



**HONG KONG**

No. 1 OF 1963.



I assent.

Governor.

10th January, 1963.

An Ordinance to amend the Pawnbrokers Ordinance, Chapter 166.

[11th January, 1963.]

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

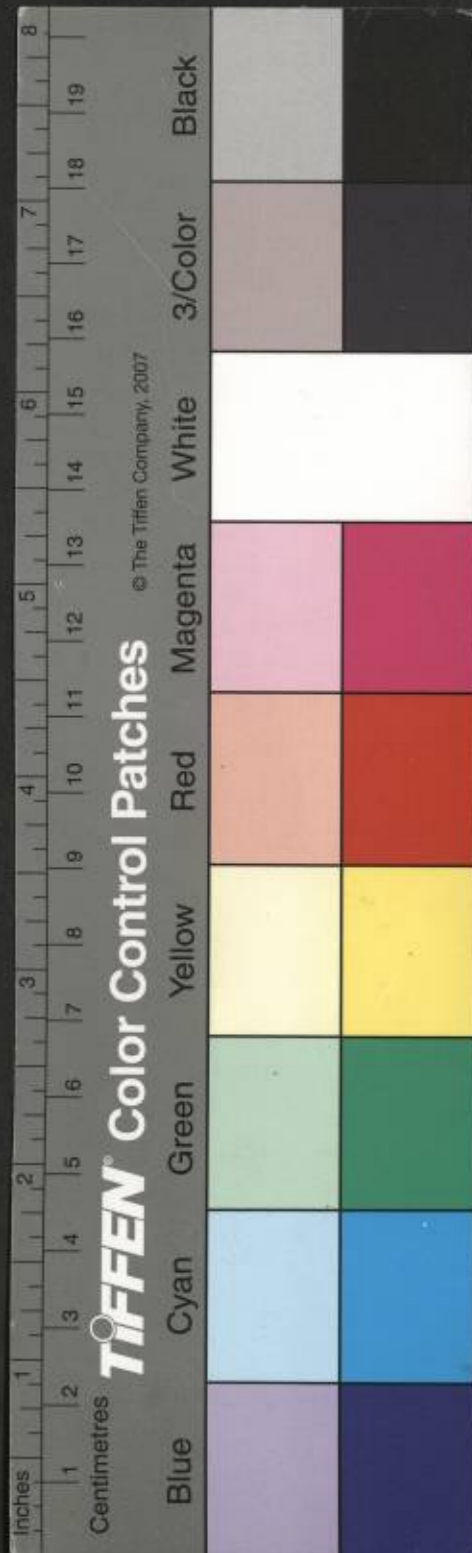
1. This Ordinance may be cited as the Pawnbrokers (Amendment) Ordinance, 1963. Short title.

2. Section 6 of the Pawnbrokers Ordinance is amended by the deletion of the words "five hundred" in each place in which they occur and the substitution therefor of the following—  
"two thousand". Amendment of section 6. (Cap. 166).

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 9th day of January, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

Deputy Clerk of Councils.

(Secretariat GR35/3231/47)





**HONG KONG**

No. 2 OF 1963.



I assent.

*Governor.*

*10th January, 1963.*

An Ordinance to make provision concerning the re-development of sites of certain demolished buildings, and the compensation of certain tenants for loss of possession, and for purposes connected with the matters aforesaid.

[11th January, 1963.]

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 Demolished Buildings Short title. (Re-development of Sites) Ordinance, 1963.

2. (1) In this Ordinance, unless the context otherwise requires— Interpretation.  
“Building Authority” includes any person authorized to exercise the powers of the Building Authority under the Buildings Ordinance, (68 of 1955, 1960 Reprint). 1955;

"Director" means the Director of Public Works;

"final award" means a sum awarded by a tenancy tribunal under section 7, or such sum as varied by the Governor in Council on an appeal, or such sum whether varied by the Governor in Council or not as subsequently reduced by the tenancy tribunal under section 8, as the case may be;

(Cap. 128). "Land Office" means the Land Office established under the Land Registration Ordinance, and any New Territories Land Office approved under the New Territories Ordinance;

"lease" includes an agreement for a lease and a tenancy agreement;

"owner" does not include a mortgagee;

(Cap. 255, 1953 Reprint). "protected building" means a building to which the Landlord and Tenant Ordinance applies or at the relevant date applied, and it also means a building to any part of which the Landlord and Tenant Ordinance applies or so applied;

"protected tenant" means a tenant or sub-tenant at the relevant date of a protected building or part thereof but only where and to the extent that the Landlord and Tenant Ordinance applies or at the relevant date applied to the subject matter of his tenancy;

"re-development notice" means a notice served by the Director under section 3;

"re-development order" means an order made by the Director under section 4;

"the relevant date" in relation to any protected building means—

- (68 of 1955, 1960 Reprint).
- (a) where an order has been made under section 17 of the Buildings Ordinance, 1955, requiring the demolition of the building, the date of service of the order; or
  - (b) where a fire or other calamity has occurred in consequence whereof the building has been demolished or certified by the Building Authority as being so dangerous as to require demolition, the date of the fire or calamity;

"Tribunal" means the Tribunal appointed under section 14.

(2) The duties imposed on and the powers granted to the Director under this Ordinance may be carried out and exercised by any officer

of the Public Works Department authorized by the Director either generally or particularly and subject to his instructions.

3. (1) Where under section 17 of the Buildings Ordinance, 1955, the Building Authority serves an order in respect of a protected building requiring the demolition thereof, or where the Building Authority certifies that, as a result of fire or other calamity occurring after the commencement of this Ordinance, a protected building has been demolished or has in his opinion been rendered so dangerous as to require demolition, the Director may, within three months of the service of the order or the occurrence of the fire or other calamity, serve notice in writing on the owner of the property comprising such building declaring that the property has become subject to the provisions of this Ordinance.

Premises made subject to Ordinance. (68 of 1955, 1960 Reprint).

(2) The Director shall cause a copy of such notice to be served on any person appearing from the Land Office registers to have an interest in such property, and such notice shall be registered in the Land Office by a memorial thereof signed by the Director.

4. (1) Where a re-development notice has been served in respect of any property, the Director may, within three months of the date of service thereof, by order in writing served on the owner require the re-development of the site of the property, within such time as he may prescribe, by the replacement of the building thereon or formerly thereon with a new, sound and substantial building, completed fit for occupation, conforming to the covenants, conditions and stipulations of the Crown lease, and, subject to the provisions of the Buildings Ordinance, 1955, of no less volume than the building replaced. The owner may, within twenty-one days of the date of service of such order or such extended time as the Tribunal may allow, appeal to the Tribunal against such order.

Order for re-development.

(2) Any order served under subsection (1) shall within one month of such service be registered in the Land Office by a memorial thereof signed by the Director, and a copy of such order shall be served also on any person appearing from the Land Office registers to have any interest in such property.

(3) Upon the expiry of the time limited for appeal against an order made under subsection (1), or, in the event of an appeal, where such order is confirmed or another order is substituted therefor, the

requirements made in such order or substituted order shall be deemed to be covenants, conditions or stipulations in the Crown lease of the property to which the order relates, and thereafter failure to comply with any such requirement shall entitle the Crown to re-enter upon the property under and in accordance with the provisions of the Crown Rights (Re-entry) Ordinance.

(Cap. 126).

Extinguishment of rights of protected tenants and compensation therefor. (Cap. 255, 1953 Reprint).

5. Where a re-development notice has been served in respect of any property—

- (a) the Landlord and Tenant Ordinance shall cease to apply to any part of any building comprised in the property, and the protected tenants shall cease to have any rights of occupation or possession in any such building; and
- (b) every protected tenant shall be entitled to compensation in accordance with the provisions of this Ordinance from the person who was the owner of such property immediately before such notice was served.

Assessment of incremental value.

6. (1) Where a re-development notice has been served in respect of any property, the Director shall assess the incremental value thereof, which shall be the amount by which the market value of the property with vacant possession after the service of such notice exceeds what was the market value of the property in occupation prior to the service by the Building Authority of the order for demolition or prior to the fire or other calamity occasioning the issue under section 3 of the certificate of the Building Authority, as the case may be.

(2) The Director shall give notice of such assessment to the owner of the property and to any person appearing from the Land Office registers to have a mortgage on the property, and in addition he shall communicate it to any other person, not being a tenant, who makes application in writing to him and who he considers has good grounds for requiring such information.

(3) The owner or any mortgagee so notified may, within fourteen days of such notification, appeal to the Tribunal against the assessment.

Claims for compensation.

7. (1) Where a re-development notice has been served in respect of any property, there shall be published in the *Gazette* and (with a translation in Chinese) affixed to the property, a copy of the notice

together with, save where the Director has found that no incremental value exists, a statement to the effect that protected tenants may apply in accordance with the provisions of subsection (2) for the appointment of a tenancy tribunal to determine the amount of compensation payable to them.

(2) Within three weeks of the date of publication of the copy of the re-development notice in the *Gazette*, or such extended time as the Chief Justice may in his discretion allow, any protected tenant may, save where he and the owner of the property in respect of which the re-development notice has been served have entered into an agreement in writing for the payment of compensation or where the Director has found that no incremental value exists, apply in writing addressed to the Registrar of the Supreme Court for the appointment of a tenancy tribunal to determine the amount of compensation to which he is entitled under this Ordinance.

(3) Upon an application being made under subsection (2), the Chief Justice shall appoint a tenancy tribunal (constituted as provided in subsection (5A) of section 31 of the Landlord and Tenant Ordinance) to determine the amount of compensation payable to every protected tenant who applies under subsection (2), and the tenancy tribunal shall make an award of compensation payable to every such protected tenant as if it were a tenancy tribunal hearing an application under section 31 of that Ordinance for exclusion of premises from the further application of that Ordinance, and as if it were determining the amount of compensation subject to the payment of which it would recommend such exclusion.

(Cap. 255, 1953 Reprint).

(4) In determining the compensation payable the tenancy tribunal shall not receive any evidence concerning the assessment of the incremental value under section 6, nor in any way take cognizance thereof.

(5) Save in so far as provision is made therefor in this Ordinance, the practice and procedure in, and in connexion with, any proceedings before a tenancy tribunal appointed under subsection (3) shall be such as the President of such tribunal may from time to time determine.

(6) The provisions of subsections (2), (3), (4) and (5) of section 27 of the Landlord and Tenant Ordinance shall be applicable in the case of a tenancy tribunal appointed under subsection (3).

(7) A tenancy tribunal appointed under subsection (3) shall have no power to make any order for the payment of costs.

(8) The award of the tenancy tribunal shall be notified to the tenants who had made application under subsection (2), to the owner and to the Director.

(9) Any protected tenant or the owner of the property may, within three weeks of the notification of the award, appeal to the Governor in

Council by way of petition against the tenancy tribunal's award and the provisions of section 31A of the Landlord and Tenant Ordinance other than subsections (1) and (6) thereof shall apply to such appeal.

(10) The decision of the Governor in Council on an appeal under the provisions of subsection (9) shall be notified to the parties and to the Director.

(11) For the purposes of this section and of sections 8 and 9, "owner" shall be deemed to include a mortgagee.

Reduction of awards in excess of incremental value.

8. (1) If the sum of the awards made by a tenancy tribunal as amended by any variation thereof made by the Governor in Council on appeal, together with any amounts agreed to be paid to other protected tenants by the owner by way of compensation exceeds the assessment of the incremental value, the owner may, within fourteen days of the notification of such awards, or in the event of an appeal within fourteen days of the notification of the decision of the Governor in Council, apply in writing to the President of the tenancy tribunal for the reduction of the awards made by such tribunal.

(2) On an application being made under subsection (1) the tenancy tribunal shall proceed to determine the amount of compensation which it would have awarded to every protected tenant with whom the owner has entered into an agreement in writing for the payment of compensation had the tenant applied for the appointment of a tenancy tribunal under subsection (2) of section 7, and if the total (hereinafter referred to as the said total) of the amounts which it would have so awarded and of the amounts which it has awarded or such amounts as may have been substituted therefor on any appeal, exceeds the said assessment, the tenancy tribunal shall reduce the amounts which it has awarded to amounts which bear the same proportion to the amounts awarded as the said assessment does to the said total.

(3) The reduced awards shall be notified to the tenants in respect of whom they were made, to the owner and to the Director.

Payment of compensation.

9. (1) The final awards shall be published in the *Gazette*, and shall be registered in the Land Office by a memorial thereof signed by the Director. Such awards shall be payable within three weeks of the notification thereof.

(2) Where any protected tenant who has been awarded compensation in accordance with section 7 does not, within the period limited by subsection (1), demand payment of the compensation awarded to him, the owner may deposit with the Treasury the sum awarded together with any interest accrued due thereon under subsection (5).

(3) Any such sum so deposited may, within a period of five years from the date of such deposit, be claimed by the person entitled thereto

and, upon any such claim being substantiated, shall be paid to the person so entitled.

(4) At the expiration of the said period of five years, any such sum remaining unpaid shall be transferred to the general revenue of the Colony and be dealt with in accordance with the provisions of the Unclaimed Balances Ordinance.

(Cap. 122).

(5) In the event of any sum awarded as compensation not being paid within the period limited by subsection (1) or deposited with the Treasury in accordance with subsection (2) within one week thereafter, the sum awarded shall bear interest at the rate of ten per cent per annum from the expiry of the period within which it should have been paid in accordance with subsection (1) until payment or deposit under subsection (2):

Provided that in any case where there has been an appeal against an award of a tenancy tribunal, the Governor in Council may direct that interest on any sum awarded shall run from a date not being earlier than three weeks after the date of such award.

10. (1) The final awards may be enforced against the person liable to pay such compensation in the same manner as a judgment of the Supreme Court.

Enforcement of awards.

(2) Where—

- (a) a re-development notice has been served in respect of any property, and
- (b) any person liable to pay, or whose interest in the property is or may be made subject to a charge for, compensation under this Ordinance has applied for permission to carry out building works, other than demolition, in relation to that property,

the Building Authority may refuse to grant such permission until he is satisfied that all sums due to the protected tenants by way of compensation under this Ordinance (whether under an award or under an agreement) of which the Government has notice have been paid to the persons entitled thereto or have been deposited with the Treasury under subsection (2) of section 9.

11. (1) Where a re-development notice has been served in respect of any property and the Crown has resumed the same either in accordance with the terms of the Crown lease under which the property is held or under the provisions of the Crown Lands Resumption Ordinance, there shall be deducted from the compensation payable by the Crown to the owner in respect of the resumption all sums due to the protected tenants by way of compensation under this Ordinance (whether under an award or under an agreement) of which the Government has notice.

Provisions where property resumed by the Crown.  
(Cap. 124).

(2) Any such sum deducted shall be paid by the Government to the person entitled thereto or, if such person cannot be found, shall be deposited with the Treasury.

(3) Any such sum so deposited may, within a period of five years from the date of such deposit, be claimed by the person entitled thereto, and, upon any such claim being substantiated, shall be paid to the person so entitled.

(4) At the expiration of the said period of five years, any such sum remaining unpaid shall be transferred to the general revenue of the Colony and be dealt with in accordance with the provisions of the Unclaimed Balances Ordinance.

(Cap. 122).

(5) Where any sum is deducted under subsection (1), no interest shall accrue thereon after the date of deduction.

Charge for  
compensa-  
tion awarded.

12. (1) Upon the registration in the Land Office under subsection (1) of section 9 of a final award, the amount of such award and any interest accrued or thereafter accruing thereon shall, until the compensation and interest are paid, constitute a charge on the property in respect of which the compensation has been awarded in favour of The Colonial Treasurer Incorporated in trust for the person or persons entitled to the compensation and interest.

(2) Without prejudice to the priority of instruments executed prior to the commencement of this Ordinance a charge created by subsection (1) shall have priority over all other instruments affecting the property against which the charge is registered executed after such commencement.

(3) For the purpose of enforcing any such charge, The Colonial Treasurer Incorporated shall have all the same powers and remedies as are, under the Law of Property Act, 1925, and otherwise, available in England to a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases, and of appointing a receiver, and the provisions of the said Act which apply where a mortgagee exercises any such power or avails himself of any such remedy shall apply where The Colonial Treasurer Incorporated exercises any such power or avails himself of any such remedy.

15 & 16  
Geo. 5, c. 20.

Land Officer  
may  
apportion  
Crown rent.  
(Cap. 125).

13. Where the Director has served a re-development order in respect of a property which is a section of a lot within the meaning of the Crown Rents (Apportionment) Ordinance, and in respect of which Crown rent has not been determined under the provisions of such Ordinance, the Land Officer may exercise the powers vested in him under such Ordinance and determine what annual sum shall be payable to the Crown by way of Crown rent in respect of the section, or if the property is the remaining portion of a lot, in respect of each

section of the lot, notwithstanding that the owner of such property has not applied for such determination, and upon such determination the provisions of the Crown Rents (Apportionment) Ordinance shall apply.

14. (1) For the purposes of sections 4 and 6, there shall be appointed from time to time a Tribunal consisting of a chairman, who shall be a judge of the Supreme Court or District Court, or a magistrate, appointed by the Chief Justice, and of two other members appointed by the Governor, one of whom shall be a person who is not employed full time in any office of emolument under the Crown, and one of whom shall be selected from persons appearing to the Governor to have had experience in matters concerning land and buildings.

Establish-  
ment and  
functions of  
Tribunal.

(2) The Governor shall appoint a clerk to the Tribunal, and shall determine the remuneration of the members in relation to each appeal determined, having regard to the time occupied and the amount of work and the magnitude of the interests involved:

Provided that nothing in this subsection shall authorize the payment of remuneration to any person employed full time in any office of emolument under the Crown.

(3) For the purpose of determining appeals the Tribunal shall have all such powers as are vested in the Supreme Court in relation to—

- (a) enforcing the attendance of witnesses and examining them upon oath or otherwise;
- (b) compelling the production of documents;
- (c) punishing persons behaving in an insulting manner or using any threatening or insulting expression to or concerning or in the presence of the Tribunal;
- (d) ordering an inspection of premises;
- (e) entering upon and viewing premises;
- (f) awarding costs.

(4) All questions arising in any proceedings before the Tribunal shall, in the event of a difference among the members, be decided by the majority:

Provided that any question touching the procedure to be followed or the admissibility of evidence or any other question declared by him to be one of law shall be decided by the chairman.

(5) In determining an appeal the Tribunal may confirm or set aside the re-development order or the incremental value and may substitute therefor any other re-development order or incremental value which it thinks proper and which could have been made by the Director.

(6) The decision of the Tribunal shall set out the matters for which allowance is made in making its determination and such decision shall be final:

Provided that on application being made by either party the Tribunal shall state a case for the opinion of the court on any question of law specified in such application, and the court shall give its opinion thereon as if such case had been stated under rule 23 of Order XXV of the Code of Civil Procedure.

(Vol. VII,  
p. 44).

Service of  
notices and  
orders.

15. Service of any notice, communication or order which may be given or served under the provisions of this Ordinance may be effected—

- (a) personally; or
- (b) by registered post addressed to the last known place of business or residence of the person to be served; or
- (c) by leaving the same with an adult occupier of the premises to which the notice, communication or order relates; or
- (d) by posting the same upon a conspicuous part of such premises:

Provided that in addition to or in substitution for any such method of service the publication in the *Gazette* of such notice or order together with the available particulars of the person to whom it is addressed shall be deemed to be good service.

Leases of  
business  
premises for  
not less than  
five years.

16. Where a lease of business premises for a term of not less than five years contains a provision for its sooner determination in the event of the service of a re-development notice in respect of the property comprising the premises, the lease shall, notwithstanding such provision, be deemed, for the purposes of paragraph (c) of subsection (1) of section 3 of the Landlord and Tenant Ordinance, to be a lease for a term of not less than five years.

(Cap. 255,  
1953 Reprint).

Saving of  
rights of  
Crown and  
powers of  
Building  
Authority.  
(68 of 1955,  
1960 Reprint).

17. Nothing in this Ordinance shall be deemed to take away or affect—

- (a) any rights of the Crown or any remedies of the Crown for the enforcement of, or otherwise in respect of, such rights; or
- (b) any powers of the Building Authority under the Buildings Ordinance, 1955.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 9th day of January, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

*[Signature]*  
Deputy Clerk of Councils.

(Secretariat BL4/741/62)

## HONG KONG

No. 3 OF 1963.



I assent.

*[Signature]*

Governor.

14th February, 1963.

An Ordinance to amend the Interpretation Ordinance, Chapter 1.

[15th February, 1963.]

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 Interpretation (Amendment) Ordinance, 1963. Short title.

2. Section 34 of the Interpretation Ordinance (hereinafter referred to as the principal Ordinance) is amended by— Amendment  
of section 34.  
(Cap. 1).

- (a) being renumbered as subsection (1) thereof; and
- (b) the insertion of the following new subsection—

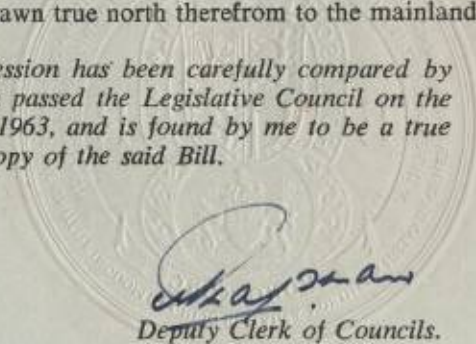
“(2) A provision in any Ordinance which declares an offence to be a “misdemeanor triable summarily” shall mean that such offence shall be a misdemeanor triable either on indictment or summarily.”.

Amendment  
of Third  
Schedule.

3. The Third Schedule to the principal Ordinance is amended by the deletion of the paragraph headed "On the West" and the substitution therefor of the following—

"On the West—A straight line drawn from the westernmost point of the Island of Hong Kong to the westernmost point of Green Island, thence a straight line drawn from the westernmost point of Green Island to the easternmost point of Tsing Yi Rock, thence a straight line drawn true north from the easternmost point of Tsing Yi Rock to Tsing Yi, thence along the eastern and northern coast lines of Tsing Yi to the westernmost extremity of Tsing Yi and thence a straight line drawn true north therefrom to the mainland."

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 13th day of February, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*



*[Signature]*  
Deputy Clerk of Councils.

(Secretariat GR85/3231/47)

**HONG KONG**

NO. 4 OF 1963.



I assent.

*[Signature]*

Governor.

14th February, 1963.

An Ordinance further to amend the Companies Ordinance, Chapter 32.

[15th February, 1963.]

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 Companies (Amendment) Short title. Ordinance, 1963.

2. Section 2 of the Companies Ordinance (hereinafter referred to as the principal Ordinance) is amended by the insertion, after the definition "prescribed", of the following new definition—

Amendment  
of section 2.  
(Cap. 32).

"printed" means produced by ordinary letterpress or lithography or by such other process as the Registrar in his discretion may accept;

3. Section 8 of the principal Ordinance is repealed and replaced by the following—

Repeal and  
replacement  
of section 8.

8. (1) A company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it—

(a) to carry on its business more economically or more efficiently; or

"Mode in  
which and  
extent to  
which objects  
may be  
altered.  
11 & 12 Geo.  
6, c. 38, s. 5.

- (b) to attain its main purpose by new or improved means; or
- (c) to enlarge or change the local area of its operations; or
- (d) to carry on some business that under existing circumstances may conveniently or advantageously be combined with the business of the company; or
- (e) to restrict or abandon any of the objects specified in the memorandum; or
- (f) to sell or dispose of the whole or any part of the undertaking of the company; or
- (g) to amalgamate with any other company or body of persons:

Provided that, if an application is made to the court in accordance with this section for the alteration to be annulled, the alteration shall not have effect except in so far as it is confirmed by the court.

(2) An application under this section may be made—

- (a) by the holders of not less in the aggregate than fifteen per cent in nominal value of the company's issued share capital or any class thereof or, if the company is not limited by shares, not less than fifteen per cent of the company's members; or
- (b) by the holders of not less than fifteen per cent of the company's debentures entitling the holders to object to alterations of its objects.

(3) An application under this section shall be made within twenty-one days after the date on which the resolution altering the company's objects was passed, and may be made on behalf of the persons entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(4) On an application under this section the court may make an order confirming the alteration either wholly or in part and on such terms and conditions as it thinks fit, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interests of dissentient members, and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement:

Provided that no part of the capital of the company shall be expended in any such purchase.

(5) The debentures entitling the holders to object to alterations of a company's objects shall be any debentures secured by a floating charge that were issued or first issued before the 15th day of February, 1963, or form part of the same series as any debentures so issued, and a special resolution altering a company's objects shall require the same notice to the holders of any such debentures as to members of the company.

In default of any provisions regulating the giving of notice to any such debenture holders, the provisions of the company's articles regulating the giving of notice to members shall apply.

(6) In the case of a company that is, by virtue of a licence from the Governor, exempt from the obligation to use the word "Limited" as part of its name, a resolution altering the company's objects shall also require the same notice to the Governor as to members of the company.

(7) Where a company passes a resolution altering its objects—

- (a) if no application is made with respect thereto under this section, it shall within fifteen days after the end of the period for making such an application deliver to the Registrar a printed copy of its memorandum as altered; and
- (b) if such an application is made it shall—
  - (i) forthwith give notice of that fact to the Registrar; and
  - (ii) within fifteen days after the date of any order annulling or confirming the alteration, deliver to the Registrar an office copy of the order and, in the case of an order confirming the alteration, a printed copy of its memorandum as altered.

The court may by order at any time extend the time for the delivery of documents to the Registrar under paragraph (b) of this subsection for such period as the court may think proper.

(8) If a company makes default in giving notice or delivering any document to the Registrar as required by subsection (7), the company and every officer of the company who is in default shall be liable to a default fine of one hundred dollars a day for every day during which the default continues.

(9) The validity of an alteration of the provisions of a company's memorandum with respect to the objects of the company shall not be questioned on the ground that it was not authorized by subsection (1) except in proceedings taken for the purpose (whether under this section or otherwise) before the expiration of twenty-one days after the date of the resolution in that behalf; and where any such proceedings are taken otherwise than under this section subsections (7) and (8) shall apply in relation thereto as if they had been taken under this section and as if an order declaring the alteration invalid were an order annulling it and as if an order dismissing the proceedings were an order confirming the alteration."

Amendment of section 21. 4. Section 21 of the principal Ordinance is amended by the insertion, after subsection (5), of the following new subsection—

"11 & 12  
Geo. 6, c. 38,  
s. 19(6).

(6) Where a company in respect of which a licence under this section is in force alters the provisions of its memorandum with respect to its objects, the Governor may (unless he sees fit to revoke the licence) vary the licence by making it subject to such conditions and regulations as he may think fit, in lieu of or in addition to the conditions and regulations, if any, to which the licence was formerly subject."

Amendment of section 65. 5. Section 65 of the principal Ordinance is amended in subsection (2) by—

- (a) the deletion of the full stop at the end thereof and the substitution therefor of a colon; and
- (b) the addition of the following proviso—

"11 & 12  
Geo. 6, c. 38,  
s. 74.

Provided that, if at any time all the issued shares in a company, or all the issued shares therein of a particular class, are fully paid up and rank *pari passu* for all purposes, none of those shares need thereafter have a distinguishing number so long as it remains fully paid up and ranks *pari passu* for all purposes with all shares of the same class for the time being issued and fully paid up."

Amendment of section 95. 6. Section 95 of the principal Ordinance is amended in paragraph (a) of subsection (1) by the insertion, after the word "number", of the following—

"so long as the share has a number".

7. Section 97 of the principal Ordinance is amended in paragraph (b) of subsection (1) by the insertion, after the word "number", of the following—

Amendment of section 97.

"so long as the share has a number".

8. Sections 134, 135, 136 and 137 of the principal Ordinance are repealed and replaced by the following—

Repeal and replacement of sections 134, 135, 136 and 137.

"Investigation of the affairs of a company on application of members.  
11 & 12 Geo. 6, c. 38, s. 164.

134. (1) The Financial Secretary may appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the Financial Secretary may direct—

- (a) in the case of a company having a share capital, on the application either of not less than one hundred members or of members holding not less than one-tenth of the shares issued;
- (b) in the case of a company not having a share capital, on the application of not less than one-tenth in number of the persons on the company's register of members.

(2) The application shall be supported by such evidence as the Financial Secretary may require for the purpose of showing that the applicants have good reason for requiring the investigation, and the Financial Secretary may, before appointing an inspector, require the applicants to give security, to an amount not exceeding five thousand dollars, for payment of the costs of the investigation.

Investigation of the affairs of a company in other cases.  
11 & 12 Geo. 6, c. 38, s. 165.

134A. Without prejudice to his powers under section 134, the Financial Secretary—

- (a) shall appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the Financial Secretary may direct, if the court by order declares that its affairs ought to be investigated by an inspector appointed by the Financial Secretary; and
- (b) may do so if the company by special resolution declares that its affairs ought to be investigated by an inspector appointed by the Financial Secretary and the company gives security in such amount, not exceeding five thousand dollars, as the Financial Secretary may require; and
- (c) may also do so if it appears to the Financial Secretary that there are circumstances suggesting—

(i) that the business of the company is being conducted with intent to defraud its creditors or

the creditors of any other person or otherwise for a fraudulent or unlawful purpose or in a manner oppressive of any part of its members or that it was formed for any fraudulent or unlawful purpose; or

(ii) that persons concerned with its formation or the management of its affairs have in connexion therewith been guilty of fraud, misfeasance or other misconduct towards it or towards its members; or

(iii) that its members have not been given all the information with respect to its affairs that they might reasonably expect.

Power of an inspector to investigate affairs of related company.  
11 & 12 Geo. 6, c. 38, s. 166.

**134B.** If an inspector appointed under section 134 or section 134A to investigate the affairs of a company thinks it necessary for the purposes of his investigation to investigate also the affairs of any other body corporate that is or has at any relevant time been—

- (a) a subsidiary or a holding company of the company,
- (b) a subsidiary of its holding company,
- (c) a holding company of its subsidiary, or
- (d) substantially under the control of the same person as the first-mentioned company,

he shall have power so to do, and shall report on the affairs of the other body corporate so far as he thinks the results of his investigation thereof are relevant to the investigation of the affairs of the first-mentioned company.

Production of documents, and evidence, on investigation.  
11 & 12 Geo. 6, c. 38, s. 167.

**135.** (1) It shall be the duty of all officers and agents of the company and of all officers and agents of any other body corporate whose affairs are investigated by virtue of section 134B to produce to the inspector all books and documents of or relating to the company or, as the case may be, the other body corporate that are in their custody or power, and otherwise to give to the inspector all assistance in connexion with the investigation that they are reasonably able to give.

(2) An inspector may examine on oath the officers and agents of the company or other body corporate in relation to its business, and may administer an oath accordingly.

(3) If any officer or agent of the company or other body corporate destroys any book or document that it is his duty to produce to the inspector under this section with intent to avoid or prevent its production, or refuses

to produce any such book or document to the inspector, or refuses to answer any question that is put to him by the inspector with respect to the affairs of the company or other body corporate, as the case may be, the inspector may certify the fact under his hand to the court, and the court may thereupon inquire into the case, and, after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement that may be offered in defence, punish the offender in like manner as if he had been guilty of contempt of the court.

(4) If an inspector thinks it necessary for the purpose of his investigation that a person whom he has no power to examine on oath should be so examined, he may apply to the court and the court may if it sees fit order that person to attend and be examined on oath before it on any matter relevant to the investigation, and on any such examination—

- (a) the inspector may take part therein either personally or by solicitor or counsel;
- (b) the court may put such questions to the person examined as the court thinks fit;
- (c) the person examined shall answer all such questions as the court may put or allow to be put to him, but may at his own cost employ a solicitor with or without counsel, who shall be at liberty to put to him such questions as the court may deem just for the purpose of enabling him to explain or qualify any answers given by him;

and notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him:

Provided that, notwithstanding anything in paragraph (c), the court may allow the person examined such costs as in its discretion it may think fit, and any costs so allowed shall be paid as part of the expenses of the investigation.

(5) In this section, any reference to officers or to agents shall include past, as well as present, officers or agents, as the case may be, and for the purposes of this section the expression "agents", in relation to a company or other body corporate, shall include the bankers and solicitors of the company or other body corporate and any person employed by the company or other body corporate as auditor, whether any such person is or is not an officer of the company or other body corporate.

Inspector's  
report.  
11 & 12 Geo.  
6, c. 38,  
s. 168.

**135A.** (1) The inspector may, and, if so directed by the Financial Secretary, shall, make interim reports to the Financial Secretary, and on the conclusion of the investigation shall make a final report to the Financial Secretary.

(2) Any such report shall be written or printed, as the Financial Secretary directs.

(3) The Financial Secretary—

(a) shall—

(i) forward a copy of any report made by the inspector to the company at its registered office;

(ii) if he thinks fit, furnish a copy thereof, on request and on payment of the fee appointed under section 290 for a certified copy of a document where the copy has been prepared in the office of the Registrar, to any person who is a member of the company or of any other body corporate dealt with in the report by virtue of section 134B or whose interests as a creditor of the company or of any such other body corporate appear to the Financial Secretary to be affected; and

(iii) where the inspector is appointed under section 134, furnish, at the request of the applicants for the investigation, a copy to them;

(b) shall, where the inspector is appointed under section 134A in pursuance of an order of the court, file a copy of any such report in the court; and

(c) may also cause any such report to be printed and published, and to be delivered to the Registrar.

Proceedings  
on inspector's  
report.  
11 & 12 Geo.  
6, c. 38,  
s. 169.

**135B.** (1) If from any report made under section 135A it appears to the Financial Secretary that any person has, in relation to the company or to any other body corporate whose affairs have been investigated by virtue of section 134B, been guilty of any offence for which he is criminally liable, the Financial Secretary shall refer the matter to the Attorney General.

(2) In relation to any prosecution arising from any such report, it shall be the duty of all officers and agents of the company or other body corporate as aforesaid, as the case may be, other than the defendant in the proceedings, to give to the Attorney General all assistance in connexion with the prosecution that they are reasonably able to give, and subsection (5) of section 135 shall apply for the purposes of this subsection as it applies for the purposes of that section.

(3) If, in the case of any body corporate liable to be wound up under this Ordinance, it appears to the Financial Secretary, from any report made under section 135A, that the body corporate ought to be wound up, the Financial Secretary may present a petition to the court for the body corporate to be wound up by the court if the court thinks it just and equitable that the body corporate should be so wound up.

(4) If from any such report as aforesaid it appears to the Financial Secretary that proceedings ought in the public interest to be brought by any body corporate dealt with by the report for the recovery of damages in respect of any fraud, misfeasance or other misconduct in connexion with the promotion or formation of that body corporate or the management of its affairs, or for the recovery of any property of the body corporate that has been misapplied or wrongfully retained, he may himself bring proceedings for that purpose in the name of the body corporate.

(5) The Government shall indemnify the body corporate against any costs or expenses incurred by it in or in connexion with any proceedings brought by virtue of subsection (4).

Expenses of  
investigation  
of the affairs  
of a company.  
11 & 12 Geo.  
6, c. 38,  
s. 170.

**136.** (1) The expenses of and incidental to an investigation by an inspector appointed by the Financial Secretary under section 134 or section 134A shall be defrayed in the first instance out of the general revenue of the Colony, but the following persons shall, to the extent mentioned, be liable to repay such expenses to the Government—

(a) any person who is convicted on a prosecution instituted as a result of the investigation, or who is ordered to pay damages or restore any property in proceedings brought by virtue of subsection (4) of section 135B, to such extent as, in either case, may be ordered by the court;

(b) any body corporate in whose name proceedings are brought as aforesaid, to the amount or value of any sums or property recovered by it as a result of those proceedings; and

(c) unless as a result of the investigation a prosecution is instituted by the Attorney General—

(i) any body corporate dealt with by the report, where the inspector was appointed otherwise than

of the motion of the Financial Secretary, shall be liable, except so far as the Financial Secretary may otherwise direct; and

(ii) the applicants for the investigation, where the inspector was appointed under section 134, to such extent, if any, as the Financial Secretary may direct;

and any amount for which a body corporate is liable by virtue of paragraph (b) shall be a first charge on the sums or property mentioned in that paragraph.

(2) The report of an inspector appointed otherwise than of the motion of the Financial Secretary may, if he thinks fit, and shall, if the Financial Secretary so directs, include a recommendation as to the directions, if any, that he thinks appropriate, in the light of his investigation, to be given under paragraph (c) of subsection (1).

(3) For the purposes of this section, any costs or expenses incurred by the Financial Secretary in or in connexion with proceedings brought by virtue of subsection (4) of section 135B, including expenses incurred by virtue of subsection (5) thereof, shall be treated as expenses of the investigation giving rise to the proceedings.

(4) Any liability to repay the Government imposed by paragraphs (a) and (b) of subsection (1) shall, subject to the satisfaction of the right of Government to repayment, be a liability also to indemnify all persons against liability under paragraph (c) thereof, and any such liability imposed by the said paragraph (a) shall, subject as aforesaid, be a liability also to indemnify all persons against liability under the said paragraph (b); and any person liable under the said paragraph (a) or (b) or either sub-paragraph of the said paragraph (c) shall be entitled to contribution from any other person liable under the same paragraph or sub-paragraphs, as the case may be, according to the amount of their respective liabilities thereunder.

**136A.** A copy of any report of an inspector appointed under section 134 or section 134A, signed by the inspector and counter-signed by the Financial Secretary, shall be admissible in any legal proceedings as evidence of the opinion of the inspector in relation to any matter contained in the report.

Inspector's  
report to be  
evidence.  
11 & 12 Geo.  
6, c. 38,  
s. 171.

Saving for  
solicitors  
and bankers.  
11 & 12 Geo.  
6, c. 38,  
s. 175.

**136B.** Nothing in sections 134 to 136A shall require disclosure to the Financial Secretary or to an inspector appointed by him—

- (a) by a solicitor of any privileged communication made to him in that capacity, except as respects the name and address of his client; or
- (b) by the bankers as such of a body corporate of any information as to the affairs of any of their customers other than the body corporate.

Notice to  
Registrar.

**137.** Upon the appointment of an inspector under section 134 or section 134A and upon the submission of his final report, the inspector shall forward to the Registrar a notice in writing under his hand of such appointment or of such submission, as the case may be.

Power of  
company to  
appoint  
inspector.

**137A.** (1) A company may, by special resolution, appoint an inspector to investigate its affairs.

(2) It shall be the duty of all officers and agents of the company to produce to the inspector all books and documents in their custody or power.

(3) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

(4) If any officer or agent of the company destroys any book or document that it is his duty to produce to the inspector under this section with intent to avoid or prevent its production, or refuses to produce any such book or document to the inspector, or refuses to answer any question that is put to him by the inspector with respect to the affairs of the company, the inspector may certify the fact under his hand to the court, and the court may thereupon inquire into the case, and, after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement that may be offered in defence, punish the offender in like manner as if he had been guilty of contempt of the court.

(5) On the conclusion of the investigation the inspector shall report his opinion in such manner and to such persons as the company in general meeting may direct.

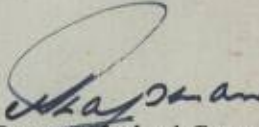
(6) A copy of the report of an inspector appointed under this section, signed by the inspector and sealed with the seal of the company to which the report relates, shall

be admissible in any legal proceedings as evidence of the opinion of the inspector in relation to any matter contained in the report.”.

Transitional provisions.

9. Notwithstanding section 3, section 8 of the principal Ordinance shall continue in force in relation to any resolution for altering the provisions of a company's memorandum with respect to the objects of the company passed before the commencement of this Ordinance.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 13th day of February, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

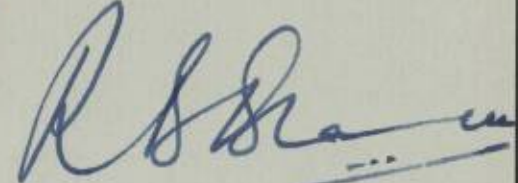
(Secretariat F1/6/3231/61)

**HONG KONG**

No. 5 OF 1963.



I assent.



Governor.

14th February, 1963.

An Ordinance to amend the Road Traffic Ordinance, 1957.

[1st February, 1958.]

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

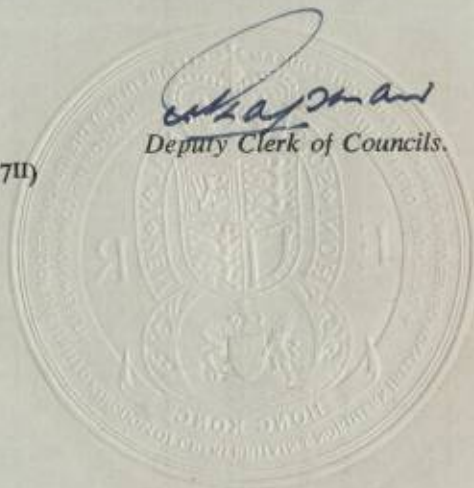
1. This Ordinance may be cited as the Road Traffic (Amendment) Ordinance, 1963, and shall be deemed to have come into operation upon the commencement of the Road Traffic Ordinance, 1957. Short title and commencement.

2. Section 3 of the Road Traffic Ordinance, 1957 is amended in subsection (1) by the insertion after paragraph (h) of the following new paragraphs— Amendment of section 3. (39 of 1957).

- “(ha) the fees payable for the use of car parks and parking places;
- “(hb) controlling the user of car parks and parking places;
- “(hc) the removal from roads, car parks and parking places of vehicles which contravene any provision of this Ordinance or of any regulation made thereunder and the fees payable in respect of such removal;”.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 13th day of February, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

(Secretariat GR2781/57U)



**HONG KONG**

No. 6 OF 1963.



I assent.

*Governor.*

*29th March, 1963.*

An Ordinance to apply a sum not exceeding one thousand three hundred and sixty million, forty thousand, five hundred and ten dollars to the Public Service of the financial year ending the 31st day of March, 1964.

[1st April, 1963.]

WHEREAS the expenditure required for the service of this Colony Preamble.  
for the financial year ending on the 31st day of March, 1964, has been estimated at the sum of one thousand three hundred and sixty million, forty thousand, five hundred and ten 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 (1963-64) Short title.  
Ordinance, 1963.

Appropriation from the general revenues and other funds.

Schedule.

2. A sum not exceeding one thousand three hundred and sixty million, forty thousand, five hundred and ten 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, 1963, and ending on the 31st day of March, 1964, and the said sum so charged may be expended in the manner expressed in the Schedule.

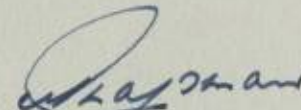
SCHEDULE.

[s. 2.]

Number of vote.	Head of Expenditure.	Amount of vote.
		\$
21.	His Excellency the Governor's Establishment .....	516,700
22.	Agriculture and Forestry Department .....	7,643,900
23.	Audit Department .....	1,251,000
24.	Civil Aviation Department .....	11,148,400
25.	Colonial Secretariat and Legislature .....	6,559,400
26.	Commerce and Industry Department .....	11,639,800
27.	Co-operative Development and Fisheries Department ...	2,702,400
28.	Defence: Hong Kong Regiment (The Volunteers) .....	2,423,100
29.	Defence: Hong Kong Royal Naval Reserve .....	1,076,100
30.	Defence: Hong Kong Auxiliary Air Force .....	579,100
31.	Defence: Essential Services Corps and Directorate of Manpower .....	179,500
32.	Defence: Auxiliary Fire Service .....	517,500
33.	Defence: Auxiliary Medical Service .....	1,536,000
34.	Defence: Civil Aid Services .....	2,212,700
35.	Defence: Registration of Persons Office .....	1,646,000
36.	Defence: Miscellaneous Measures .....	25,435,000
37.	Education Department .....	64,381,700
38.	Fire Services Department .....	15,295,600
39.	Immigration Department .....	3,090,600
40.	Information Services Department .....	2,820,600
41.	Inland Revenue Department .....	5,024,400
42.	Judiciary .....	5,726,200
43.	Kowloon-Canton Railway .....	6,457,700
44.	Labour Department: Labour Division .....	2,483,000
45.	Labour Department: Mines Division .....	261,100
46.	Legal Department .....	1,686,300
47.	Marine Department .....	14,696,100
48.	Medical and Health Department .....	83,409,800
49.	Miscellaneous Services .....	23,690,200
50.	New Territories Administration .....	9,338,800
51.	Pensions .....	26,332,000
52.	Police Force: Hong Kong Police .....	80,630,400
53.	Police Force: Auxiliary Police .....	1,456,400
54.	Post Office .....	38,568,800
55.	Printing Department .....	4,897,200
56.	Prisons Department .....	13,571,500
57.	Public Debt .....	5,907,310
58.	Public Enquiry Service .....	276,800

Number of vote.	Head of Expenditure.	Amount of vote.
		\$
59.	Public Services Commission .....	40,300
60.	Public Works Department .....	52,537,000
61.	Public Works Recurrent .....	48,415,000
62.	Public Works Non-Recurrent .....	509,219,000
63.	Radio Hong Kong .....	3,934,500
64.	Rating and Valuation Department .....	1,583,200
65.	Registrar General's Department .....	3,044,500
66.	Registry of Trade Unions .....	277,400
67.	Resettlement Department .....	15,726,400
68.	Royal Observatory .....	2,664,200
69.	Secretariat for Chinese Affairs .....	1,658,900
70.	Social Welfare Department .....	9,092,600
71.	Stores Department .....	15,476,800
72.	Subventions: Education .....	113,068,400
73.	Subventions: Medical .....	29,295,000
74.	Subventions: Social Welfare .....	4,743,000
75.	Subventions: Miscellaneous .....	5,599,800
76.	Treasury .....	3,258,800
77.	Urban Services Department and Urban Council .....	38,696,900
78.	Urban Services Department: City Hall .....	1,772,700
79.	Urban Services Department: Housing Division .....	4,348,600
80.	Urban Services Department: New Territories Division .....	4,116,800
81.	Colonial Development and Welfare Schemes .....	35,200
82.	World Refugee Year Schemes .....	4,366,400
	TOTAL .....	<u>\$1,360,040,510</u>

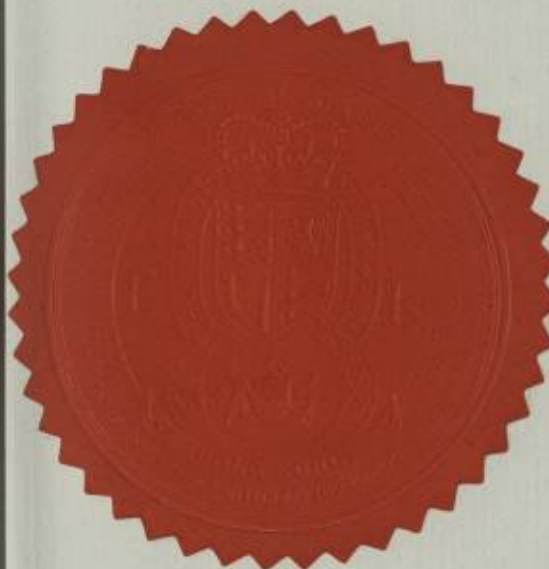
*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 29th day of March, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

(Secretariat GR4/2291/63)

**HONG KONG**

No. 7 OF 1963.



I assent.

Handwritten signature of the Governor in blue ink, written in a cursive style.

*Governor.*

*29th March, 1963.*

An Ordinance to make provision for the temporary control of increases in rent of domestic premises, and for the security of tenure connected therewith and for purposes connected with the matters aforesaid.

[30th March, 1963.]

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

**PART I.**

**SHORT TITLE, INTERPRETATION AND APPLICATION.**

1. This Ordinance may be cited as the Rent Increases (Domestic Short title Premises) Control Ordinance, 1963.

## Interpretation.

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

- “Commissioner” means the Commissioner of Rating and Valuation;
- “landlord” includes any person, other than the Crown, who is from time to time entitled to receive rent in respect of any premises and, in relation to a particular tenant, means a person entitled to receive rent from such tenant;
- “panel” means the Rent Increases Advisory Panel appointed under section 16;
- “prescribed form” means the appropriate form prescribed under section 18;
- “principal tenant” means a tenant of premises other than a Crown lessee, who has or shall sublet the whole or any part or parts thereof as a separate holding or holdings;
- “reviewing fee” means a fee of five per cent of the existing monthly rent or one hundred dollars whichever is the less;
- “tenancy” includes an agreement for a tenancy;
- “tenant” or “sub-tenant” does not include a Crown lessee but includes—
- (a) a person who before the commencement of this Ordinance has retained possession of premises by virtue of any enactment and who on the commencement of this Ordinance is in possession of such premises, to which this Ordinance applies;
  - (b) a person who shall retain possession of any premises by virtue of this Ordinance.

## Application.

3. (1) Save as otherwise provided in this section, this Ordinance shall apply to every domestic tenancy and domestic sub-tenancy in a post-war building, whether the same be effected orally or in writing and notwithstanding any provision in such tenancy or sub-tenancy including any provision purporting specifically to exclude the provisions of this Ordinance.

(2) For the purposes of this section a post-war building means—

## (Cap. 255).

- (a) a building to which the Landlord and Tenant Ordinance does not apply by virtue of paragraph (a) of subsection (1) of section 3 of that Ordinance; and
- (b) any building in the New Territories other than one in respect of which the District Commissioner, New Territories, certifies that it existed prior to the 16th day of August, 1945.

The burden of proving that a building is not a post-war building shall lie on the person so asserting; and a copy of a written permit of the Building Authority to occupy a building shall be *prima facie* evidence that a building is not post-war if granted prior to the 16th day of August, 1945 and *vice versa*.

(3) The benefits and protection afforded by this Ordinance shall, in any tenancy or sub-tenancy to which it applies, be available to the widow, widower, mother, father or any daughter or son over the age of eighteen years of the tenant or sub-tenant, as the case may be, where she or he was residing with him or her at the time of his or her death, and for the purposes of this Ordinance references to tenant or sub-tenant shall, where applicable, be deemed to include a reference to such widow, widower, mother, father, daughter or son, and the tenancy or sub-tenancy shall be deemed to continue in existence notwithstanding the death of the tenant or sub-tenant.

(4) Tenancies and sub-tenancies to which this Ordinance applies shall not, so long as this Ordinance continues to affect them, be subject to the Tenancy (Notice of Termination) Ordinance, 1962; but a notice (14 of 1962). of termination valid for the purposes of that Ordinance may be served not less than six months prior to the date on which a tenancy ceases to be protected under this Ordinance.

(5) This Ordinance shall not apply to the following—

- (a) a tenancy or sub-tenancy for a fixed term of three years or more the agreement for which contains no provision for earlier determination of the same other than for breach of any of the provisions of the agreement;
- (b) a tenancy or sub-tenancy of premises to which the Landlord (Cap. 255). and Tenant Ordinance applies, or of premises in respect of which there is in existence an order made under section 31 of that Ordinance;
- (c) a tenancy or sub-tenancy which at the date of the commencement of this Ordinance enjoys protection under section 3 of the Tenancy (Prolonged Duration) Ordinance, 1952; (8 of 1952).
- (d) a tenancy or sub-tenancy in respect of which a valid notice to quit was given prior to the 14th day of April, 1962, including a tenancy or sub-tenancy arising by reason of a tenant holding over in such circumstances;

- (68 of 1955). (e) a tenancy or sub-tenancy of land unbuilt on, but such a tenancy shall cease to be excluded so soon as there is built on the land in accordance with the provisions of the agreement for the tenancy any building in respect of which an occupation permit is issued under the Buildings Ordinance, 1955, or under any Ordinance replaced thereby;
- (Cap. 116). (f) a tenancy or sub-tenancy of agricultural land, which expression shall have the meaning assigned to it by the Rating Ordinance, including such a tenancy or sub-tenancy where there exists on the land any dwelling house occupied by persons working the land;
- (g) a tenancy or sub-tenancy where the landlord is the employer and the tenant is the employee in possession of the premises in accordance with the terms and conditions of his employment where such terms and conditions require him to vacate the accommodation upon ceasing to be so employed;
- (h) a tenancy held from the Crown, the Hong Kong Housing Authority, the Hong Kong Housing Society, or the Hong Kong Model Housing Society, or a sub-tenancy created out of such a tenancy.

(14 of 1962). (6) In addition to the tenancies and sub-tenancies excluded by virtue of subsection (5), this Ordinance shall not apply to a tenancy or sub-tenancy devised for a particular purpose and in the circumstances effective for fulfilling that purpose only if it is for a limited term terminable without the period of notice required under section 3 of the Tenancy (Notice of Termination) Ordinance, 1962. A dispute as to whether a tenancy or sub-tenancy is excluded by reason of this subsection shall not be justiciable in the courts but shall be determined by the Secretary for Chinese Affairs in a summary manner on application in writing being made to him, and his decision shall be final and binding. The Secretary for Chinese Affairs may authorize by name or office such officers of his department as he may think fit to exercise on his behalf his functions under this subsection.

(7) The Governor in Council may in his absolute discretion by order exclude from the further application of this Ordinance any class of tenancy or sub-tenancy, any class of premises or any particular tenancy or sub-tenancy or premises.

4. (1) For the purposes of this Ordinance "domestic tenancy" and "domestic sub-tenancy" mean a tenancy or sub-tenancy of premises let as a dwelling. In determining whether premises are let as a dwelling the following rules shall apply—

Meaning of "domestic tenancy" and determination of disputes relating thereto.

- (a) any agreement in writing between a landlord or tenant, or between a tenant and sub-tenant, that the premises are let otherwise than as a dwelling shall be conclusive evidence that the tenancy or sub-tenancy in respect thereof is not domestic, notwithstanding that the tenant or sub-tenant, as the case may be, may be dwelling in the premises so let;
- (b) where there exists insufficient evidence as to the purposes for which the premises were let, the nature of the tenancy shall be determined by the user of the premises by the tenant, and the nature of the sub-tenancy shall, subject to paragraph (d), be determined by the user of the premises by the sub-tenant;
- (c) notwithstanding any evidence that premises were let as a dwelling the tenancy or sub-tenancy in respect thereof shall be deemed not to be domestic as from the date on which, in the case of a tenancy, such premises were used otherwise than as a dwelling by the tenant and, in the case of a sub-tenancy, such premises are used otherwise than as a dwelling by the sub-tenant;
- (d) where at the commencement of a sub-tenancy the tenancy out of which it was created was non-domestic, the sub-tenancy shall, subject to paragraph (a), be deemed to be of a like nature until the sub-tenant satisfies the Commissioner or the District Court to the contrary in an application made under subsection (2) or (4) as the case may be.

(2) Where a dispute arises as to whether a tenancy or sub-tenancy is domestic, the landlord, tenant, principal tenant or sub-tenant concerned may apply to the Commissioner for his certificate stating whether in his opinion, (having regard to subsections (1) and (5)) the tenancy or sub-tenancy is on the date thereof domestic.

(3) The Commissioner may decline to give a certificate where he is not satisfied on the evidence available as to the nature of the tenancy or sub-tenancy.

(4) The landlord, tenant, principal tenant or sub-tenant concerned may apply to the District Court for a review of the certificate of the Commissioner or for a determination where the Commissioner has declined to issue his certificate.

(5) In determining whether the premises were let, or are being used, as a dwelling, the following may be taken into account—

- (68 of 1955).
- (a) covenants and conditions in any Crown lease, tenancy or sub-tenancy;
  - (b) any occupation permit given by the Building Authority under the Buildings Ordinance, 1955, or under any Ordinance replaced thereby, in relation to premises the subject matter of the tenancy or sub-tenancy in question;
  - (c) normal additional uses of premises consistent with the domestic nature of the tenancy or sub-tenancy having regard, *inter alia*, to the following—
    - (i) floor area in occupation part or full-time for such uses;
    - (ii) the number of people engaged in such uses but not dwelling on the premises;
    - (iii) the furnishings, fittings and contents of the premises; and
    - (iv) the gross profits resulting from such uses relative to the rent or proportion thereof paid by the person making such profits;
  - (d) the use of premises as a boarding or lodging house is a use otherwise than as a dwelling.

## PART II.

### CONTINUATION AND TERMINATION OF TENANCIES.

Continuation  
of tenancies.

5. (1) Save as is provided in section 6 no tenancy or sub-tenancy, whether existing at the date of commencement of this Ordinance or created thereafter, shall terminate during the continuance in force of this Ordinance.

(2) Save as is provided in subsection (3) of section 3 a tenancy or sub-tenancy shall not by virtue of this Ordinance continue in existence after any change in the identity of the landlord, tenant, principal tenant or sub-tenant which would terminate such tenancy or sub-tenancy in law; but for the purposes of this Ordinance a tenancy or sub-tenancy shall be deemed to continue in existence notwithstanding any change in the rent payable.

(3) In every tenancy and sub-tenancy there shall, in the absence of any express covenant or condition, be implied a covenant to pay rent on the due date and a condition for forfeiture for non-payment within fifteen days of such date.

(4) Notwithstanding the expiration of this Ordinance under section 24 this section together with section 6 shall continue to apply to a

tenancy or sub-tenancy the rent of which is increased under this Ordinance including any increase by agreement taking place before the date of such expiration, for a period of two years from the date of such increase.

6. (1) A tenancy or sub-tenancy shall terminate where—

Termination  
of tenancies.

- (a) vacant possession is delivered up;
  - (b) the landlord or principal tenant determines the tenancy or sub-tenancy by way of forfeiture for failure to pay rent or for the breach of any other covenant or condition which, but for the enactment of this Ordinance, would have been a cause of forfeiture;
  - (c) a notice to quit given under subsection (2) or (4) or an order made under subsection (6) takes effect;
  - (d) the tenancy out of which the sub-tenancy was created is itself terminated: Provided that upon such termination this Ordinance shall apply to any tenancy thereupon arising by operation of law.
- (2) A notice to quit may be served and shall, subject to subsections (5) and (6), take effect as if neither this Ordinance nor the Tenancy (Notice of Termination) Ordinance, 1962, had been enacted (14 of 1962), where in such notice the landlord or principal tenant specifies—
- (a) that he requires possession for use as a dwelling by himself, his mother, his father, or any son or daughter of his over the age of eighteen years;
  - (b) his intention of rebuilding the premises.
- (3) Where a notice to quit, reproducing the English text in the Chinese language, is served under subsection (2) and in addition is posted on three successive days upon the main door or entrance of the premises affected, such notice to quit shall take effect also on any sub-tenancies created under the tenancy to which it relates.
- (4) A notice to quit may be served and shall, subject to subsections (5) and (6), take effect as if neither this Ordinance nor the Tenancy (Notice of Termination) Ordinance, 1962, had been enacted where in such notice the principal tenant specifies that the sub-tenant has caused unnecessary annoyance, inconvenience or disturbance to the principal tenant or to other occupants of the premises, particulars of such annoyance, inconvenience or disturbance being set out in the notice:

Provided that no notice may be served under this subsection without an endorsement thereon by the Secretary for Chinese Affairs or by an Assistant Secretary for Chinese Affairs to the effect that the specified annoyance, inconvenience or disturbance has continued after a warning

given by an officer of the Secretariat for Chinese Affairs to the sub-tenant causing the same.

(5) Within fourteen days of service of a notice to quit under subsection (2) or (4) a tenant or sub-tenant on whom the notice was served may serve a counter notice in the prescribed form on his landlord or principal tenant, as the case may be, disputing the right of the landlord or principal tenant to serve notice to quit.

(6) On receipt of a counter notice under subsection (5) the landlord or principal tenant, as the case may be, may apply to the District Court for an order for possession of the premises to which such notice relates. Where he satisfies the Court that he is entitled to possession on the ground specified in the notice to quit, the Court may make an order for possession which shall take effect on such date as the Court may order but not earlier than the date on which the notice to quit would have taken effect nor later than three months from the date of such order; and at the hearing of such an application the Court may order the payment of rent or mesne profits:

Provided that no order shall be made on the ground specified in paragraph (a) of subsection (2) if the Court is satisfied that having regard to the circumstances, including the question whether other accommodation is available for the landlord, the tenant, the principal tenant or the sub-tenant, greater hardship would be caused by granting the order than by refusing to grant it.

(7) Where a tenancy or sub-tenancy is terminated on any ground specified in paragraph (a) or (b) of subsection (2) and the same premises are the subject of a subsequent tenancy or sub-tenancy, at any time in the case of a tenancy or sub-tenancy terminated on the ground specified in paragraph (a) of subsection (2), or prior to the premises being rebuilt in the case of a tenancy or sub-tenancy terminated on the ground specified in paragraph (b) of subsection (2), the provisions of this Ordinance shall apply to such subsequent tenancy or sub-tenancy as if it were a continuation, on the same terms, of the tenancy or the sub-tenancy terminated under this section.

### PART III.

#### INCREASE IN RENTS.

Day on which increases in rent take effect.

7. Where under this Part provision is made for a date when an increase in rent is to take effect, the same shall be read and construed as providing that such increase shall take effect on the first day when rent becomes due after the date specified in such provision.

Increases in rent by agreement.

8. Where an increase in rent is agreed between a landlord and tenant the landlord shall lodge a notice thereof in the prescribed form with the Commissioner, and rent at the increased rate shall not be

recoverable save where the landlord is in possession of a copy of such notice duly endorsed by the Commissioner.

9. (1) A landlord may apply by sending two copies of a notice in the prescribed form to the Commissioner for—

Application for certificate of increase in rent.

- (a) his certificate that an increase in rent not exceeding ten per cent of the rent is reasonable in the circumstances of the tenancy; or
- (b) his certificate that in the circumstances an increase in rent of only ten per cent of the rent would be wholly unreasonable,

and such application shall specify the increase desired by the landlord.

(2) Within fourteen days of receiving such application the Commissioner shall serve a copy thereof on the tenant, who may return the same within a further period of fourteen days together with his comments thereon to the Commissioner. In the event of such copy and comments not being so returned to the Commissioner, he may accept the facts set out therein as being agreed to by the tenant.

10. (1) Where the Commissioner receives the comments of a tenant under section 9 which indicate that the tenant disputes some of the facts set out in the application of the landlord, he may, if satisfied that an increase in rent would be reasonable in the circumstances of the tenancy, serve on the landlord and on the tenant provisional certificates in the prescribed form specifying what he considers to be a fair increase, which shall not exceed ten per cent of the rent. Such certificates shall be based on the facts set out in the application of the landlord, but shall not constitute an expression of opinion as to any of the facts in dispute nor be evidence concerning them.

Facts in dispute—provisional certificate or order of court.

(2) Within fourteen days of service on a tenant under subsection (1) the tenant may serve on the landlord a notice of objection, stating therein which facts he disputes. Within fourteen days of service of such notice the landlord may apply to the District Court for a determination of the facts in dispute.

(3) Having determined the relevant facts in dispute the District Court may—

- (a) confirm the provisional certificate, which shall then take effect as from the date specified therein under subsection (4); or
- (b) order that no increase in rent is justified in the circumstances of the tenancy; or
- (c) order such increase in rent, not exceeding ten per cent of the rent, as it considers reasonable in the circumstances of the tenancy.

(4) Save where a tenant serves a notice of objection under subsection (2) but subject to subsection (3), the increase in rent specified in a provisional certificate or ordered by the Court shall take effect three months from the date of the application under section 9 but not earlier than the 1st day of July, 1963, and notice of such date when the increase in rent takes effect shall, regard being paid to section 7, be endorsed thereon:

Provided that nothing in this section shall affect any defence or remedy available to the tenant but for the enactment of this Ordinance.

11. (1) On receipt of the comments of the tenant under subsection (2) of section 9 or after one month from the receipt of an application under paragraph (a) of subsection (1) of that section, whichever is the sooner, the Commissioner may—

- (a) if satisfied that an increase in rent would be fair and reasonable in the circumstances of the tenancy, serve on the landlord and on the tenant certificates in the prescribed form specifying a fair increase, which shall not exceed ten per cent of the existing rent; or
- (b) if not satisfied that an increase in rent would be fair and reasonable in the circumstances of the tenancy, serve on the landlord and on the tenant certificates in the prescribed form to that effect,

and he may endorse on the certificates such comments as he may think proper relating to such application.

(2) On receipt of an application under paragraph (b) of subsection (1) of section 9, the Commissioner may—

- (a) if satisfied that an increase of only ten per cent would be wholly unreasonable in the circumstances, serve on the landlord and on the tenant certificates in the prescribed form specifying what he considers to be a fair increase; or
- (b) if he is not so satisfied the Commissioner shall consult two members of the panel and if one of them concurs he shall serve on the landlord notice of his refusal to issue the certificate applied for, and may at the same time serve certificates under subsection (1).

(3) In the event of the two members of the panel consulted under subsection (2) disagreeing with the Commissioner he may—

- (a) accept the views of the two members and serve certificates of increase under subsection (2); or
- (b) serve on the landlord a certificate setting out the views of the panel members and the fact that in his opinion an increase

Grant of  
certificates  
and review.

limited to ten per cent of the existing rent would not be wholly unreasonable.

(4) Within fourteen days of the service of a certificate under subsection (1) a landlord or tenant may apply by notice in the prescribed form to the Commissioner for a review of such certificate. On receipt of such an application the Commissioner shall, upon payment of the reviewing fee by the applicant, review the original application under section 9 and for such purpose may consult with one or more members of the panel. Having reviewed such application the Commissioner shall serve on the landlord and on the tenant further certificates confirming the refusal to award any increase or confirming or varying the increase in rent specified in the earlier certificates or setting aside such increase, and such certificates shall state that they are in substitution for the earlier certificates.

(5) The increase in rent specified in a certificate issued under subsection (1) or (4) shall take effect three months from the date of the application under section 9 but not earlier than the 1st day of July, 1963. The date on which the increase is to take effect shall, regard being paid to section 7, be endorsed on the certificate.

12. (1) A landlord may appeal to a District Court against the amount of the increase in rent specified in a certificate served on him under subsection (4) of section 11 or the refusal in such certificate to award any increase. The tenant shall be made the respondent in the appeal.

Appeal to  
District  
Court by  
landlord.

(2) A certificate issued by the Commissioner under subsection (4) of section 11 shall be *prima facie* evidence of the facts set out therein and that the increase specified therein is fair and reasonable in the circumstances of the tenancy, or that no increase is justified, as the case may be.

(3) The District Court may—

- (a) confirm the certificate, and any increase in rent specified therein shall take effect as provided in subsection (5) of section 11; or
- (b) order an increase in rent, not exceeding ten per cent of the existing rent, and such increase shall take effect three months from the date of the application under section 9, but not earlier than the 1st day of July, 1963.

13. (1) Where a certificate is served on a landlord under subsection (2) or (3) of section 11 he may apply to the District Court for an order for an increase in rent. The tenant and sub-tenants shall be made respondents in such application.

Application  
to District  
Court for  
increase of  
rent in excess  
of ten per  
cent.

(2) A certificate issued by the Commissioner under subsection (2) or (3) of section 11 shall be *prima facie* evidence of the facts set out

therein and that any increase in rent specified therein is fair and reasonable in the circumstances of the tenancy.

(3) The District Court may refuse the application or may order such increase in rent as it shall consider to be fair and reasonable in the circumstances of the tenancy, and such increase shall take effect three months from the date of the application under section 9, but not earlier than the 1st day of July, 1963.

No further increase within two years.

14. (1) No increase in rent in any tenancy except by agreement shall take effect within a period of two years from—

- (a) the date on which the rent of the tenancy was last increased whether before or after the commencement of this Ordinance, whether or not such last increase was by agreement; or
- (b) the date of any new tenancy whether entered into before or after the commencement of this Ordinance.

(2) No order shall be made for the recovery of any increased rent or for the recovery of possession for non-payment thereof unless the landlord satisfies the court that two years has or will have elapsed between the commencement of the tenancy or the last increase in rent, as the case may be, and the date on which the increase takes effect.

(3) For the purposes of this section rent shall be deemed to have been increased where the tenant has made any payments to the landlord other than the regular payments of rent, and such additional payments have been made as a condition of the right to the occupation of the premises.

Increase in rents of sub-tenancies.

15. (1) Where the rent of a tenancy is increased under the provisions of this Ordinance the principal tenant may apply by notice in the prescribed form to the Commissioner for a certificate to be issued under subsection (2) or (3).

(2) On receipt of an application under subsection (1) the Commissioner may, save where the increase took effect under section 8, serve on the principal tenant and on the sub-tenant certificates specifying the percentage by which the rent of the tenancy has been increased and the date on which such increase took effect.

(3) On receipt of an application under subsection (1) in respect of an increase in rent under section 8 the Commissioner may serve on the principal tenant and on the sub-tenant certificates specifying what increases in rents of the sub-tenants would in his opinion be reasonable in the circumstances of the sub-tenancy.

(4) Within fourteen days of the service of a certificate under subsection (2) or (3) a sub-tenant may apply by notice in writing to the Commissioner for a review thereof on the grounds that his sub-tenancy commenced or the rent thereof was increased within a period

of two years immediately preceding the date of an application under subsection (1). A principal tenant or sub-tenant may apply in like manner for a review of a certificate issued under subsection (3).

(5) On receipt of an application for review the Commissioner shall, upon payment of the reviewing fee by the applicant, review the application made under subsection (1) and for such purpose may consult with one or more members of the panel. Having reviewed the application made under subsection (1) the Commissioner shall, in the case of a certificate issued under subsection (2), serve on the sub-tenant and on the principal tenant certificates specifying what increase, if any, is a fair increase in the circumstances of the sub-tenancy, and in the case of a certificate issued under subsection (3), serve certificates confirming or varying the increase specified in the certificate under review, and in so varying may certify that in his opinion no increase is justified.

(6) The increase in rent specified in the certificates issued under subsection (2), (3) or (5) shall take effect three months from the date of the application under section 9 but not earlier than—

- (a) the 1st day of July, 1963, or
- (b) the date on which certificates are served under subsection (2) or (3),

whichever is the later. The date on which the increase is to take effect shall, regard being paid to section 7, be endorsed on the certificates.

(7) Where the tenancy out of which a sub-tenancy has been created is not subject to this Ordinance and the sub-tenancy is so subject, sections 9, 10, 11, 12, 13 and 14 shall apply as if the sub-tenancy were a tenancy and references therein to landlord and tenant shall be deemed to be references to principal tenant and to sub-tenant respectively.

(8) For the purposes of this section rent shall be deemed to have been increased where the sub-tenant has made any payments to the principal tenant other than the regular payments of rent, and such additional payments have been made as a condition of the right to the occupation of the premises.

#### PART IV.

##### GENERAL.

16. For the purposes of this Ordinance the Governor may appoint a panel of persons to assist the Commissioner in such cases as he is empowered or is required to consult with the members thereof. Such panel shall be known as the Rent Increases Advisory Panel, and notice of appointments thereto shall be published in the *Gazette*.

Rent  
Increases  
Advisory  
Panel.

Exercise of powers of Commissioner.

17. The powers conferred and the duties imposed by this Ordinance on the Commissioner, other than those pertaining to a review, may be exercised and performed by any Assistant Commissioner or by any Senior Rating and Valuation Surveyor.

Forms to be prescribed.

18. The Commissioner may prescribe the forms required to be used under this Ordinance and shall publish the same in the *Gazette*. Such forms shall reproduce the English text in the Chinese language. The Commissioner may in his absolute discretion accept a notice or application which is not in the form prescribed.

Extension of time.

19. Where under this Ordinance time is prescribed for the making of any application to the Commissioner he may extend such time.

Rules made by the Chief Justice.

20. (1) The Chief Justice may make rules relating to—
- (a) the setting down of an application or appeal, including the extending of time for submitting the same to court;
  - (b) the determination of applications and appeals, including the evidence receivable in connexion with the same;
  - (c) the costs which a court may award upon the determination of any application or appeal; and
  - (d) court fees.
- (2) Rules may be made under subsection (1) in respect of the following matters—
- (a) applications for review or determination under subsection (4) of section 4;
  - (b) applications for orders for possession under section 6;
  - (c) applications for determination of facts in dispute and for orders for increases in rent under section 10;
  - (d) appeals under section 12; and
  - (e) applications for orders for increases in rent under section 13.

Service of notices.

21. Service of any notice, application, certificate or other document under this Ordinance may be effected—

- (a) by personal service,
- (b) by registered post addressed to the last known place of business or residence of the person to be served, or
- (c) in the case of service on a tenant or sub-tenant, by leaving the notice, application, certificate or other document with an adult occupier of the premises in which the tenant or sub-tenant resides and to which such document relates,

and every document so served shall bear the date on which service was effected.

22. Nothing in this Ordinance shall—

Savings.

- (a) authorize any increase in rent during the unexpired portion of a tenancy or sub-tenancy for a fixed term; or
- (b) afford to any sub-tenant any security of tenure more extensive than that enjoyed by his principal tenant;
- (c) affect any right or remedy arising, either before or after the commencement of this Ordinance, out of any breach of condition or other term in any tenancy or out of any condition providing for a right of re-entry in the event of the business of the tenant being wound up, the tenant suffering execution to be levied or a receiving order in bankruptcy to be made, assigning the lease for the benefit of creditors or entering any agreement or making any arrangement with creditors for the liquidation of debts by composition or otherwise:

Provided that a covenant to yield up possession on a specified date shall be construed as a covenant to yield up possession on such later date as may be necessary to permit the giving of notice of termination as required by the Tenancy (Notice of Termination) Ordinance, 1962.

(14 of 1962).

23. (1) For the removal of doubt jurisdiction is hereby conferred on the District Court for the purpose of hearing and determining all applications and appeals for which provision is made in this Ordinance, and for the purpose of ordering the payment of rent or mesne profits, and such jurisdiction shall be exercised notwithstanding that the value of the property sought to be recovered or the amount of the annual rent thereof or the amount of rent or mesne profits being claimed exceeds five thousand dollars.

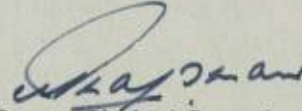
Jurisdiction of the District Court.

(2) All determinations of the District Court under this Ordinance shall be final and no appeal shall lie therefrom.

24. Subject to the provision of subsection (4) of section 5 this Ordinance shall expire at midnight on the 30th day of June, 1965.

Expiry of Ordinance.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 29th day of March, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

(Secretariat BL2/741/63)

**HONG KONG**

No. 8 OF 1963.



I assent.

*Governor.*

*29th March, 1963.*

An Ordinance to amend the Resettlement Ordinance, 1958.

[30th March, 1963.]

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

1. (1) This Ordinance may be cited as the Resettlement (Amendment) Ordinance, 1963.

Short title  
and com-  
mencement.

(2) Sections 2, 4 and 5 shall be deemed to have had effect as from the commencement of the Resettlement Ordinance, 1958 (hereinafter referred to as the principal Ordinance).

(16 of 1958).

2. Section 2 of the principal Ordinance is amended by the insertion, after the definition "erection permit" of the following—

Amendment  
of section 2.

"“fee day”, in relation to an occupation permit, means the 1st day of January, 1st day of April, 1st day of July, and 1st day of October in any year;”.

Repeal and replacement of section 38.

3. Section 38 of the principal Ordinance is repealed and replaced by the following—

“Inapplicability of Ordinance No. 68 of 1955 and Part VII of Ordinance No. 30 of 1960 and regulations made under that Part.

38. The Buildings Ordinance, 1955, and Part VII of the Public Health and Urban Services Ordinance, 1960, and any regulations made under that Part shall not apply to a cottage resettlement area or to any building or structure in a cottage resettlement area.”

Amendment of section 41.

4. Section 41 of the principal Ordinance is amended by the deletion in subsection (2) of the figures “48” and the substitution thereof of the following—

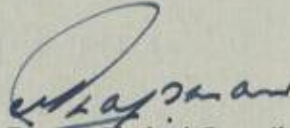
“49”.

Amendment of section 51.

5. Section 51 of the principal Ordinance is amended by the insertion in subsection (1), after paragraph (d), of the following—

“(dd) the terms and conditions which may be imposed upon the letting of rooms in resettlement estates and upon the occupation of buildings in cottage resettlement areas and the terms and conditions upon which such letting and occupation may be determined;”.

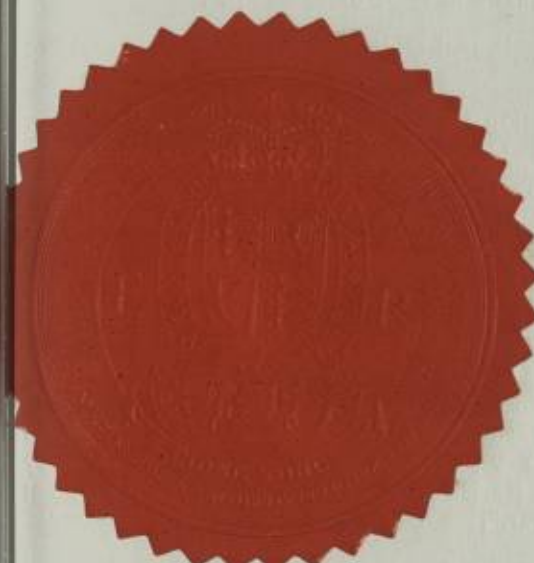
*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 29th day of March, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

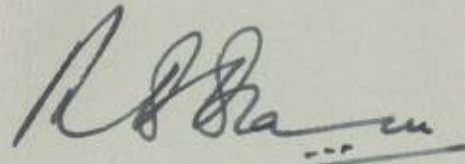
(Secretariat CR L/M 83/63)

**HONG KONG**

No. 9 OF 1963.



I assent.



Governor.

24th April, 1963.

An Ordinance to amend the Supreme Court Ordinance, Chapter 4.

[25th April, 1963.]

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 Supreme Court (Amendment) Ordinance, 1963. Short title.

2. Section 17 of the Supreme Court Ordinance (hereinafter referred to as the principal Ordinance) is amended— Amendment of section 17. (Cap. 4).

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

“, assistant registrars”; and

(b) by the deletion of subsection (2) and the substitution thereof of the following—

“(2) Any act which under any enactment is required to be done by the Registrar may be performed by a deputy registrar or an assistant registrar appointed under subsection (1).

(2A) Any process of the court may be executed by any bailiff thereof notwithstanding that it may have been directed personally to some other bailiff."

Repeal and replacement of section 19.

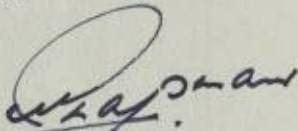
3. Section 19 of the principal Ordinance is repealed and replaced by the following—

"Protection of Registrar, deputy registrars and assistant registrars.

19. No action shall be brought against the Registrar, any deputy registrar or any assistant registrar—

- (a) for any act done or omitted to be done by any bailiff or deputy bailiff without directions from such Registrar, deputy registrar or assistant registrar; or
- (b) for any direction given to a bailiff or deputy bailiff with regard to the execution or non-execution of process if such directions are in accordance with an order obtained from the court as is hereinafter mentioned, provided always that no material fact is wilfully misrepresented or suppressed by such Registrar, deputy registrar or assistant registrar."

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of April, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

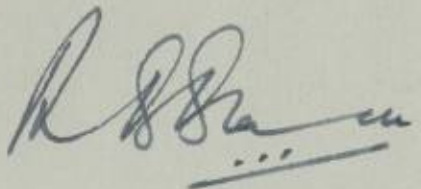
(Secretariat GR41/3231/50)

**HONG KONG**

No. 10 OF 1963.



I assent.



Governor.

24th April, 1963.

An Ordinance to amend the Adoption Ordinance, 1956.

[25th April, 1963.]

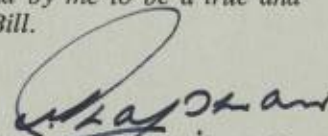
BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

1. This Ordinance may be cited as the Adoption (Amendment) Short title. Ordinance, 1963.

2. Section 6 of the Adoption Ordinance, 1956, is amended by the insertion in paragraph (b) of subsection (3), after the words "a justice of the peace", of the following—

"or a Commissioner for Oaths".

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of April, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

(Secretariat GR5/3221/48II)

Amendment of section 6. (22 of 1956).

**HONG KONG**

No. 11 OF 1963.



I assent.

*Governor.*

24th April, 1963.

An Ordinance to amend the Police Supervision Ordinance, 1956.

[25th April, 1963.]

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 Supervision Short title.  
(Amendment) Ordinance, 1963.

2. Section 3 of the Police Supervision Ordinance, 1956 (herein-  
after referred to as the principal Ordinance) is amended by the addition  
at the end thereof of the following new subsection—

Amendment  
of section 3.  
(12 of 1956).

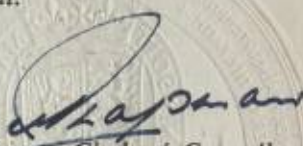
(5) When a court or magistrate makes a probation  
order in accordance with subsection (1) of section 3 of the  
Probation of Offenders Ordinance, 1956, in respect of a  
person during the currency of a police supervision order  
made in accordance with subsection (3) against the same  
person, the court or magistrate may revoke the police  
supervision order.”

(57 of 1956).

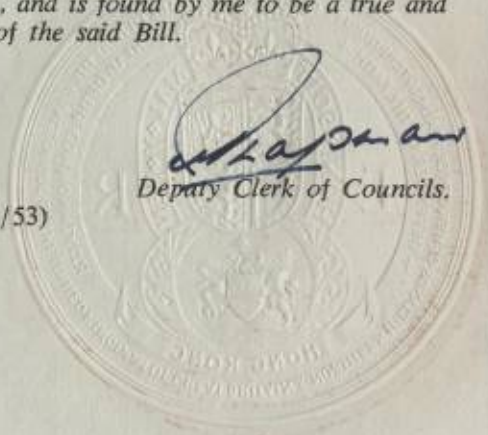
Amendment  
of sections 6,  
8 and 13.

3. The principal Ordinance is amended by the deletion, in sections 6, 8 and 13, of the word "sub-inspector" wherever the same occurs and the substitution therefor of the following—  
"inspector".

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of April, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

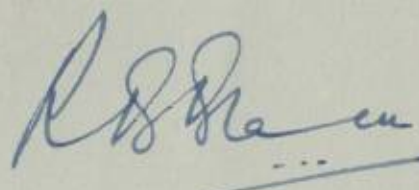
(Secretariat GR27/3231/53)



**HONG KONG**

No. 12 OF 1963.

I assent.



Governor.

24th April, 1963.

An Ordinance to amend the Protection of Non-Government Certificates of Origin Ordinance, 1960.

[25th April, 1963.]

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

1. This Ordinance may be cited as the Protection of Non-Government Certificates of Origin (Amendment) Ordinance, 1963. Short title.

2. Section 3 of the Protection of Non-Government Certificates of Origin Ordinance, 1960 (hereinafter referred to as the principal Ordinance) is amended by— Amendment of section 3. (29 of 1960).

- (a) being renumbered as subsection (1) thereof;
- (b) the deletion of the word "five" and the substitution therefor of the following—  
"twenty"; and
- (c) the insertion of the following new subsection—  
"(2) Any person who, with intent to deceive—  
(a) makes or causes to be made any false statement in any declaration made for the purpose of obtaining a certificate of origin; or

- (b) makes or gives or causes to be made or given any false or incorrect statement or information in any document which he knows or has reason to believe may be used in support of an application for the issue of a certificate of origin,

shall be guilty of an offence and shall be liable on summary conviction to a fine of ten thousand dollars and imprisonment for one year."

Repeal and replacement of section 4.

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

"Liability of company, directors etc.

4. (1) Without prejudice to the prosecution of any person for an offence under section 3, where a document in respect of which an offence has been committed under section 3 has been issued or purports to have been issued on behalf of a company, partnership or business—

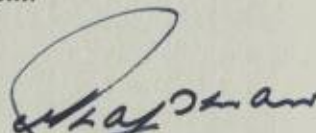
- (a) such company; and  
(b) every director, partner and other person concerned in the management of such company, partnership or business, who has or has had such document in his possession or under his control,

shall be guilty of an offence unless it is proved that it or he—

- (i) took all reasonable precautions against the commission of an offence under section 3, and  
(ii) on demand made by or on behalf of the prosecutor, gave all the information in its or his power with respect to such document.

(2) Any company or person found guilty of an offence under subsection (1) shall be liable on summary conviction to a fine of ten thousand dollars."

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of April, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

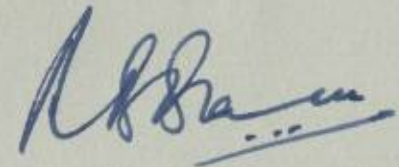
(Secretariat FIN7/3231/60)

**HONG KONG**

No. 13 OF 1963.



I assent.



Governor.

24th April, 1963.

An Ordinance to provide for the incorporation of the Prior in Hong Kong of the Order of Cistercians of the Strict Observance.

[25th April, 1963.]

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 Prior of the Order of Cistercians of the Strict Observance Incorporation Ordinance, 1963. Short title.
2. In this Ordinance, unless the context otherwise requires— Interpretation.  
"corporation" means the body incorporated by section 3.
3. The Prior for the time being in the Colony of the Order of Cistercians of the Strict Observance shall be a corporation sole and shall have the name of "The Prior in Hong Kong of the Order of Cistercians of the Strict Observance" and in that name shall have perpetual succession and may sue and be sued in all courts in the Colony and shall have and may use a common seal. Incorporation.

Power of  
corporation.

4. (1) The corporation shall have power to acquire, accept leases of, purchase, take, hold and enjoy any lands, buildings, messuages, or tenements of what nature or kind soever and wheresoever situated, and also to invest moneys upon mortgage of any lands, buildings, messuages or tenements or upon the mortgages, debentures, stocks, funds, shares or securities of any Government, municipality corporation, company or person and also to purchase, acquire and possess vessels and other goods and chattels of what nature and kind soever:

Provided that the corporation shall not acquire any immovable property in the Colony unless it has previously obtained the special consent of the Governor in Council in each case.

(2) The corporation shall further have power by deed under its seal to grant, sell, convey, assign, surrender, exchange, partition, yield up, mortgage, demise, reassign, transfer or otherwise dispose of any lands, buildings, messuages, tenements, mortgages, debentures, stocks, funds, shares or securities or vessels or other goods and chattels, which are for the time being vested in or belong to the corporation upon such terms as to the corporation may seem fit.

Succession.

5. The legal estate in any property whatsoever transferred to the corporation in any manner whatsoever shall, in the event of the death of the Prior for the time being in Hong Kong of the Order of Cistercians of the Strict Observance or in the event of his ceasing to hold office as such Prior, pass to his successor in such office when appointed.

Appointment  
to office of  
Prior.

6. (1) Whenever any person is appointed to the office of Prior in Hong Kong of the Order of Cistercians of the Strict Observance, such person shall, within three weeks after his appointment or within such further time as may be allowed by the Governor, furnish to the Governor evidence of his appointment as shall be acceptable to the Governor.

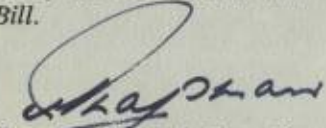
(2) A notification in the *Gazette* under the hand of the Colonial Secretary that such evidence has been furnished to and accepted by the Governor by such person shall be conclusive evidence of such appointment.

Use of seal.

7. All deeds and other instruments requiring the seal of the corporation shall be sealed in the presence of the Prior or his attorney and shall be signed by him or his attorney and such signing shall be sufficient evidence of the due sealing of such deeds and other instruments and all deeds, instruments and other documents and writings requiring the signature of the corporation shall be signed by the Prior or his attorney.

8. Nothing in this Ordinance shall affect or be deemed to affect Saving. the rights of Her Majesty the Queen, Her Heirs or Successors, or the rights of any body politic or corporate or of any other persons except such as are mentioned in this Ordinance, and those claiming by, from or under them.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of April, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

(Secretariat GR3/3231/63)

**HONG KONG**

No. 14 OF 1963.



I assent.

*Governor.*

*24th April, 1963.*

An Ordinance to provide for the incorporation of the Hong Kong Conference of Youth Organizations.

[25th April, 1963.]

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 Hong Kong Conference of Youth Organizations Incorporation Ordinance, 1963. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpreta-  
tion.  
“chairman” means the chairman of the corporation appointed in accordance with the regulations of the Hong Kong Conference of Youth Organizations;

“the corporation” means the Hong Kong Conference of Youth Organizations incorporated under section 3;

“regulations” mean the regulations of the Hong Kong Conference of Youth Organizations approved from time to time by its members for the time being in accordance with the regulations for the time being in operation.

Incorporation.

3. The members of the Hong Kong Conference of Youth Organizations shall be a body corporate and shall have the name "Hong Kong Conference of Youth Organizations" and in that name shall have perpetual succession and may sue and be sued in all courts in the Colony and shall have and may use a common seal and may from time to time, break, change, alter and make anew the said seal as the corporation may deem fit.

Power of corporation. (23 of 1958).

4. The corporation shall have full power—

- (a) subject to the Charities (Land Acquisition) Ordinance, 1958, to acquire, accept leases of, purchase, take or otherwise hold and enjoy any lands, buildings, messuages or tenements of what nature or kind soever and wheresoever situate;
- (b) to acquire, by purchase or otherwise, goods and chattels of what nature or kind soever;
- (c) to invest moneys on deposit in any bank in the Colony or in any Government bonds or on mortgage of any lands, buildings, messuages or tenements in the Colony or in or on debentures, debenture-stocks, funds, shares or securities of any corporation or company carrying on business in the Colony;
- (d) to grant, sell, convey, assign, surrender, yield up, mortgage, demise, let, reassign, transfer or otherwise dispose of, any lands, or buildings, messuages, tenements, mortgages, debentures, debenture-stocks, funds, securities, vessels, goods and chattels for the time being vested in the corporation, upon such terms as the corporation may deem fit;
- (e) to erect any buildings, messuages or tenements and effect any improvement thereto;
- (f) to borrow money upon such terms as the corporation shall think fit, and to raise money by public or private subscription; and
- (g) generally to do such other things as may appear to be incidental or conducive to the aims and objects of the corporation as provided by its regulations or the purposes aforesaid or any of them.

Vesting of property.

5. On the commencement of this Ordinance all moneys, securities for money, goods, chattels and effects whatsoever belonging to the Hong Kong Conference of Youth Organizations are hereby transferred to and vested in the corporation and the corporation shall become liable for the debts and liabilities of the Hong Kong Conference of Youth Organizations.

Members.

6. The corporation shall consist of such members as shall be provided by its regulations.

7. All the existing members of the unincorporated Hong Kong Conference of Youth Organizations at the commencement of this Ordinance shall be the first members of the corporation.

Existing members to become members.

8. (1) The corporation shall forward to the Registrar of Companies for registration the following—

Registration with the Registrar of Companies.

- (a) notice of the address of the principal office of the corporation and any change thereto;
- (b) a copy of the regulations and any amendment thereto, certified as correct by the chairman;
- (c) a list of the names and addresses of the members of the corporation and any change therein, certified as correct by the chairman; and
- (d) the name and address of any person appointed under section 9 to sign deeds, documents and other instruments.

(2) Notification in accordance with subsection (1) shall be made within twenty-eight days of the commencement of this Ordinance or within twenty-eight days of any amendment or change, as the case may be.

(3) Any person may inspect any of the documents registered under this section.

(4) A fee of five dollars shall be payable for registering any document under this section.

(5) A fee of one dollar shall be payable for inspecting the documents filed with the Registrar of Companies under this Ordinance.

9. All deeds, documents and other instruments requiring the seal of and sealed by the corporation shall be signed by the chairman and secretary of the corporation or by the chairman or secretary and such other member as the corporation may appoint or by two other members as the corporation may appoint, and such signing shall be taken as sufficient evidence of the due sealing of such deeds, documents and other instruments.

Sealing of deeds, documents and other instruments.

10. The regulations of the unincorporated Hong Kong Conference of Youth Organizations in operation at the commencement of this Ordinance shall be the regulations of the corporation, but the same may be changed or amended by the corporation at any time and from time to time in accordance with the provisions of the regulations for the time being in operation.

Existing regulations to be regulations of corporation.

11. Nothing in this Ordinance shall affect or be deemed to affect the rights of Her Majesty the Queen, Her Heirs or Successors, or the rights of any body politic or corporate or of any other persons except such as are mentioned in this Ordinance and those claiming by, from or under them.

Saving.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of April, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

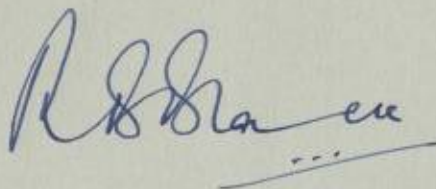
(Secretariat GR2/3231/63)

**HONG KONG**

No. 15 OF 1963.



I assent.



Governor.

9th May, 1963.

An Ordinance to amend the Tenancy (Prolonged Duration) Ordinance, 1952.

[10th May, 1963.]

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

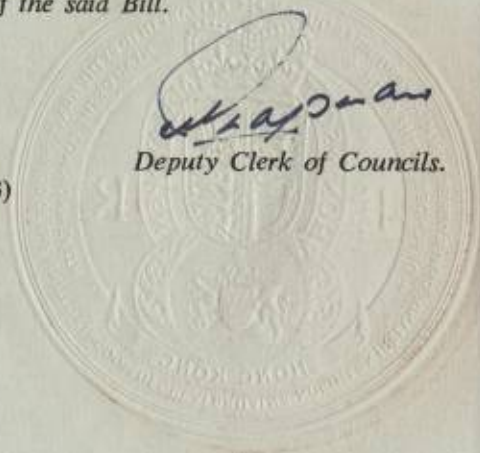
1. This Ordinance may be cited as the Tenancy (Prolonged Duration) (Amendment) Ordinance, 1963. Short title.
2. Section 3 of the Tenancy (Prolonged Duration) Ordinance, 1952, is amended by the deletion of subsection (1) and the substitution therefor of the following— Amendment of section 3. (8 of 1952).

“(1) Subject as hereinafter provided if and so long as this Ordinance applies to any tenancy and the tenant pays the rent reserved by the tenancy and performs any covenants express or implied applicable to such tenancy any notice to quit given by the landlord prior, in the case of a tenancy commencing before the 1st day of July, 1963, to the expiration of a period of three years, or,

in the case of a tenancy commencing after the 1st day of July, 1963, to the expiration of a period of five years, from the commencement of the tenancy shall be and be deemed to have been inoperative.”

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 8th day of May, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

(Secretariat BL4/741/63)



*Deputy Clerk of Councils.*

**HONG KONG**

NO. 16 OF 1963.

I assent.

*Governor.*

*9th May, 1963.*

An Ordinance to make amendments to the law relating to homicide.

[10th May, 1963.]

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 Homicide Ordinance, 1963. Short title.
2. (1) Where a person kills another in the course or furtherance of some other offence, the killing shall not amount to murder unless done with the same malice aforethought (express or implied) as is required for a killing to amount to murder when not done in the course or furtherance of another offence. Abolition of "constructive malice".
- (2) For the purposes of subsection (1), a killing done in the course or for the purpose of resisting an officer of justice, or of resisting or avoiding or preventing a lawful arrest, or of effecting or assisting an escape or rescue from legal custody, shall be treated as a killing in the course or furtherance of an offence.

Persons suffering from diminished responsibility.

3. (1) Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the killing.

(2) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who but for this section would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.

(4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to it.

Provocation.

4. Where on a charge of murder there is evidence on which the jury can find that the person charged was provoked (whether by things done or by things said or by both together) to lose his self-control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the jury; and in determining that question the jury shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.

Suicide pacts.

5. (1) It shall be manslaughter, and shall not be murder, for a person acting in pursuance of a suicide pact between him and another to kill the other or be a party to the other killing himself or being killed by a third person.

(2) Where it is shown that a person charged with the murder of another killed the other or was a party to his killing himself or being killed, it shall be for the defence to prove that the person charged was acting in pursuance of a suicide pact between him and the other.

(3) For the purposes of this section, "suicide pact" means a common agreement between two or more persons having for its object the death of all of them, whether or not each is to take his own life, but nothing done by a person who enters into a suicide pact shall be treated as done by him in pursuance of the pact unless it is done while he has the settled intention of dying in pursuance of the pact.

Form of sentence of death. (Cap. 212).

6. Where by virtue of section 3 of the Offences against the Person Ordinance sentence of death is pronounced, it shall be to the effect only that the prisoner is to "suffer death in the manner authorized by law".

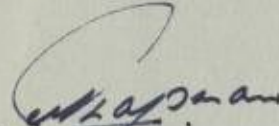
7. Section 4 of the Offences against the Person Ordinance is amended by the deletion of the comma and words "and the sentence of the court shall so direct".

Amendment of section 4 of Chapter 212.

8. The provisions of this Ordinance shall not have effect in relation to any offence in respect of which an indictment has been signed before the commencement of this Ordinance but, subject thereto, such provisions shall have effect in relation to offences committed wholly or partly before the commencement of this Ordinance in like manner as they apply to offences committed thereafter.

Past offences.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 8th day of May, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

(Secretariat GR7/3231/56)

**HONG KONG**

No. 17 OF 1963.



I assent.

*Governor.*

*23rd May, 1963.*

An Ordinance to amend the Widows and Orphans Pension Ordinance,  
Chapter 94.

[24th May, 1963.]

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 Widows and Orphans Pension (Amendment) Ordinance, 1963. Short title.

2. (1) Section 2 of the Widows and Orphans Pension Ordinance (hereinafter referred to as the principal Ordinance) is amended by the deletion of the definition "salary" and the substitution therefor of the following— Amendment  
of section 2.  
(Cap. 94).

"salary", in respect of service prior to the 1st day of July, 1959, and  
in respect of service after the 30th day of June, 1959, in the case  
of an officer who continues for the time being in receipt of a salary

on a scale applicable prior to the 1st day of July, 1959 (that is to say, the date on which the Salaries Commission Report, 1959, was implemented), means the aggregate of—

- (a) the salary of an officer's substantive appointment or appointments including personal allowances in the nature of salary; and
- (b) fifty per cent of expatriation pay and personal allowances in place of expatriation pay;

"salary", in respect of service after the 30th day of June, 1959, except in the case of an officer who continues for the time being in receipt of a salary on a scale applicable prior to the 1st day of July, 1959, means the aggregate of—

- (a) ninety per cent of the salary of an officer's substantive appointment or appointments including personal allowances in the nature of salary; and
- (b) fifty per cent of expatriation pay and personal allowances in place of expatriation pay;".

(2) The amendment to the principal Ordinance made by this section shall be deemed to have had effect from the 1st day of October, 1953.

Amendment  
of section 8.

3. Section 8 of the principal Ordinance is amended by the insertion in subsection (1), after the figures "30", of the following—  
"and section 30A".

Amendment  
of section 10.

4. Section 10 of the principal Ordinance is amended by—

- (a) the deletion of subsections (2), (3), (5) and (6); and
- (b) the substitution therefor of the following new subsection—  
"(5) An officer who, having continued to contribute after leaving the public service, subsequently becomes a widower, shall thereupon, or upon the last of any of his children ceasing to be pensionable (whichever event last happens), cease to contribute and to have any rights under this Ordinance."

Addition  
of new  
section 10A.

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

"Repayment  
to bachelors  
and  
widowers  
without  
pensionable  
children.

10A. (1) A bachelor or a widower without children pensionable under this Ordinance, who leaves the public service with or without pension on transfer or on retirement or on dismissal or otherwise, shall not be required to make any further contribution, and shall receive back, unless he elects to continue being a contributor—

- (a) in the case of a bachelor, the amount of the contributions paid by him with compound interest thereon; and

- (b) in the case of a widower, the amount of contributions paid by him during the period from the death of his last wife or the date upon which he ceased to have any child pensionable under this Ordinance, whichever last occurred, with compound interest thereon:

Provided that, in the case of an officer who is dismissed from the public service, contributions repayable under subsections (a) and (b) shall be repaid without interest.

(2) Where a bachelor or a widower without children pensionable under this Ordinance dies while in the public service, his legal representative shall receive back—

- (a) in the case of a bachelor, the amount of the contributions paid by him with compound interest thereon; and

- (b) in the case of a widower, the amount of the contributions paid by him during the period from the death of his last wife or the date upon which he ceased to have any child pensionable under this Ordinance, whichever last occurred, with compound interest thereon.

(3) For the purposes of subsection (1), unless within six months after the date when he leaves the public service an officer has by notice in writing to the Accountant General elected to continue being a contributor, he shall be deemed to have elected to discontinue being a contributor.

(4) Subject to the provisions of section 14, in the case of an officer who leaves the public service on transfer to any other office under the Crown, an election made under subsection (1) shall be irrevocable.

(5) For the purposes of this section, interest shall be calculated at two and a half per cent per annum with annual rests on the 31st day of December in each year; the interest beginning to accrue in respect of each contribution on the 1st day of January following the day upon which the contribution is paid and ceasing on the last day of the month preceding the month in which payment under this section is made.

(6) Where contributions become repayable under this section and at the time the officer has acknowledged a debt as being due to the Government or the existence of such a debt has been established in any court, the amount of such debt shall be deducted from the contributions so repayable."

Addition  
of new  
section 30A.

6. The principal Ordinance is amended by the addition, after section 30, of the following new section—

"Limit of  
compulsory  
contribution  
for all  
officers.

30A. (1) When, after the commencement of the Widows and Orphans Pension (Amendment) Ordinance, 1963, an officer first becomes liable to contribute at a rate in excess of one hundred and twenty-five dollars per mensem, he may by notice in writing to the Accountant General elect—

- (a) to contribute at the rate of one hundred and twenty-five dollars per mensem; or
- (b) to contribute at the rate provided by section 8.

(2) Where, prior to the commencement of the Widows and Orphans Pension (Amendment) Ordinance, 1963, an officer has become liable to contribute at a rate in excess of one hundred and twenty-five dollars per mensem, he may by notice in writing to the Accountant General elect—

- (a) to contribute at the rate of one hundred and twenty-five dollars per mensem; or
- (b) to contribute at the rate at which he was contributing immediately prior to the 1st day of July, 1959, where such amount was not less than one hundred and twenty-five dollars per mensem; or
- (c) to contribute at the rate provided by section 8.

(3) For the purpose of subsection (1), unless within three months after the date when he first became liable to contribute more than one hundred and twenty-five dollars per mensem, or such longer period as the directors may in any particular case allow, an officer has made his election, he shall be deemed to have elected to contribute at the rate provided by section 8.

(4) For the purposes of subsection (2)—

(a) unless within three months after the commencement of the Widows and Orphans Pension (Amendment) Ordinance, 1963, or such longer period as the directors may in any particular case allow, an officer has made his election, he shall be deemed to have elected to contribute—

(i) in the case of an officer who is in the public service at the commencement of the aforesaid Ordinance, at the rate provided by section 8; and

(ii) in the case of an officer who has left the public service at the commencement of the aforesaid Ordinance, at the rate at which he was contributing immediately prior to leaving the public service;

(b) any election shall take effect from the 1st day of July, 1959, or the date on which the officer first became liable to contribute more than one hundred and twenty-five dollars per mensem, whichever is the later.

(5) Where, under the provisions of this section, an officer has elected to contribute at the rate provided by section 8, he may at any time, by notice in writing to the Accountant General, elect to contribute at the rate at which he was contributing at the date of such notice.

(6) Save as provided in subsection (5), an election made under this section shall be irrevocable."

7. (1) Regulation 3 of the Widows and Orphans Pension (Application) Regulations, 1952, is amended—

(a) by the deletion from the first proviso of the words "three thousand two hundred and forty" and the substitution thereof of the following—

"four thousand four hundred and forty"; and

(b) by the insertion after the first proviso of the following new proviso—

"Provided also that this regulation shall not apply to any person in any of the following posts, that is to say, police constable, constable Hawker Control Force, fireman, fireman Class II, warder, detective district watchman, district watchman, and assistant revenue officer:."

(2) The amendment to these regulations made by this section shall be deemed to have had effect from the 1st day of July, 1959.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 22nd day of May, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

*C. Quota*

Deputy Clerk of Councils.

(Secretariat PR4388/48III)

Amendment  
of Widows  
and Orphans  
Pension  
(Application)  
Regulations,  
1952.  
(G.N.A.  
192/52).

**HONG KONG**

No. 18 OF 1963.



I assent.

*Governor.*

*23rd May, 1963.*

An Ordinance to provide for the control of experiments on living vertebrate animals.

[24th May, 1963.]

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 Animals (Control of Short title. Experiments) Ordinance, 1963.

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

“academic institution” includes universities, university colleges, hospitals, medical schools, agricultural colleges, farm schools, and any other similar institutions;

“animal” means a living vertebrate animal;

“experiment” means any experiment performed on an animal and calculated to give pain;

“Licensing Authority” means the Director of Medical and Health Services;

“licensee” means a person licensed under section 7.

Interpreta-  
tion.

Performance of experiments only by licensees.

3. (1) No person except a licensee shall perform any experiment.
- (2) No licensee shall perform any experiment except in accordance with the terms of his licence and subject to the restrictions imposed by this Ordinance.

Prohibition against performing experiments to attain manual skill.

4. Except under and in accordance with an endorsement made under section 8, no licensee shall perform any experiment for the purpose of attaining manual skill.

Prohibition of performance of experiments for illustration of lectures except as specified in permit.

5. Except under and in accordance with a teaching permit issued under section 9, no licensee shall perform any experiment for the purpose of illustrating any lecture at any academic institution.

Restrictions upon performance of experiments by licensee.

6. (1) Except as otherwise provided in sections 4 and 5 no licensee shall perform any experiment except—
- for the purpose of the advancement by new discovery of physiological knowledge, or of any knowledge which will be useful for saving or prolonging life, or alleviating suffering, or for combating any disease whether of human beings, animals or plants;
  - for the purpose of testing any former discovery alleged to have been made for the advancement of the types of knowledge referred to in paragraph (a);
  - by the order in writing of any judge or district judge in any case where such judge is satisfied that it is essential for the purpose of justice in a criminal case to make such experiment.
- (2) Except under and in accordance with an endorsement made under section 10, no licensee shall perform any experiment unless—
- throughout the whole of the experiment the animal is under the influence of some anaesthetic of sufficient power to prevent the animal feeling pain; and
  - if the pain is likely to continue after the effect of the anaesthetic has ceased, or if any serious injury has been inflicted on the animal, the animal is killed before it recovers from the influence of the anaesthetic which has been administered.

Grant of licences.

7. (1) The Licensing Authority may grant a licence to any person to perform any experiment for any purpose specified in such licence during such period and subject to such conditions, in addition to the conditions specified in this Ordinance, as he may think fit.

- (2) It shall be a condition of any licence granted under subsection (1) that any experiment performed pursuant to such licence shall be performed at such place as may be specified in such licence.

8. Where the Licensing Authority is satisfied that it is desirable, he may, by endorsement of any licence, authorize the holder thereof to perform experiments for the purpose of attaining manual skill during such period and subject to such conditions as the Licensing Authority may think fit.

Endorsements to enable performance of experiments for manual skill.

9. (1) Where the Licensing Authority is satisfied that it is absolutely necessary for the due instruction of persons attending any lectures for the purpose of acquiring physiological knowledge or any knowledge which will be used for saving or prolonging life, or alleviating suffering, or for combating any disease whether of human beings, animals or plants, for any such lecture to be illustrated by the performance of any experiment, the Licensing Authority may grant to a licensee a teaching permit to perform any experiment for the purpose of illustrating such lecture.

Grant of permits.

(2) Every teaching permit granted under subsection (1) shall be subject to such conditions, in addition to any conditions specified in this Ordinance, as may be specified in such permit, and such permit shall remain in force for twelve months from the date on which it is granted.

10. Where the Licensing Authority is satisfied that the object of any experiment or series of experiments permitted to be performed by a licensee would necessarily be frustrated—

Endorsements to enable performance of experiments without anaesthetics, etc.

- by the performance of such experiment under any anaesthetic; or
- by killing the animal on which such experiment is performed before it recovers from the influence of any anaesthetic,

he may, by endorsement of any licence, authorize the holder to perform such experiment or series of experiments without administering any anaesthetic to the animal or without killing the animal before it recovers from the influence of such anaesthetic, as the case may be, during such period and subject to such conditions as the Licensing Authority may think fit.

11. (1) Every licensee shall keep, in such form as may be prescribed, records of all experiments performed by him.

Duty to keep records and to permit inspections.

(2) Every licensee shall permit any medical or health officer authorized in writing by the Licensing Authority for the purpose to inspect any records kept by him at any time between 8 a.m. and 6 p.m. on any day other than a Sunday or public holiday.

(3) Every licensee shall permit any person authorized in writing as aforesaid to enter and inspect, for the purpose of securing compliance with the provisions of this Ordinance, any place specified in such licensee's licence for the performance of experiments.

Duty to render returns.

12. Every licensee shall render to the Licensing Authority in such form and at such time as may be prescribed such returns as may be required in relation to any experiments performed by the licensee.

Power to make regulations.

13. (1) The Governor in Council may make regulations generally for the better carrying out of the provisions of this Ordinance.

(2) Regulations made under this section may, without prejudice to the generality of the power conferred by subsection (1), provide—

- (a) for the keeping of records of all experiments performed by any licensee;
- (b) for the rendering of returns in relation to any experiments performed under this Ordinance; and
- (c) that the contravention of any regulation shall constitute an offence and may prescribe penalties for any offence not exceeding a fine of five hundred dollars and imprisonment for six months.

Cancellation of licence or permit.

14. It shall be a condition of every licence, permit or endorsement granted or made under the provisions of this Ordinance that such licence, permit or endorsement may be cancelled at any time by the Licensing Authority on his being satisfied that such licence or permit ought to be cancelled.

Penalty.

15. Any person who acts in contravention of any of the provisions of this Ordinance or of any condition of any licence, permit or endorsement granted or made under the provisions of this Ordinance shall be guilty of an offence and upon conviction shall be liable to a fine of one thousand dollars and to imprisonment for six months.

Restriction of prosecutions.

16. Except by or with the consent of the Attorney General, a prosecution under this Ordinance shall not be instituted.

Appeals to the Governor in Council.

17. Any person aggrieved by a refusal to issue a licence, endorsement or permit under section 7, 8, 9 or 10 may appeal to the Governor in Council. If the appeal is allowed, any licence, endorsement or permit issued by the Governor in Council in pursuance of such appeal shall be deemed to be a licence, endorsement or permit, as the case may be, issued under section 7, 8, 9 or 10.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 22nd day of May, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

*C. R. S. M.*

Deputy Clerk of Councils.

(Secretariat GR3231/57)



Repeal and replacement of sections 7 and 8.

3. Sections 7 and 8 of the principal Ordinance are repealed and replaced by the following—

"Registration and provisional registration.

7. (1) Every—

- (a) factory;
- (b) mine; and
- (c) premises or place in which a dangerous trade or scheduled trade is carried on,

shall be registered or provisionally registered in accordance with the provisions of this section.

(2) The proprietor of a registrable workplace shall apply to the Commissioner for a certificate of the registration or of the provisional registration thereof—

- (a) before the first occasion on which any industrial process is commenced or any industrial operation is carried on in the registrable workplace; and
- (b) thereafter before the date on which a certificate of registration or of provisional registration, as the case may be, expires under subsection (4).

(3) The Commissioner shall maintain registers of registrable workplaces in respect of which certificates of registration and certificates of provisional registration have been issued.

(4) A certificate of registration and a certificate of provisional registration shall expire and cease to have effect—

- (a) two years from the date of issue of a certificate of registration or twelve months from the date of issue of a certificate of provisional registration; or
- (b) on such date as may be specified therein under subsection (6),

whichever is the earlier.

(5) The Commissioner may issue in respect of any registrable workplace—

- (a) a certificate of registration if he is satisfied that the registrable workplace is—
  - (i) suitable, as regards the location thereof, for use as a factory or mine or for the carrying on therein of a dangerous trade or scheduled trade, as the case may be; and
  - (ii) capable of being used as a factory or mine, or for the carrying on therein of a dangerous trade or a scheduled trade, as the case may be, in

accordance with the provisions of this Ordinance, of any regulations made under this Ordinance and of any exemption or order made in relation thereto by the Commissioner of Labour under subsection (4) of section 5; or

- (b) a certificate of provisional registration if he is satisfied that the registrable workplace may be used as a factory or mine or for the carrying on therein of a dangerous trade or scheduled trade, as the case may be, with due regard to the safety, health and welfare of persons employed therein and of the public.

(6) A certificate of registration and a certificate of provisional registration shall be in such form as the Commissioner may prescribe and valid for such period, not exceeding two years in the case of a certificate of registration, or twelve months in the case of a certificate of provisional registration, as may be specified therein.

(7) The Commissioner of Labour may—

- (a) attach to any certificate of registration or of provisional registration by endorsement thereon such conditions as he may think fit;
- (b) refuse in writing addressed to the applicant therefor to issue a certificate of registration or of provisional registration;
- (c) cancel, by notice in writing addressed to the proprietor of a registrable workplace, the certificate of registration or of provisional registration relating thereto in the event of the breach of any condition attached thereto under paragraph (a) or for any other reason which he may deem sufficient.

(8) Any person aggrieved by—

- (a) the attachment of any condition to a certificate of registration or of provisional registration under paragraph (a) of subsection (7);
- (b) a refusal to issue a certificate of registration or of provisional registration under paragraph (b) of subsection (7); or
- (c) a cancellation of a certificate of registration or of provisional registration under paragraph (c) of subsection (7),

may, within fourteen days of being notified of such attachment, refusal or cancellation, appeal therefrom by way of petition to the Governor in Council, whose decision shall be final.

Offences and penalties.

8. (1) The proprietor of any registrable workplace, in respect of which a certificate of registration or of provisional registration is required to be obtained under section 7, shall—

- (a) if no such certificate is in force in relation to the registrable workplace; or
- (b) if any condition contained in any such certificate issued in relation to the registrable workplace has been contravened or not fulfilled,

be guilty of an offence and shall be liable to a fine of five thousand dollars.

(2) Any person who fails to comply with any order made by the Commissioner of Labour under subsection (4) of section 5 or who fails to comply with any condition imposed by the Commissioner of Labour on the granting thereunder of any exemption shall be guilty of an offence and shall be liable to a fine of five thousand dollars.

(3) Any person who—

- (a) fails to comply with a requirement made by any officer under subsection (1) of section 4; or
- (b) wilfully or recklessly gives false information, or withholds information as to any of the matters in respect of which information is required to be given under subsection (1) of section 4; or
- (c) obstructs or delays any officer in the exercise of any of the powers conferred upon him by section 4,

shall be guilty of an offence and shall be liable to a fine of two thousand dollars.

(4) Any person who contravenes any of the provisions of subsection (1), (2) or (3) of section 4A shall be guilty of an offence and shall be liable to a fine of two thousand dollars.

(5) Where any person has been convicted of an offence against subsection (1) in respect of a registrable workplace, a magistrate may, on application made by an inspector with the consent in writing of the Commissioner,

in addition to or in lieu of the imposition of a fine, order that any machinery or plant located in such registrable workplace shall be secured by a seal, lock or other device by an inspector in such manner as the inspector may think necessary to prevent the operation of the machinery or plant without the seal, lock or device being broken or removed.

(6) If a seal, lock or other device, by means of which machinery or plant is secured by an inspector under an order made by a magistrate under subsection (5) or under section 8A, is broken or removed while such machinery or plant remains in the registrable workplace in which it was secured, the proprietor of the registrable workplace shall be guilty of an offence and liable to a fine of ten thousand dollars.

8A. (1) If on complaint by an inspector a magistrate is satisfied either—

- (a) that any part of the ways, works, machinery or plant used in an industrial undertaking is in such condition or so constructed or so placed that it cannot be used without risk of bodily injury; or
- (b) that any process or work is carried on or anything is or has been done in any industrial undertaking in such a manner as to cause risk of bodily injury,

the magistrate shall, by order, as the case may require—

- (i) prohibit the use of that part of the ways, works, machinery or plant, or, if it is capable of repair or alteration, prohibit its use until it is duly repaired or altered;
- (ii) require the proprietor to take such steps as may be specified in the order for remedying the danger complained of; or
- (iii) direct that such machinery or plant shall be secured by a seal, lock or other device by an inspector, in such manner as the inspector may think necessary to prevent the operation of the machinery or plant without the seal, lock or other device being broken or removed, for such period as the magistrate may specify in such order.

(2) Where a complaint is or has been made under subsection (1) the magistrate may, on application *ex parte* by an inspector, and on receiving evidence that the use of any such part of the ways, works, machinery or plant, or,

Power to make orders as to dangerous conditions and practices.

as the case may be, the carrying on of any process or work or the doing of anything in such a manner as aforesaid, involves imminent risk of serious bodily injury, make an interim order prohibiting either absolutely or subject to conditions, the use, carrying on or doing thereof until the earliest opportunity for hearing and determining the complaint and may include in such interim order a direction that any machinery or plant located in such industrial undertaking shall be secured by a seal, lock or other device by an inspector in such manner as the inspector may think necessary to prevent the operation of the machinery or plant without the seal, lock or other device being broken or removed.

(3) In the event of any contravention of or failure to comply with any order made by a magistrate under this section or of any condition or direction contained in such order the proprietor of the industrial undertaking in respect of which the order is made shall be guilty of an offence and shall be liable to a fine of ten thousand dollars."

Transitional provisions.

4. Any registrable workplace in respect of which a certificate of registration is in force on the commencement of this Ordinance shall be deemed to have been registered under section 7 of the principal Ordinance, as replaced by this Ordinance, for the period of validity of such certificate.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 5th day of June, 1963, and found by me to be a true and correctly printed copy of the said Bill.*

*C. Quatner*

Deputy Clerk of Councils.

(Secretariat CR16/2961/46II)

**HONG KONG**

No. 20 of 1963.



I assent.

*[Handwritten signature]*

Governor.

20th June, 1963.

An Ordinance to amend the District Court Ordinance, 1953.

[21st June, 1963.]

WHEREAS doubt has been expressed as to whether the whole of the First Schedule to the District Court Ordinance, 1953, which specifies the civil jurisdiction of the District Court, is subject to the limitations imposed by section 5 of the Supreme Court (Summary Jurisdiction) Ordinance, Chapter 5: Preamble.  
(1 of 1953).

AND WHEREAS this Schedule has been repealed by the District Court (Amendment) Ordinance, 1962, which is to come into operation on a day to be appointed by the Governor by Proclamation, and which Ordinance further amends the District Court Ordinance, 1953, so as to provide that the District Court shall have "such civil and criminal jurisdiction and powers as are conferred upon it by this Ordinance and by any other enactment for the time being in force": (21 of 1962).

AND WHEREAS it was and is intended that any Ordinance may confer on the District Court such jurisdiction as seems proper and desirable at the time of the enactment thereof:

AND WHEREAS it is considered necessary to remove all doubts in this matter:

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

Short title.

1. This Ordinance may be cited as the District Court (Amendment) Ordinance, 1963.

Amendment of First Schedule. (1 of 1953).

2. For the removal of doubts item 3 of the First Schedule to the District Court Ordinance, 1953 (hereinafter referred to as the principal Ordinance) is amended by the deletion of the full stop and the substitution therefor of the following—

“, which jurisdiction shall be subject only to such limitations as the enactment conferring the same may provide.”.

Amendment of section 3.

3. For the removal of doubts section 3 of the principal Ordinance is amended by the insertion therein of the following new subsection—

“(3) The jurisdiction and powers conferred by any other enactment for the time being in force shall be subject only to such limitations as such enactment may provide or may have provided.”.

Commencement of section 3. (21 of 1962).

4. Section 3 shall come into operation and take effect immediately after the coming into operation of the District Court (Amendment) Ordinance, 1962.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 19th day of June, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

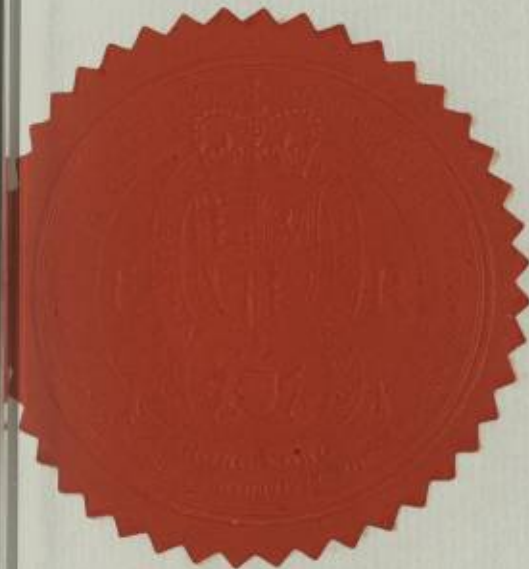
*C. P. ...*

Deputy Clerk of Councils.

(Secretariat GR20/3231/52)

**HONG KONG**

No. 21 of 1963.



I assent.

*[Handwritten signature]*

Governor.

20th June, 1963.

An Ordinance to amend the Prisons Ordinance, 1954.

[21st June, 1963.]

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 Prisons (Amendment) Short title. Ordinance, 1963.

2. Section 26 of the Prisons Ordinance, 1954, is repealed.

Repeal of section 26. (17 of 1954).

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 19th day of June, 1963, and is found by me to be a true and correctly printed copy of the said Bill.*

*C. P. ...*

Deputy Clerk of Councils.

(Secretariat GR48/2961/46II)

**HONG KONG**

No. 22 OF 1963.



I assent.

*Governor.*

*4th July, 1963.*

An Ordinance to make amended provision for arbitration in respect of civil matters.

[5th July, 1963.]

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

**PART I.**

**CITATION, COMMENCEMENT AND INTERPRETATION.**

1. (1) This Ordinance may be cited as the Arbitration Ordinance, 1963. Short title and commencement.
- (2) Part III shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—  
 “arbitration agreement” means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not;  
 “Court” means the Supreme Court;  
 “foreign award” means an award to which Part III applies.

## PART II.

### ARBITRATION WITHIN THE COLONY.

#### *Effect of Arbitration Agreements, etc.*

Authority of arbitrators and umpires to be irrevocable.  
 14 Geo. 6, c. 27, s. 1.

3. The authority of an arbitrator or umpire appointed by or by virtue of an arbitration agreement shall, unless a contrary intention is expressed in the agreement, be irrevocable except by leave of the Court or a judge thereof.

Death of party.  
 14 Geo. 6, c. 27, s. 2.

4. (1) An arbitration agreement shall not be discharged by the death of any party thereto, either as respects the deceased or any other party, but shall in such an event be enforceable by or against the personal representative of the deceased.

(2) The authority of an arbitrator shall not be revoked by the death of any party by whom he was appointed.

(3) Nothing in this section shall be taken to affect the operation of any enactment or rule of law by virtue of which any right of action is extinguished by the death of a person.

Bankruptcy.  
 14 Geo. 6, c. 27, s. 3.

5. (1) Where it is provided by a term in a contract to which a bankrupt is a party that any differences arising thereout or in connexion therewith shall be referred to arbitration, the said term shall, if the trustee in bankruptcy adopts the contract, be enforceable by or against him so far as relates to any such differences.

(2) Where a person who has been adjudged bankrupt had, before the commencement of the bankruptcy, become a party to an arbitration agreement, and any matter to which the agreement applies requires to be determined in connexion with or for the purposes of the bankruptcy proceedings, then, if the case is one to which subsection (1) does not

apply, any other party to the agreement, or, with the consent of the committee of inspection, the trustee in bankruptcy, may apply to the Court for an order directing that the matter in question shall be referred to arbitration in accordance with the agreement, and the Court may, if it is of opinion that, having regard to all the circumstances of the case, the matter ought to be determined by arbitration, make an order accordingly.

6. (1) If any party to an arbitration agreement, or any person claiming through or under him, commences any legal proceedings in any court against any other party to the agreement, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to those legal proceedings may at any time after appearance, and before delivering any pleadings or taking any other steps in the proceedings, apply to that court to stay the proceedings, and that court or a judge thereof, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the agreement, and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

(2) Notwithstanding anything in this Part, if any party to a submission to arbitration made in pursuance of an agreement to which the protocol set out in the First Schedule applies, or any person claiming through or under him, commences any legal proceedings in any court against any other party to the submission, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to those legal proceedings may at any time after appearance, and before delivering any pleadings or taking any other steps in the proceedings, apply to that court to stay the proceedings, and that court or a judge thereof, unless satisfied that the agreement or arbitration has become inoperative or cannot proceed or that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings.

7. Where relief by way of interpleader is granted and it appears to the Court that the claims in question are matters to which an arbitration agreement, to which the claimants are parties, applies, the Court may direct the issue between the claimants to be determined in accordance with agreement.

Staying court proceedings where there is submission to arbitration.  
 14 Geo. 6, c. 27, s. 4.

First Schedule.

Reference of interpleader issues to arbitration.  
 14 Geo. 6, c. 27, s. 5.

*Arbitrators and Umpires.*

When reference is to a single arbitrator.  
14 Geo. 6, c. 27, s. 6.

8. Unless a contrary intention is expressed therein, every arbitration agreement shall, if no other mode of reference is provided, be deemed to include a provision that the reference shall be to a single arbitrator.

Power of parties in certain cases to supply vacancy.  
14 Geo. 6, c. 27, s. 7.

9. Where an arbitration agreement provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a contrary intention is expressed therein—

- (a) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, the party who appointed him may appoint a new arbitrator in his place;
- (b) if, on such a reference, one party fails to appoint an arbitrator, either originally, or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference and his award shall be binding on both parties as if he had been appointed by consent:

Provided that the Court or a judge thereof may set aside any appointment made in pursuance of this section.

Umpires.  
14 Geo. 6, c. 27, s. 8.

10. (1) Unless a contrary intention is expressed therein, every arbitration agreement shall, where the reference is to two arbitrators, be deemed to include a provision that the two arbitrators shall appoint an umpire immediately after they are themselves appointed.

(2) Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to include a provision that if the arbitrators have delivered to any party to the arbitration agreement, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

(3) At any time after the appointment of an umpire, however appointed, the Court may, on the application of any party to the reference and notwithstanding anything to the contrary in the arbitration agreement, order that the umpire shall enter upon the reference in lieu of the arbitrators and as if he were a sole arbitrator.

11. (1) Where an arbitration agreement provides that the reference shall be to three arbitrators, one to be appointed by each party and the third to be appointed by the two appointed by the parties, the agreement shall have effect as if it provided for the appointment of an umpire, and not for the appointment of a third arbitrator, by the two arbitrators appointed by the parties.

Agreement for reference to three arbitrators.  
14 Geo. 6, c. 27, s. 9.

(2) Where an arbitration agreement provides that the reference shall be to three arbitrators to be appointed otherwise than as mentioned in subsection (1), the award of any two of the arbitrators shall be binding.

12. In any of the following cases—

- (a) where an arbitration agreement provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator;
- (b) if an appointed arbitrator refuses to act, or is incapable of acting, or dies, and the arbitration agreement does not show that it was intended that the vacancy should not be supplied and the parties do not supply the vacancy;
- (c) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him, or where two arbitrators are required to appoint an umpire and do not appoint him;
- (d) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, and the arbitration agreement does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy,

Power of Court in certain cases to appoint an arbitrator or umpire.  
14 Geo. 6, c. 27, s. 10.

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to appoint, or, as the case may be, concur in appointing, an arbitrator, umpire or third arbitrator, and if the appointment is not made within seven clear days after the service of the notice, the Court or a judge thereof may, on application by the party who gave the notice, appoint an arbitrator, umpire or third arbitrator who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties.

13. Where an arbitration agreement provides that the reference shall be to an official referee, any official referee to whom application is made shall, subject to any order of the Court or a judge thereof as to transfer or otherwise, hear and determine the matters agreed to be referred.

Reference to official referee.  
14 Geo. 6, c. 27, s. 11.