is discharged in accordance with the terms of his agreement. [5(7)(a)]

Procedure upon discharge, and provision for seamen left behind or remaining in Colony.

(2) Any seaman who wilfully or negligently remains in the Colony after the departure of his ship shall be liable to a fine of two hundred dollars or to imprisonment for three months. [5(7)(b)]

(3) No seaman shall except with the sanction of the Director be discharged from a British ship, or any foreign ship whose flag is not represented by a consular officer resident in the Colony, elsewhere than at the Mercantile Marine Office. [5(8)]

(4) Whenever any seaman is discharged at the Mercantile Marine Office from any ship within the Colony, the master of such ship shall give to such seaman at the time of such discharge a written certificate of discharge, specifying the time and nature of service, and the time of discharge of such seaman, signed by himself, and shall give him a true account in writing of his wages and of all deductions therefrom. [5(9)]

(5) Any master or any other person belonging to any British ship who wrongfully forces on shore and leaves behind, or otherwise wilfully and wrongfully leaves behind in the Colony any seaman or apprentice belonging to such ship before the completion of the voyage for which such seaman or apprentice was engaged, shall be liable to a fine of five hundred dollars or to imprisonment for six months. [5(11)]

13. No seaman who has been actually shipped on board any vessel in compliance with this Ordinance shall, during the time for which he is then shipped, be liable to be arrested on civil process, unless the debt or demand exceeds the sum of five hundred dollars: Provided always that by the term "seaman" in this subsection shall be meant only a person who has, within

Protection from process.

the space of six months previously, served on board a ship for wages as a seaman, and that the protection from arrest hereby granted shall not be held to extend to any person not coming within such definition, or in any case to masters, mates or engineers. [5(12)]

Relief of distressed seamen belonging to ship registered in the Colony.

14. (1) All expenses incurred under the provisions of the Merchant Shipping Acts in the relief of distressed seamen who, at the time of such relief being granted, have last served in a ship registered in the Colony, and all expenses incurred in the United Kingdom in relieving and returning to the Colony all distressed seamen who last served in such ship, shall be borne by the revenue of the Colony. [7(1)]

(2) The Governor may order the payment out of the general revenue of all expenses incurred in the Colony for the relief of such seamen as aforesaid under the provisions of the said Acts or of any regulations in that behalf which may be made by the Governor in Council. [7(2)]

(3) The Governor may order the repayment out of the general revenue of all sums expended under the provisions of the said Acts by the United Kingdom Government or by the Shipwrecked Mariners Society or by the Government of any country of the Commonwealth, or by any British consular officer in any foreign country, in and about the relief of such seamen as aforesaid, and such sums shall be refunded in such manner as the Governor may think fit or as a Secretary of State may direct. [7(3)]

PART IV.

DESERTION AND OTHER OFFENCES.

Apprehension and detention of seamen who desert, etc

15. (1) If any seaman or apprentice belonging to the crew of any British ship deserts therefrom or absents himself from his duty while the ship is within the waters of the Colony, it shall be lawful for any police officer, or for the master or person in charge of the ship, or for any one specially deputed by such master or person in charge, to arrest such seaman or apprentice without warrant and convey him before a magistrate, and in case such seaman or apprentice refuses to return to his duty on board the ship or does not give a sufficient reason for such refusal, the magistrate may order such seaman or apprentice to be put forcibly on board the ship or to be confined in any prison or other place of security within the Colony, for any period until he can

be put on board the ship when the ship leaves the port or until he is demanded by the master of the ship: Provided always that the said period of confinement shall not in the absence of such departure or demand exceed three months. [9(1)]

(2) If any seaman or apprentice deserts when within the waters of the Colony from a merchant ship belonging to a subject of any foreign country to which an Order in Council has declared that section 238 of the principal Act shall apply, any court, justice, or officer who would have had cognizance of the matter if the seaman or apprentice had deserted from a British ship shall on the application of a consular officer of the foreign country aid in apprehending the deserter, and for that purpose may on information given upon oath issue a warrant for his apprehension, and on proof of the desertion order him to be conveyed on board his ship or delivered to the master or mate of his ship, or to the owner of the ship or his agent to be so conveyed, and any such warrant or order may be executed accordingly. Any person who harbours or secretes any deserter liable to be apprehended under this subsection, knowing or having reason to believe that he has deserted, shall be liable to a fine of two hundred dollars. [9(1) (b)]

(3) A magistrate, on complaint of the master of any British ship to the effect that he has reasonable cause to believe that any seaman who has deserted while such ship is within the waters of the Colony is harboured, secreted or concealed, or suspected to be harboured, secreted or concealed, on board any other ship, boat or other vessel or in any house or place whatsoever, may issue a warrant directing a police officer to search such ship, boat or other vessel, or such house or place, and to lodge such seaman in any police station, and any such seaman shall with all convenient speed be brought before a magistrate to be dealt with as is hereinbefore directed. [9(2)]

(4) Any person who—

(a) harbours, conceals, employs or retains, or assists in harbouring, concealing, employing or retaining, any seaman belonging to the crew of any British ship who has deserted therefrom or otherwise absconded or absented himself from duty while such ship is within the waters of the Colony, knowing such seaman to have deserted, absconded or absented himself from duty; or

- (b) causes, induces or persuades, or attempts to cause, induce or persuade, any such seaman in any manner whatsoever to violate or to attempt to violate any agreement which he may have entered into to serve on board any such ship; or
- (c) knowingly connives at the desertion, absconding or absence from duty of any such seaman,

shall be liable to a fine of five hundred dollars or to imprisonment for six months. [9(3)]

(5) The Director before granting a port clearance to any ship may, if he has reasonable grounds for believing that any deserter is concealed on board such ship, proceed on board thereof, and then and there require the master to institute due and diligent search for such deserter, and further if he deems it necessary require the master to make a statutory declaration that to the best of his knowledge and belief after due and diligent search no such deserter is concealed within or about his ship. Any master of a ship who refuses or unnecessarily delays to comply with such requisition shall be liable to a fine of five hundred dollars, and any master of a ship who makes any such statutory declaration containing any false statement shall be guilty of a misdemeanor. [9(4)]

Offences
against
discipline.

16. (1) Any seaman lawfully engaged and any apprentice to the sea service who commits any of the following offences within the waters of the Colony shall be liable to be punished as follows—

- (a) if he deserts from his ship, he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects which he leaves on board and of the wages which he has then earned and also to satisfy any excess of wages properly paid by the owner or master of the ship to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him and shall be liable to imprisonment for twelve weeks;
- (b) if he neglects, or refuses without reasonable cause, to join his ship or to proceed to sea in his ship, or is absent without leave at any time within twenty-four hours of the ship's sailing from the Colony, either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or from his duty, he shall, if the

offence does not amount to desertion or is not treated as such by the master, be guilty of the offence of absence without leave and be liable to forfeit out of his wages a sum not exceeding two days pay, and in addition, for every twenty-four hours of absence, either a sum not exceeding six days pay or any expenses properly incurred in hiring a substitute, and shall be liable to imprisonment for ten weeks;

- (c) if he quits his ship without leave after the ship's arrival and before the ship is placed in security he shall be liable to forfeit out of his wages a sum of one month's pay;
- (d) if he is guilty of wilful disobedience to any lawful command he shall be liable to imprisonment for four weeks and also to forfeit out of his wages a sum of two days pay;
- (e) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty he shall be liable to imprisonment for twelve weeks, and also at the discretion of the court to forfeit for every twenty-four hours continuance of disobedience or neglect either a sum not exceeding six days pay or any expenses properly incurred in hiring a substitute;
- (f) if he assaults the master or any mate or certificated engineer of the ship he shall be liable to imprisonment for twelve weeks;
- (g) if he combines with any of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for twelve weeks; and
- (h) if he wilfully damages the ship, or embezzles or wilfully damages any of the stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also at the discretion of the court to imprisonment for twelve weeks:

Provided that, in the case of a foreign ship, the magistrate may only deal with cases arising out of the offences mentioned in paragraphs (d), (e), (f) and (g): Provided also that, if there is a consular officer of the nation to which such ship belongs resident in the Colony, the magistrate shall not deal with any case unless he is requested to do so by such officer in writing and unless such officer undertakes that any such seaman shall not become a charge on the Colony in consequence of being so dealt with. [9(5)]

(2) All expenses incidental to the apprehension and confinement of any seaman or apprentice under this section shall be payable by the master of the ship to which such seaman or apprentice belongs and be recoverable from him at the suit of the Commissioner of Police as a debt due to the Government. The subsistence money for every such seaman or apprentice confined in prison shall be paid in advance to the Commissioner of Prisons, and in default of such payment the Commissioner of Prisons may release such seaman or apprentice: Provided that every seaman or apprentice imprisoned under this section may by direction of the committing magistrate be sent on board his ship or may be placed at the disposal of the consular officer at whose request he dealt with the case on the written application of such officer either on or before the expiration of his term of imprisonment. [9(6)]

PART V.

HEALTH AND ACCOMMODATION, AND PROPERTY OF DECEASED SEAMEN.

Ship to carry medicines, medical stores, etc., in accordance with scale.

17. (1) The owner, agent or master of every British ship navigating between the Colony and any place out of the same shall cause to be kept on board such ship a supply of medicines and medical stores, in accordance with the scale appropriate to such ship as laid down in the published scales of medicines and medical stores issued by the Minister, and a copy of the book or books so issued containing instructions for dispensing the same, and also a sufficient quantity of anti-scorbutics to be served out to the crew of proper quality and in accordance with the requirements of the Merchant Shipping Acts. [8(1)]

(2) The owner, agent or master of any such ship who wilfully refuses or neglects to provide and keep on board such medicines, medical stores, books of instructions and anti-scorbutics as are by this section required shall be liable to a fine of five hundred dollars. [8(2)]

Pr. Act, s.202.

(3) It shall be the duty of the Port Health Officer to inspect the medicines, medical stores and anti-scorbutics of any British ship navigating between the Colony and any place out of the same, and if such articles are deficient in quantity or quality or are placed in improper containers he shall give notice to the master of the ship and to the Director who shall before granting a clearance to such ship require a certificate from the Port Health Officer that the default has been remedied, and if such certificate is not produced the ship shall be detained until the certificate is produced. [8(3)]

18. If any ship carrying passengers is found on arrival in the Colony to be in a filthy and insanitary condition, the master of the ship shall be liable to a fine of one thousand dollars. It shall be the duty of the Port Health Officer to inspect every such ship on its arrival in order to ascertain the sanitary condition thereof. [8(6)]

Penalty on master for filthy condition of ship.

19. The master of any ship before shipping any seaman may require that such seaman shall be inspected by a registered medical practitioner. [8(4)]

Medical inspection.

20. In the event of the death of any of the crew, passengers or other persons on board any ship in the waters of the Colony, or of the desertion of any of the crew of any British ship or of any foreign ship whose flag is not represented by a consular officer resident in the Colony, or in the event of the death of any of the crew, passengers or persons on board any ship in the course of a voyage to the Colony, the master of such ship shall forthwith or on the arrival of the ship in the Colony as the case may be report the same to the Director, and in default shall be liable to a fine of one hundred dollars for every death or desertion which he may neglect to report. [8(5)]

Death or desertion to be reported.

21. (1) If a seaman or apprentice to the sea service dies in Hong Kong and is at the time of his death entitled to claim from the master or owner of a ship in which he has served any effects or unpaid wages, the master or owner shall pay and deliver or account for such property to the Director. [8A.]

Property of deceased seamen to be delivered to Director. Pr. Act, s. 175 and 176.

(2) Where any property of a deceased seaman or apprentice comes into the hands of the Director, the Director, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sum as he thinks proper to allow, shall subject to the provisions of this Ordinance deal with the residue as follows—

- (a) if the property exceeds in value two thousand dollars he shall pay and deliver the residue to the legal personal representative of the deceased; or
- (b) if the property does not exceed in value two thousand dollars, the Director may as he thinks fit either pay or deliver the residue to any claimant who is proved to his satisfaction to be the widow or a child of the deceased or to be entitled to the personalty of the deceased either under his will (if any) or any statute of distribution or otherwise, or to be a person entitled to take out represen-

tation, although no such representation has been taken out, and shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or

(c) he may, if he thinks fit, require representation to be taken out, and pay and deliver the residue to the legal personal representative of the deceased; or

(d) where it appears to the Director that any person to whom any money or other property of a deceased seaman may be paid or delivered as aforesaid is resident in a foreign state, he may pay or deliver the money or property to a consular officer of that state on behalf of that person. [8B(1)]

(3) Any person to whom any such residue is paid or delivered under subsection (2) shall apply the same in due course of administration. [8B(2)]

PART VI.

SURVEY OF PASSENGER AND OTHER SHIPS AND CERTIFICATES THEREOF.

Interpretation in this Part.

22. In this Part, "passenger ship" means every ship exceeding sixty tons register carrying passengers from, to, or between places in the waters of the Colony except such as ply solely as ferries between two or more points within the Colony. [10(1)]

Passenger ship to be surveyed once a year. Pr. Act, s.271 (1) (a).

23. (1) Every passenger ship which carries more than twelve passengers shall be surveyed once at least in each year in the manner provided in this Part. [10(2)]

22 Geo. 5, c.9, s.36.

(2) This section shall not apply to—

(a) safety convention passenger ships plying on international voyages which hold valid certificates issued by a safety convention country other than Hong Kong; or

(b) other British ships which, from within the Commonwealth, have passenger certificates or survey or other certificates equivalent to those required under this Part, the same being in force and applicable, and which have been issued under the provisions of the Merchant Shipping Acts or any enactment in force in any part of the Commonwealth; or

(c) other foreign ships which from their own country or from the country from whose flag they have been transferred or from any part of the Commonwealth, have passenger certificates or survey and other certificates equivalent to those required in the case of British ships: Provided that in the event of any question arising as to the sufficiency of any foreign certificate to protect the ship holding the same from survey under this Part, such question shall be referred for settlement to the Governor in Council, whose decision thereon shall be final. [10(2)]

24. No passenger ship which carries more than twelve passengers shall clear outwards or proceed on any voyage from the Colony unless the master has the certificates as to survey required under this Part, the same being in force and applicable to the voyage on which the ship is about to proceed, or in the case of a foreign ship certificates equivalent to those required in the case of a British ship. Any passenger ship attempting to go to sea may be detained until such certificates as aforesaid are produced to the Director. [10(3)]

Passenger ship not to clear without certificate. Pr. Act, s.271.

25. (1) The Governor may appoint such number of fit and proper persons to be Government surveyors for the purposes of this Ordinance as he may think proper. Such Government surveyors may be appointed as ship surveyors, nautical surveyors, engineer surveyors or radio surveyors, or in more than one of such capacities. [10(4)]

Appointment and powers of surveyors. [cf. pr. Act, s.724 (1) & (3) and 22 Geo. 5, c.9, s.8.]

(2) The said surveyors, in the execution of their duties, may go on board any ship to which this Part applies at all reasonable times and inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, or any certificates of the master, mate or engineer, to which the provisions of the Merchant Shipping Acts or any Ordinance apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage, and if in consequence of any accident to any such ship or for any other reason they consider it necessary to do so, may require the ship to be taken into dock for the purpose of surveying the hull thereof. Any person who hinders any such surveyor from going on board any such ship, or otherwise impedes him in the execution of his duty under this Ordinance, shall be liable to a fine of one hundred dollars. [10(5)]

[cf. pr. Act, s.725.]

26. (1) The Governor in Council may issue instructions to Government surveyors and may by regulations prescribe the manner in which surveys of ships are to be made, the notice to be given to the Government surveyors when surveys are required, and the amount and payment of the fees due and of any travelling

Regulations as to surveys. Pr. Act, s.724 (3); 22 Geo. 5, c.9, s.1 (1).

Regulations, Tables 9, 10 & 11.

or other expenses incurred by such surveyors in the execution of their duties. [10(6)]

Regulations, Table 15.

(2) Regulations may prescribe the persons by whom and the conditions under which any such payment shall be made. [10(6)]

(3) The power to make such regulations shall include a power to make such regulations applicable to passenger ships plying on international voyages as appear to the Governor in Council to implement the provisions relating to construction, machinery, equipment and marking of load-lines which are contained in the International Convention respecting Load Lines, 1930, the International Convention for the Safety of Life at Sea, 1948, and the regulations referred to therein, and to make further regulations implementing similar provisions of any subsequent international convention which may be applied to the Colony and any regulations which may be referred to therein except so far as the said provisions are otherwise implemented by the Merchant Shipping Acts or this Ordinance. [10(6)]

(4) Such instructions and regulations may modify any such requirement—

[cf. 22 Geo. 5, c.9, s.1 (1) (b).]

(a) with regard to passenger ships plying on any international coasting voyage, if and to the extent that the Governor in Council is satisfied that the risks incurred by passenger ships plying on that voyage are such as to make it unreasonable or unnecessary to require ships so plying to comply with that requirement; and

[cf. 22 Geo. 5, c.9, s.1 (1) (c).]

(b) with regard to ships for the time being engaged in any passenger trade in which they are employed in the carriage of large numbers of unberthed passengers, if the Governor in Council is satisfied that compliance with that requirement by ships so engaged is impracticable and to the extent that he is so satisfied that modifications are required by the conditions of the trade. [10(6)]

[cf. 22 Geo. 5, c.9, s.1 (1) (a).]

(5) The Governor may treat any passenger ship constructed before the 1st day of July, 1931, (not being a ship converted to passenger service on or after that date) as complying with any such requirement if he is satisfied that such steps, if any, as are reasonable and practicable have been taken to make the ship comply with that requirement. [10(6)]

(6) The Governor may, with regard to any ship plying on short international voyages, modify any of the requirements of the regulations relating to construction made under this section which implement the provisions of the International Convention for the Safety of Life at Sea, 1929, contained in Regulations IX, X, XV and XIX thereof, if and to the extent that he is satisfied that the requirement is neither reasonable nor practicable in the case of that ship. [10(6)]

[cf. 22 Geo. 5, c.9, s.1 (1) (d).]

(7) Except so far as such instructions and regulations are issued or made by the Governor in Council under this section the Government surveyors shall execute their duties in accordance with the instructions to surveyors and any subsequent rules, instructions and regulations issued by the Minister. [10(6)]

27. (1) The owner, agent or master of every passenger ship being within the waters of the Colony shall where such ship comes within the meaning of this Part cause the same to be surveyed by one or more of the Government surveyors, who shall thereupon if satisfied that it can properly be done complete a declaration or declarations of survey in a form prescribed by regulations. [10(8)]

Owner to have survey made. Declaration thereof.

Regulations, Table 15. 22 Geo. 5, c.9, s.2 (3).

(2) If in the judgment of any such surveyor a passenger ship is fit to ply on international voyages while engaged in a special passenger trade only, his declaration of survey shall state that fact. [10(8A)]

(3) Such declaration or declarations shall be produced for the inspection of such owner, agent or master, and upon his request a passenger certificate in duplicate shall be issued by or on behalf of the Governor and at the absolute discretion of the Governor to the effect that the provisions of the law with respect to the survey of the ship and the transmission of declarations in respect thereof have been complied with, and such certificate shall state the limits, if any, beyond which according to the declarations of the surveyor or surveyors such ship is not fit to ply, and shall also contain a statement of the number of passengers which according to the declaration of the surveyor or surveyors such ship is fit to carry, distinguishing (if necessary) between the respective numbers to be on the deck and in the cabins, such number to be subject to such conditions and variation according to the time of the year, the nature of the voyage, the cargo carried, and other circumstances as the case may require. [10(10)]

[cf. pr. Act, s.274.]

(4) Such certificate in duplicate, when completed, shall be delivered by the Director to the owner, agent or master applying for the same subject to payment of the fee and other sums, if any, payable in that behalf. [10(11)]

Pr. Act, s.281, (1), (2).

(5) The owner, agent or master of every such ship shall, upon the transmission of any such certificate as aforesaid to him or his agent, cause one of the duplicates thereof so transmitted to be exhibited in some conspicuous part of the ship so as to be visible to all persons on board the same, and shall cause it to continue to be exhibited so long as it remains in force and such ship is in use. In default such owner, agent or master shall be liable to a fine of five hundred dollars. [10(20)]

Appeal to court of survey. [cf. pr. Act, s.275 (1).]

28. (1) If an owner, agent or master is aggrieved—

- (a) by a declaration of a surveyor or surveyors under this Part, or by the refusal of a surveyor to give the said declaration; or
- (b) by the refusal of a certificate of clearance for an emigrant ship under the Chinese Passengers Act, 1855, or the Asiatic Emigration Ordinance, 1915; or
- (c) by the refusal of a certificate of clearance under this Ordinance,

(18 & 19 Vict. c.104.) (30 of 1915.)

the owner, agent, master or charterer may appeal, in manner prescribed by regulations, to a court of survey constituted under this Ordinance, and upon the constitution thereof by the Governor such court may make such order with respect to the costs of any such investigation as it thinks fit, and such costs shall be paid accordingly, and shall be recoverable in the same manner as costs in summary proceedings before any magistrate. [10(12)]

Regulations, Table 7.

[cf. pr. Act, s.275 (2).]

(2) On such appeal, the court of survey shall report to the Governor on the question raised by the appeal, and the Governor, when satisfied that the requirements of the report and the provisions of the enactments have been complied with, may give the certificates required. [10(13)]

(3) An owner, agent, master or charterer of any ship preferring an appeal under this section or under section 48, may give notice in and by the prescribed notice of appeal that he objects to any marine magistrate being a member of the court of survey, stating the grounds of his objection, and the Director shall forward such notice to the Governor, who may in his discretion direct that such marine magistrate shall not be a member of the court of survey. [10(10)]

(4) Subject to any order made by the court of survey, the costs of and incidental to an appeal under this section shall follow the event. [cf. pr. Act, s.275 (3).] [10(14)]

29. Where the survey of a ship is made for the purpose of a declaration under section 27, the person appointed to make the survey shall, if so required by the owner, agent or charterer, be accompanied on the survey by some competent person appointed by the owner, agent or charterer, to be approved by the Governor, and in such case, if the said two persons agree, there shall be no appeal to the court of survey as provided by section 28. [10(15)]

No appeal in certain cases. [cf. pr. Act, s.275 (4).]

30. (1) No certificate shall be held to be in force for the purposes of this Part beyond a period of twelve months from the date of its issue or any shorter time specified in the certificate; and no certificate shall be in force after notice is given by the Governor to the owner, agent or master of the ship to which the same relates that he has cancelled or revoked the same: Provided that if any ship is absent from the Colony at the time of expiry of any certificate granted under this section no penalty shall be incurred under this section until the said ship commences a voyage after the next return to the Colony. [10(18)]

Duration of certificate. [cf. pr. Act, s.278.]

[cf. pr. Act, s. 280.]

(2) The Governor may require any certificate which has expired or has been revoked or cancelled to be delivered up as he directs, and every owner, agent or master who, without reasonable excuse, refuses or neglects to comply with such requirement shall be liable to a fine of two hundred dollars. [10(18)]

31. (1) The Governor may revoke and cancel any such certificate in any case in which he has reason to believe—

- (a) that the declarations of the sufficiency and good condition of the hull, equipments and machinery of the ship have been fraudulently or erroneously made; or
- (b) that such certificate has otherwise been issued upon false or erroneous information; or
- (c) that, since the making of such declarations, the hull, equipments or machinery of the ship has or have sustained any injury or is or are otherwise insufficient,

Governor may cancel certificate and require fresh declaration. [cf. pr. Act, s.279.]

and in every such case the Governor may require the owner to have the hull, equipments or machinery of the ship again surveyed, and to transmit a further declaration or declarations of the sufficiency and good condition thereof, before re-issuing any certificate or granting a fresh one in lieu thereof. [10(19)]

(2) The Governor may revoke and cancel any such certificate in any case in which he has reason to believe that the certificated