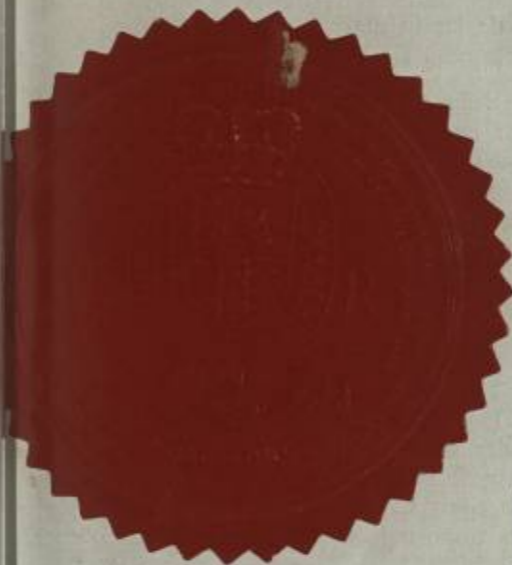


HONG KONG

No. 1 OF 1970.



I assent.

Krench.

Governor.

8th January, 1970.

An Ordinance to amend further the Marine Stores Protection Ordinance.

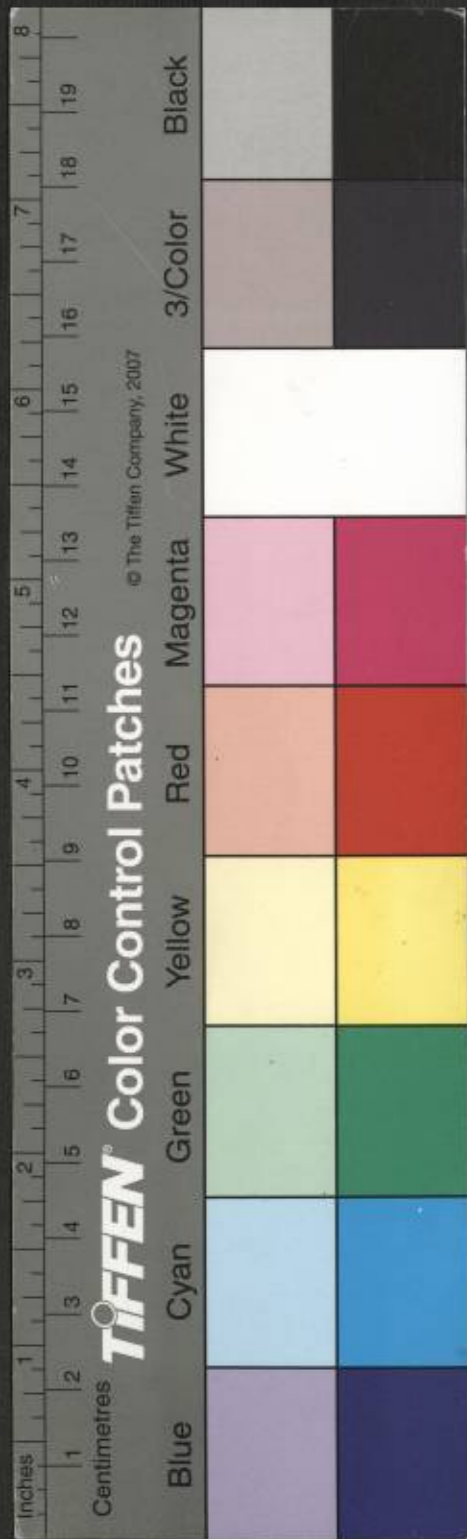
[9th January, 1970.]

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

1. This Ordinance may be cited as the Marine Stores Protection (Amendment) Ordinance 1970. Short title.

2. Section 2 of the principal Ordinance is amended by inserting after the definition of "dealer in marine stores" the following— Amendment of section 2. (Cap. 143.)

"licence" means a licence to be a dealer in marine stores or to be a marine stores collector in force under section 4;".



Repeal and replacement of section 4.

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 Section 4 of the principal Ordinance is repealed and replaced by the following new sections—

"Grant and renewal of licences.

4. (1) The Commissioner of Police may grant to any person a licence to be—

- (a) a dealer in marine stores; or
- (b) a marine stores collector.

(2) A licence issued under subsection (1) shall be valid for one year from the date on which it is issued and may be renewed from year to year.

(3) If the Commissioner of Police refuses to grant or renew a licence under subsection (1) or (2) the applicant for, or the holder of, the licence, as the case may be, may, within fourteen days of being notified of the refusal, appeal by way of petition to the Governor who may confirm, reverse or vary the decision of the Commissioner.

Suspension and cancellation of licences. (cf. 1967, No. 51 (N.Z.) s. 58.)

4A. (1) Where a person holding a licence granted under section 4 is convicted of any offence punishable by imprisonment for not less than twelve months, the court by which he is convicted may, in addition to imposing a penalty for such offence, order—

- (a) that the licence shall be suspended for such period as may be specified in the order or that the licence shall be cancelled; and
- (b) that the convicted licensee shall be disqualified from holding a licence for such period as the court determines.

(2) Upon making an order under subsection (1) the court shall cause particulars thereof to be endorsed on the licence and to be transmitted to the Commissioner of Police.

(3) A licensee shall in such manner and within such time as the court directs produce his licence for the purpose of an endorsement under subsection (2)."

Amendment of section 12.

4. Section 12 of the principal Ordinance is amended—

- (a) by inserting, after "3", the following—
"4A"; and
- (b) by deleting "liable on summary" and substituting the following—
"guilty of an offence and shall be liable on".

5. Section 15 of the principal Ordinance is repealed.

Repeal of section 15.

6. The principal Ordinance is amended by adding after section 15 the following new section—

Addition of new section 16.

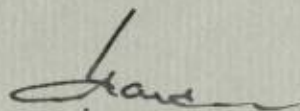
"Regulations.

16. (1) The Governor in Council may make regulations providing for—

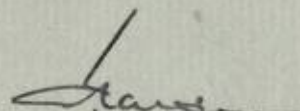
- (a) the conditions upon which licences of dealers in marine stores and marine stores collectors shall be held;
- (b) forms of applications for licences and forms of licences;
- (c) the duties of dealers in marine stores and of marine stores collectors;
- (d) the amount of security to be given under section 3 by dealers in marine stores; and
- (e) the better carrying into effect of the provisions of this Ordinance.

(2) Such regulations may provide that any contravention thereof shall constitute an offence punishable on conviction by a fine not exceeding one thousand dollars or imprisonment for a period not exceeding three months."

Passed by the Hong Kong Legislative Council this 7th day of January, 1970.


Deputy Clerk of Councils.

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


Deputy Clerk of Councils.

HONG KONG

No. 2 OF 1970.



I assent.

Hurch.
Governor.

8th January, 1970.

An Ordinance to amend further the Pawnbrokers Ordinance.

[1st April, 1970.]

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

1. This Ordinance may be cited as the Pawnbrokers (Amendment) Ordinance 1970, and shall come into operation on the 1st day of April 1970.

Short title and commencement.

2. Section 2 of the principal Ordinance is amended by inserting, before the definition of "month", the following—

Amendment of section 2. (Cap. 166.)

"identity document" means—

(a) an identity card issued in accordance with the provisions of the Registration of Persons Ordinance;

(Cap. 177.)

(b) a passport issued by a competent authority within or outside the Colony;

(c) any document which establishes the identity of the holder and is accepted by the Director of Immigration in lieu of a passport; and

(d) in the case of a member of the police force, the warrant card issued to him under section 18 of the Police Force Ordinance;

(Cap. 232.)

"licence" means a pawnbroker's licence in force under section 8;"

Repeal and replacement of section 8.

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

"Grant and renewal of licences.

8. (1) The Commissioner of Police may grant to any person a pawnbroker's licence.

(2) A pawnbroker's licence shall be valid for one year from the date on which it is issued and may be renewed from year to year.

(3) Subject to subsection (4), the fee for a pawnbroker's licence shall be paid in advance.

(4) A licensee may pay the licence fee in quarterly instalments in advance on finding security for such instalments to the satisfaction of the Secretary for Home Affairs.

(5) If the Commissioner of Police refuses to grant or renew a licence under subsection (1) or (2) the applicant for, or the holder of, the licence, as the case may be, may, within fourteen days of being notified of the refusal, appeal by way of petition to the Governor who may confirm, reverse or vary the decision of the Commissioner.

Suspension and cancellation of licences. (cf. 1967, No. 51 (N.Z.) s. 58.)

8A. (1) Where a person holding a pawnbroker's licence is convicted of any offence punishable by imprisonment for not less than twelve months, the court by which he is convicted may, in addition to imposing a penalty for such offence, order—

(a) that the licence shall be suspended for such period as may be specified in the order or that the licence shall be cancelled; and

(b) that the convicted licensee shall be disqualified from holding a licence for such period as the court determines.

(2) Upon making an order under subsection (1) the court shall cause particulars thereof to be endorsed on the licence and to be transmitted to the Commissioner of Police.

(3) A licensee shall in such manner and within such time as the court directs produce his licence for the purpose of an endorsement under subsection (2).

(4) No order of suspension, cancellation or disqualification under subsection (1) shall affect any contract of pawn or other contract made by the pawnbroker as such, nor shall he by reason only of the order lose his lien on, or right to, any pledge or to the loan and profit thereon, but he shall be allowed to pursue and wind up his business in respect of pledges which he has received before the making of the order".

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

"Pawnbroker not to receive goods in pawn from person under 17.

25. No pawnbroker shall receive any goods in pawn from any person who is apparently under the age of seventeen years.

Pawnbroker not to receive goods in pawn unless identity document produced.

25A. No pawnbroker shall receive any goods in pawn from any person unless he has first inspected the identity document of the borrower."

Repeal and replacement of section 25 and addition of new section 25A.

5. Section 27 of the principal Ordinance is amended by deleting "6" and substituting the following—

"8".

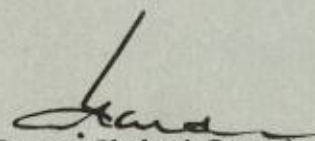
Amendment of section 27.

6. Section 29 of the principal Ordinance is amended by deleting "liable on summary" wherever it occurs and substituting the following—

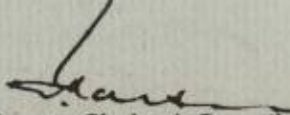
"guilty of an offence and shall be liable on".

Amendment of section 29.

Passed by the Hong Kong Legislative Council this 7th day of January, 1970.


Deputy Clerk of Councils.


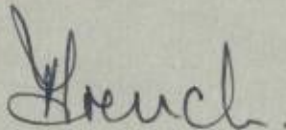
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.


Deputy Clerk of Councils.

HONG KONG

NO. 3 OF 1970.

I assent.

Governor.

8th January, 1970.

An Ordinance to amend further the Dutiable Commodities Ordinance.

[]

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

1. (1) This Ordinance may be cited as the Dutiable Commodities (Amendment) Ordinance 1970 and, subject to subsection (2), shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title
and com-
mencement.

(2) Sections 34 and 35 shall come into operation on some other day to be appointed by the Governor by notice in the *Gazette*, which shall be subsequent to the day so appointed under subsection (1).

Amendment of
long title.
(Cap. 109.)

2. The long title of the principal Ordinance is amended by deleting "*by making more adequate provisions*" and substituting the following—

"for providing for the licensing of certain dealings in liquors and for purposes connected therewith".

Amendment of
section 2.

3. Section 2 of the principal Ordinance is amended—

(a) in subsection (1)—

(i) by inserting after "assistant director" in the definition of "Director" the following—

"and an assistant commissioner of the Preventive Service";

(ii) by deleting "duty" in the second place where it occurs in the definition of "dutiabie goods" and substituting the following—

"full duty prescribed by law";

(iii) by inserting the following new definition after the definition of "export"—

"*"former Ordinance"* means the Dutiable Commodities Ordinance 1931 and also means any provision thereof which was continued in force under the repealed section 76 of this Ordinance;";

(iv) by inserting the following new definition after the definition of "gallon"—

"*"gross tonnage"* means gross tonnage determined in accordance with the Merchant Shipping (Tonnage) Regulations;";

(v) by deleting the definition of "licence" and substituting the following new definitions—

"*"licence"* means a licence granted or issued under this Ordinance or under the former Ordinance;

"*liquor licence"* means a licence for the sale or supply of liquor at any premises specified therein for consumption on the premises;"; and

(vi) by deleting the definition of "net register" and substituting the following—

"*"net register"* means register tonnage determined in accordance with the Merchant Shipping (Tonnage) Regulations;"; and

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

"(3) For the purposes of subsection (1), where—

(a) duty has been paid on goods by reference to the purpose for which the goods were intended to be used; and

(b) the goods are used, or are intended to be used, for some other purpose which attracts a higher rate of duty,

then, until duty is paid at that higher rate, the goods shall be deemed to be goods on which the full duty prescribed by law has not been paid.

First Schedule.

(4) The Director may by order amend the First Schedule."

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

Amendment of
section 6.

(a) by deleting "conditions to be attached to licences and permits" in paragraph (c) and substituting the following—

"the form of licences and permits and any conditions to be attached thereto"; and

(b) by inserting after paragraph (m) the following—

"(ma) the issue of liquor licences and the establishment, functions and procedure of boards appointed for the purpose;

(mb) regulating the premises in respect of which a liquor licence is granted;

(mc) regulating or prohibiting the sale and supply of liquor to minors;

(md) regulating or prohibiting the employment and presence of minors on licensed premises;

(me) the conditions of employment of minors on licensed premises;";

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

Amendment of
section 7.

(a) by deleting "for like periods and grant and issue permits in the prescribed form" in paragraph (a) and substituting the following—

"or permits";

- (b) by deleting "an officer deputed by the Director" in paragraph (b) and substituting the following—
"the Director or an officer deputed by him";
- (c) by inserting the following after "granting" in subparagraph (i) of paragraph (b)—
"or renewing";
- (d) by inserting the following after "give" in subparagraph (iii) of paragraph (b)—
"either personally or by registered post"; and
- (e) by inserting after paragraph (b) the following new paragraph—
"(ba) any licence or permit shall be in the prescribed form or, if no form is prescribed in a particular case, in such form as the Director may approve;".

Repeal and replacement of section 8.

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

"Applica-
tions for
licences
and permits.

8. Any person seeking a licence or permit or the renewal, extension, transfer or amendment of a licence or permit shall make application—

- (a) in accordance with regulations; or
(b) in any case not provided for by regulations, either personally or in writing to the Director in accordance with a form approved by him and subject to his directions,

and shall furnish such information and evidence relating to the application as may be prescribed or as the Director may require."

Amendment of section 11.

7. Section 11 of the principal Ordinance is amended by deleting "under this Ordinance" in paragraph (a) of subsection (1).

Amendment of section 13.

8. Section 13 of the principal Ordinance is amended by deleting "net register" and substituting the following—

"gross tonnage".

Amendment of section 15.

9. Section 15 of the principal Ordinance is amended by deleting "net register" in paragraph (b) of subsection (1) and substituting the following—

"gross tonnage".

10. Section 17 of the principal Ordinance is amended—

Amendment of section 17.

- (a) by deleting "prescribed" where it first occurs in subsection (3);
- (b) by deleting "prescribed" where it second and last occurs in subsection (3) and substituting in each case the following—
"required";
- (c) by inserting the following new subsection after subsection (3)—
"(3A) No person shall manufacture, make, distil, rectify, purify, refine or process any spirit except under and in accordance with a licence."; and
- (d) by deleting subsection (9).

11. Section 18 of the principal Ordinance is amended by deleting "prescribed" in subsection (1).

Amendment of section 18.

12. Section 19 of the principal Ordinance is amended—

Amendment of section 19.

- (a) in subsection (1), by deleting "net register" and substituting the following—
"gross tonnage"; and
- (b) in subsection (2), by deleting "or "public omnibus"" and substituting the following—
", "public light bus" or "public omnibus"".

13. Section 21 of the principal Ordinance is amended by inserting the following after "Colony" in subsection (1)—

Amendment of section 21.

"or on which any goods to which this Ordinance applies are being imported or exported".

14. Section 22 of the principal Ordinance is amended—

Amendment of section 22.

- (a) by deleting "twenty-four hours" in subsection (2) and substituting the following—
"seven days"; and
- (b) by deleting the proviso to subsection (4) and substituting the following—
"Provided that—
(a) where no goods of a class so specified were carried, it shall be sufficient to include a statement to that effect in any other statement made under this section; and

- (b) where no goods to which this Ordinance applies were carried, a single statement to that effect shall suffice.”

Amendment of section 23.

15. Section 23 of the principal Ordinance is amended by deleting “of comprador” in subsection (2) and substituting the following—

“or comprador”.

Amendment of section 28.

16. Section 28 of the principal Ordinance is amended by deleting “section 25” in subsection (1) and substituting the following—

“section 26”.

Amendment of section 29.

17. Section 29 of the principal Ordinance is amended by deleting all the words after “account;” in subsection (1) and substituting the following—

“a deficiency shall be deemed not sufficiently accounted for unless it is shown to the satisfaction of the Director to have been caused by natural waste, leakage, breakage or by some other accident or event, other than an error in accounting, which the licensee could not reasonably have foreseen.”

Amendment of section 39.

18. Section 39 of the principal Ordinance is amended—

- (a) by inserting after “import of” the following—
“, at any time”;
- (b) by deleting the comma at the end of paragraph (g) and substituting the following—
“; or”;
- (c) by inserting after paragraph (g) the following—
“(h) any quantity of methyl alcohol;” and
- (d) by deleting “at any one time.”

Amendment of section 46.

19. Section 46 of the principal Ordinance is amended—

- (a) by deleting “22, 24, 35, 36, 37, 38, 39, 55, 56, 57, 58,” in subsection (1) and substituting the following—
“19, 20, 22, 23, 24, 35, 36, 37, 38, 39, 55, 56, 57, 58, 61;”
- (b) by inserting after subsection (1) the following—
“(1A) Any person who contravenes any condition, restriction or direction lawfully imposed or given under this Ordinance shall be guilty of an

offence and, in addition to any forfeiture which may be ordered, shall be liable on summary conviction to a fine of ten thousand dollars and to imprisonment for one year.”; and

- (c) by deleting “the fine presented by subsection (1)” in subsection (2) and substituting the following—

“any fine imposed under subsection (1) or (1A)”.

20. The principal Ordinance is amended by adding the following new section after section 46—

Addition of new section 46A.

“Liability for acts of servants.

46A. (1) Where an offence against this Ordinance is committed by a servant of a licensee, the licensee shall, without prejudice to the liability of any other person, also be guilty of that offence but shall not be liable to any term of imprisonment.

(2) Where a prosecution is brought against a licensee by virtue of this section in respect of an offence committed by a servant, it shall be a defence—

- (a) in the case of an offence against section 61, 72, 73 or 74, if the licensee shows that he exercised such control over the servant as would ensure that the servant was not likely to act in contravention of that section; or
- (b) in the case of any other offence, if the licensee shows that he took all practicable steps to prevent the commission of the offence.

(3) Where a licence is granted to any person wholly or partly for the benefit of a company references to “licensee” in this section shall be read as including references to the company.”

21. Section 48 of the principal Ordinance is amended, in subsection (12), by inserting after “forfeiture” the following—

Amendment of section 48.

“if, within six weeks after the article or thing is condemned as forfeited, notice in writing of such moral claim is given either personally or by registered post to the Clerk of Councils”.

22. Section 50 of the principal Ordinance is amended by deleting “prescribed” in subsection (2) and substituting the following—

Amendment of section 50.

“public”.

Amendment of
section 53.

23. Section 53 of the principal Ordinance is amended—
- (a) by deleting the definition of “denatured spirits” and substituting the following—
 ““denatured spirits” means—
 (a) liquor to which has been added crude pyridine, of a quality approved by the Government Chemist, in the proportion of half a gallon of such pyridine to each one hundred gallons of liquor, and which has been coloured to the satisfaction of the Government Chemist with methyl violet;
 (b) liquor which has been mixed with an equal volume of Chinese vinegar, if such vinegar contains not less than two *per cent* by weight of acetic acid; and
 (c) any other liquor which the Government Chemist certifies cannot practicably be converted to an intoxicating liquor by dilution, distillation, flavouring, or any other process or processes;”;
- (b) by deleting “or “spirituous liquor”” in the definition of “liquor” and substituting the following—
 “, “spirituous liquor” or “spirit””; and
- (c) by inserting after “ethyl alcohol” in the definition of “proof spirit” the following—
 “(also known as ethanol)”.

Amendment of
section 54.

24. Section 54 of the principal Ordinance is amended by deleting “and retailers’” in subsection (2) and substituting the following—
 “, retailers’ and liquor”.

Amendment of
section 58.

25. Section 58 of the principal Ordinance is amended—
- (a) by deleting “the prescribed” in subsection (1) and substituting the following—
 “a”;
- (b) by deleting “any still” in paragraph (a) of subsection (1) and substituting the following—
 “, custody or control any still or part of a still”;
- (c) by inserting the following before “making” in paragraph (a) of subsection (1)—
 “manufacturing.”;

- (d) by inserting the following after “manufactured” in subsection (4)—
 “, made”; and
- (e) by deleting “vessels, utensils, wort, wash and other materials for manufacturing” in subsection (5) and substituting the following—
 “apparatus, vessels, utensils, fermenting or fermented materials or other materials for manufacturing, making”.

26. Section 59 of the principal Ordinance is amended—

Amendment of
section 59.

- (a) by deleting “vessels, utensils, worts, wash” in the first place where it occurs in subsection (1) and substituting the following—
 “apparatus suitable for distilling, vessels, utensils, fermenting and fermented materials”;
- (b) by deleting “vessels, utensils, worts, wash” in the last place where it occurs in subsection (1) and substituting the following—
 “apparatus, vessels, utensils, materials”; and
- (c) by inserting the following after “stills” in subsection (2)—
 “, apparatus suitable for distilling”.

27. Section 61 of the principal Ordinance is amended by deleting “sells, supplies or deals in” in subsection (1) and substituting the following—

Amendment of
section 61.

“manufactures, sells, supplies or deals in, or puts in any container for any such purpose.”.

28. Section 64 of the principal Ordinance is amended in subsection (1)—

Amendment of
section 64.

- (a) by deleting “non-dutiable” and substituting the following—
 “denatured spirits”; and
- (b) by deleting “duty-paid goods” and substituting the following—
 “not dutiable”.

29. Section 65 of the principal Ordinance is amended by deleting “the Hok San (鶴山) district of” in the definition of “Chinese prepared tobacco”.

Amendment of
section 65.

Amendment of section 68.

30. Section 68 of the principal Ordinance is amended by deleting "prescribed".

Amendment of section 70.

31. Section 70 of the principal Ordinance is amended by deleting the definition of "table waters" and substituting the following—

"“table waters” means aerated or non-aerated waters and any non-alcoholic beverages if such waters or beverages are in sealed containers and either sold or of merchantable quality but does not include distilled water, milk or cordials, squashes, extracts, concentrated essences or other liquids normally consumed in a diluted form.”.

Amendment of section 71.

32. Section 71 of the principal Ordinance is amended by deleting "having the chemical formula CH₃OH," in the definition of "methyl alcohol".

Amendment of section 75.

33. Section 75 of the principal Ordinance is amended—

- (a) by being renumbered as subsection (1) thereof; and
- (b) by inserting at the end thereof the following new subsection—

"(2) No duty shall be payable on any methyl alcohol if the Government Chemist certifies in writing that it is mixed with some other substance or substances in such a manner that it cannot practicably be separated therefrom in a potable form.”.

Repeal of Part VIII.

34. Part VIII of the principal Ordinance is repealed.

Deletion of Second Schedule and application of s. 23 of Cap. 1.

35. (1) The Second Schedule to the principal Ordinance is deleted.

(2) Notwithstanding the repeal effected by subsection (1), the regulations may provide for the continuation in accordance with the regulations of any licensing board established under the repealed Second Schedule.

(3) Section 23 of the Interpretation and General Clauses Ordinance shall apply in relation to the provisions of the repealed Second Schedule as if those provisions had been repealed by this section.

General amendments to principal Ordinance.

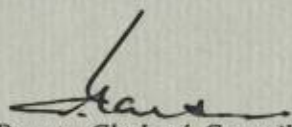
36. The principal Ordinance is further amended—

- (a) in the definition of "offence" in subsection (1) of section 2, paragraphs (j) and (n) of subsection (1) of section 6, subsection (1) of section 7, subsection (1) of section 14,

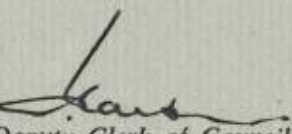
paragraph (a) of section 16, paragraph (a) of subsection (1) of section 17 and subsection (6) of section 17, by deleting "and any regulations made thereunder";

- (b) in the definition of "offence" in subsection (1) of section 2, by deleting "and any regulation made thereunder";
- (c) in paragraph (i) of subsection (1) of section 6 and subsection (2) of section 59, by deleting "or any regulations made";
- (d) in paragraph (b) of subsection (1) of section 11, paragraph (a) of section 12, paragraph (d) of subsection (1) of section 15, subsections (1) and (3) of section 31, paragraphs (a) and (d) of section 37, subsections (1) and (2) of section 38, section 41, section 47, subsection (1) of section 66 and section 75, by deleting "or any regulations made thereunder";
- (e) in paragraph (c) of subsection (1) of section 11, by deleting "and of any regulations";
- (f) in subsection (2) of section 17, by deleting "and of any regulations made thereunder";
- (g) in subsection (1) of section 31, by deleting "or any regulation made thereunder"; and
- (h) in subsections (1) and (2) of section 48, by deleting "or of any regulations made thereunder".

Passed by the Hong Kong Legislative Council this 7th day of January, 1970.

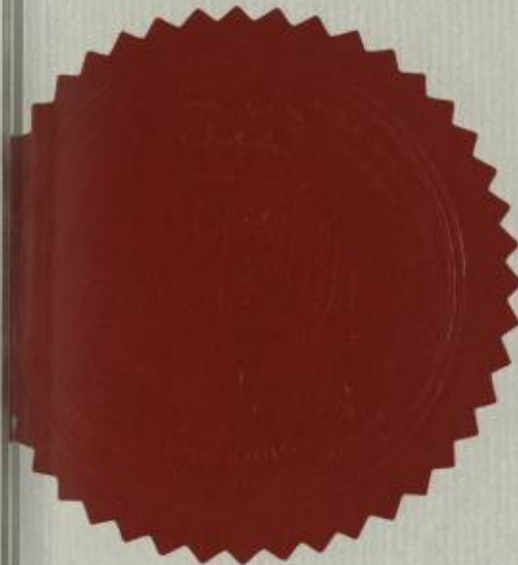

Deputy Clerk of Councils.

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

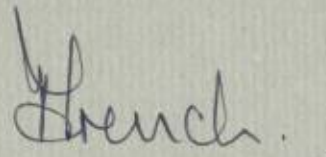

Deputy Clerk of Councils.

HONG KONG

No. 4 OF 1970.



I assent.


Governor.

8th January, 1970.

An Ordinance to amend further the Urban Council Ordinance.

[9th January, 1970.]

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

1. This Ordinance may be cited as the Urban Council (Amendment) Ordinance 1970. Short title.

2. Section 11 of the principal Ordinance is repealed and replaced by the following— Repeal and replacement of section 11. (Cap. 101.)

^{"Resignation of a member.}

11. (1) An ordinary member may at any time resign his office by giving notice in writing under his hand to the Chairman.

(2) A notice of resignation given under subsection (1) shall take effect—

(a) upon the date specified in the notice, which date shall not be earlier than the date of the receipt of the notice by the Chairman; or

(b) if no such date is specified in the notice, then upon receipt of the notice by the Chairman.”.

Amendment of section 15.

3. Section 15 of the principal Ordinance is amended—

(a) in subsection (1), by inserting, after “Subject to the provisions of”, the following—

“subsection (2A) and”;

(b) in subsection (2), by—

(i) inserting in sub-paragraph (ii) of paragraph (v), after “academic officer of.”, the following—

“or awarded a College diploma or a College certificate by.”;

(ii) inserting in paragraph (w), after sub-paragraph (iii), the following—

“(iii*a*) the Hong Kong Certificate of Education (English) with Grade E or a higher grade in at least five subjects, or Grade D or a higher grade in at least four subjects, or Grade C or a higher grade in at least three subjects;

(iii*b*) the Hong Kong Certificate of Education (Chinese) with Grade E or a higher grade in at least five subjects, or Grade D or a higher grade in at least four subjects, or Grade C or a higher grade in at least three subjects;

(iii*c*) the General Certificate of Education with passes in at least three subjects at ‘O’ or a higher level or with passes in at least two subjects at ‘A’ or a higher level;

(iii*d*) the University of Hong Kong Advanced Level Examination with passes in at least two subjects.”;

(iii) deleting sub-paragraph (vii) of paragraph (w);

(c) by inserting, after subsection (2), the following new subsection—

“(2A) The registration officer may register as an elector on any register to be compiled pursuant to section 19, any person who possesses educational qualifications which, in the opinion of the registration officer, are equivalent to those mentioned in paragraph (w) of subsection (2).”.

4. Section 24 of the principal Ordinance is amended by deleting subsection (1) and substituting the following—

Amendment of section 24.

“(1) The Governor shall appoint a returning officer who shall perform the duties imposed on him by this Ordinance.”.

5. The Second Schedule to the principal Ordinance is amended by inserting, after “Institute of Bankers.”, the following—

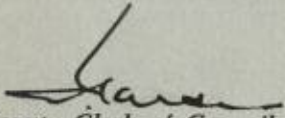
Amendment of Second Schedule.

“Institute of Public Cleansing.

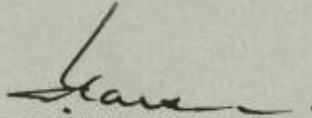
Royal Society for the Promotion of Health.

Institution of Fire Engineers.”.

Passed by the Hong Kong Legislative Council this 7th day of January, 1970.


Deputy Clerk of Councils.

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


Deputy Clerk of Councils.

HONG KONG

No. 5 OF 1970.



I assent.

Governor.

8th January, 1970.

An Ordinance to amend the Employment Ordinance.

[9th January, 1970.]

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

1. This Ordinance may be cited as the Employment (Amendment) Ordinance 1970. Short title.
2. The long title of the principal Ordinance is amended by inserting after "*regulate*" the following— Amendment of long title. (Cap. 57.)
"*general conditions of employment and*".
3. Section 2 of the principal Ordinance is amended— Amendment of section 2.
 - (a) by inserting, after the definition of "Commissioner", the following new definition—
" "confinement" means the delivery of a child;"; and

(b) by inserting, after the definition of "employer", the following new definition—

"maternity leave" means absence from work, in accordance with the provisions of Part IIA, by a female employee because of her pregnancy or confinement;"

Addition of new section 2A.

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

"Meaning of continuous contract and onus of proof thereof. Schedule.

2A. (1) In this Ordinance, "continuous contract" means a contract of employment under which an employee is deemed by virtue of the provisions of the Schedule to be in continuous employment.

(2) In any dispute as to whether a contract of employment is a continuous contract the onus of proving that it is not a continuous contract shall be on the employer."

Amendment of section 5.

5. Section 5 of the principal Ordinance is amended, in subsection (1), by inserting after "(3)" the following—

"and section 11C".

Repeal of section 11.

6. Section 11 of the principal Ordinance is repealed.

Addition of new Part IIA.

7. The principal Ordinance is amended by adding, after Part II, the following new Part—

"PART IIA.

MATERNITY PROTECTION.

Maternity leave.

II. (1) A female employee who has been employed by the same employer under a continuous contract for a period of not less than twenty-six weeks shall be entitled to maternity leave under this Part.

(2) Maternity leave shall be the aggregate of—

- (a) a period of four weeks immediately before the expected date of confinement;
- (b) a further period, if any, from the expected date of confinement to the actual date of confinement;
- (c) a period of six weeks immediately after the actual date of confinement; and
- (d) a further period, not exceeding four weeks, on grounds of illness or disability arising out of the pregnancy or confinement.

(3) The period of maternity leave under paragraph (d) of subsection (2) may be taken—

- (a) wholly immediately before the period mentioned in paragraph (a) of subsection (2); or
- (b) wholly immediately after the period mentioned in paragraph (c) of subsection (2); or
- (c) in part immediately before the period mentioned in paragraph (a) of subsection (2) and in part immediately after the period mentioned in paragraph (c) of subsection (2).

(4) A female employee who intends to take any period of maternity leave under paragraphs (a), (b) and (c) of subsection (2) shall give notice to that effect to her employer at any time within the period of eight weeks before the expected date of her confinement and such notice shall specify—

- (a) the expected date of her confinement; and
- (b) the date on which the maternity leave is to commence.

(5) If her confinement takes place—

- (a) before notice under subsection (4) is given; or
- (b) after notice under subsection (4) is given but before the commencement of the period of maternity leave under paragraph (a) of subsection (2).

the female employee shall, within seven days of her confinement, give notice to her employer of the date on which she was confined and of her intention to take any period of maternity leave under paragraph (c) of subsection (2).

(6) A female employee who gives notice under subsection (4) shall, if so required by her employer, produce a medical certificate—

- (a) certifying that she is pregnant; and
- (b) specifying the expected date of her confinement.

(7) A female employee who gives notice under subsection (5) shall, if so required by her employer, produce a medical certificate—

- (a) certifying that she has been confined; and
- (b) specifying the date of her confinement.

(8) A female employee who intends to take any period of maternity leave under paragraph (d) of subsection (2) shall give notice to that effect to her employer and shall, if so required by her employer, produce a medical certificate certifying as to the illness or disability.

(9) A female employee who is on maternity leave and who intends to return to work shall, if so required by her employer, give not less than eight days' notice to the employer of the date on which she intends to return to work and shall state in the notice the date on which she was confined, unless the date has been notified under subsection (5).

Authority to issue medical certificates.

11A. (1) A medical certificate for the purposes of subsection (6) or (7) of section 11 shall be issued by—

- (a) a registered medical practitioner; or
- (b) notwithstanding section 16 of the Midwives Registration Ordinance, a midwife registered under section 8, or deemed to be registered under section 25, of that Ordinance.

(Cap. 162.)

(2) A medical certificate for the purposes of subsection (8) of section 11 shall be issued by a registered medical practitioner.

Unpaid maternity leave, but continuity of employment.

11B. (1) A female employee shall not be entitled to wages in respect of the period of her maternity leave, unless her contract of employment provides otherwise.

(2) The continuity of employment of a female employee shall not be treated as broken by her maternity leave.

Prohibition against termination of employment.

11C. (1) No employer shall terminate a contract of employment of a female employee under section 5 or 6 during the period from the date on which the female employee gives notice under subsection (4), (5) or (8) of section 11 to the date on which she is due to return to work on expiry of her maternity leave.

(2) An employer who contravenes subsection (1) shall be liable to pay to the female employee—

- (a) the sum which would have been payable if the contract had been terminated by the employer under section 6; and

(b) a further sum equivalent to the amount of wages which would have accrued to the employee during a period of seven days.

(3) In the case of a female employee whose remuneration is calculated by the piece or task the amount of wages which would have accrued to the employee during the period of seven days referred to in paragraph (b) of subsection (2) shall be deemed to be—

- (a) if the contravention of subsection (1) occurs before the commencement of maternity leave, the amount of wages, other than overtime pay, earned by the employee during the equivalent period immediately prior to the breach of the contract; or
- (b) if the contravention of subsection (1) occurs after the commencement of maternity leave, or if for any reason it is impracticable to compute the amount under paragraph (a), the amount of wages, other than overtime pay, earned during the equivalent period by a female employee in the same trade or occupation at the same work in the same district.”.

8. The principal Ordinance is amended by adding, after section 35, the following new section—

Addition of new section 35A.

“Contracting out.

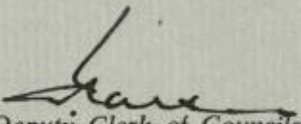
35A. Any term of a contract of employment which purports to extinguish or reduce any right, benefit or protection conferred upon the employee by this Ordinance shall be void.”.

9. The Schedule to the principal Ordinance is amended, in sub-paragraph (a) of paragraph 1, by deleting “Part II” and substituting the following—

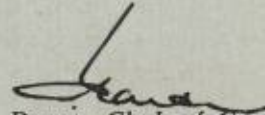
Amendment of Schedule.

“this Ordinance”.

Passed by the Hong Kong Legislative Council this 7th day of January, 1970.


Deputy Clerk of Councils.

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


Deputy Clerk of Councils.

HONG KONG

No. 6 OF 1970.



I assent.

French

Governor.

8th January, 1970.

An Ordinance to provide for the award of interest on claims and judgments.

[9th January, 1970.]

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

1. This Ordinance may be cited as the Law Reform (Interest on Claims and Judgments) Ordinance 1970.

Short title.

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

Amendment of specified Ordinances. Schedule.

SCHEDULE.

[s. 2.]

Ordinance.

Amendment.

Supreme Court Ordinance.

The following new sections are added after section 30—

(Cap. 4.)

**Interest on claims for debt and damages.

30A. (1) Subject to subsection (2), the court may, in any proceedings brought in the court for the recovery of any debt or

Ordinance.

Amendment.

damages, order that there shall be included in the sum for which judgment is given interest at such rate as it thinks fit on the whole or any part of the debt or damages for the whole or any part of the period between the date when the cause of action arose and the date of the judgment.

(2) Nothing in subsection (1) shall—

- (a) authorize the giving of interest upon interest;
- (b) apply in relation to any debt upon which interest is payable as of right whether by virtue of any agreement or otherwise; or
- (c) affect the damages recoverable for the dishonour of a bill of exchange.

(3) The powers conferred by subsection (1) may be exercised—

- (a) whether or not interest is expressly claimed;
- (b) at any time after judgment is entered in any case in which it appears that the failure to apply for or to award interest was through inadvertence; and
- (c) in the case of a judgment entered by default or by order of the Registrar, by the Registrar.

(4) In subsection (3)—

"Registrar" includes a deputy registrar and an assistant registrar appointed under section 18.

Interest on judgments.

30B. (1) A judgment debt shall carry interest at the rate of eight *per cent per annum*, or at such other rate as may be prescribed by rules of court, on the aggregate amount thereof, or on such part thereof as for the time being remains unsatisfied, from the date of the judgment until satisfaction.

(2) In subsection (1)—

"rules of court" means rules made by a rules committee appointed under section 38."

(Cap. 23.)

Law Amendment Section 23 and the heading appearing immediately before that section are repealed.
(Miscellaneous Provisions)
Ordinance.

Ordinance.

Amendment.

District Court
(Civil Jurisdiction
and Procedure)
Ordinance.

The following new sections are added after section 19—

(Cap. 336.)

"Interest on
claims for
debt and
damages.

19A. (1) Subject to subsection (2), the Court may, in any proceedings brought in the Court for the recovery of any debt or damages, order that there shall be included in the sum for which judgment is given interest at such rate as it thinks fit on the whole or any part of the debt or damages for the whole or any part of the period between the date when the cause of action arose and the date of the judgment.

(2) Nothing in subsection (1) shall—

- (a) authorize the giving of interest upon interest;
- (b) apply in relation to any debt upon which interest is payable as of right whether by virtue of any agreement or otherwise; or
- (c) affect the damages recoverable for the dishonour of a bill of exchange.

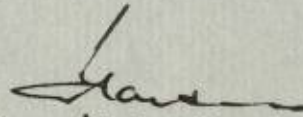
(3) The powers conferred by subsection (1) may be exercised—

- (a) whether or not interest is expressly claimed;
- (b) at any time after judgment is entered in any case in which it appears that the failure to apply for or to award interest was through inadvertence; and
- (c) in the case of a judgment entered by default or by order of the Registrar, by the Registrar.

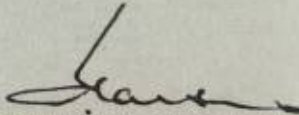
Interest on judgments.

19B. A judgment debt shall carry interest at the rate of eight *per cent per annum*, or at such other rate as may be prescribed, on the aggregate amount thereof, or on such part thereof as for the time being remains unsatisfied, from the date of the judgment until satisfaction."

Passed by the Hong Kong Legislative Council this 7th day of January, 1970.


Deputy Clerk of Councils.


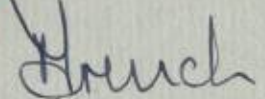
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.


Deputy Clerk of Councils.

HONG KONG

No. 7 OF 1970.

I assent.

Governor.

8th January, 1970.

An Ordinance to amend further the Places of Public Entertainment Ordinance.

[9th January, 1970.]

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

1. This Ordinance may be cited as the Places of Public Entertainment (Amendment) Ordinance 1970.

Short title.

2. Section 2 of the principal Ordinance is amended by deleting the definition of "place of public entertainment" and substituting the following—

Amendment of section 2. (Cap. 172.)

"place of public entertainment" means—

(a) any place on which there is any building, erection or structure, whether temporary or permanent, capable of accommodating the public; and

(b) any vessel,

in or on which a public entertainment is presented or carried on whether on one occasion or more;".

Addition of
new section 3A.

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

"Power of
Governor
to grant
exemptions.

3A. The Governor may, by order published in the *Gazette*, exempt any place of public entertainment from the provisions of this Ordinance or from the conditions of any licence."

Amendment of
section 5.

4. Section 5 of the principal Ordinance is amended in subsection (2)—

- (a) by inserting after "any poster" the following—
" , picture, figure or the text of any advertisement";
- (b) by inserting after "such poster" the following—
" , picture, figure or text".

Amendment of
section 7.

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

- (a) by inserting after paragraph (a) the following new paragraph—
" (aa) the transfer of any such licence;";
- (b) in paragraph (g) by—
 - (i) inserting after "a place of public entertainment" the following—
"or a proposed place of public entertainment";
 - (ii) inserting after "the Building Authority" the following—
" , the Director of Fire Services and the Director of Marine, and any public officer authorized by them in that behalf,".

Amendment of
section 9.

6. Section 9 of the principal Ordinance is amended by deleting subsection (3) and substituting the following—

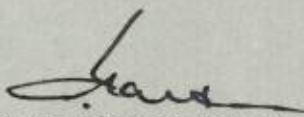
"(Cap. 172,
sub. leg.) (3) This section shall not apply to the Film Censorship Regulations."

Consequential
amendment.
(Cap. 123.)

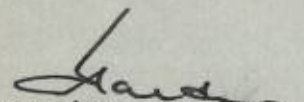
7. Section 41 of the Buildings Ordinance is amended by inserting, after subsection (3), the following new subsection—

"(4) The provisions of this Ordinance shall not apply to any temporary building to be kept or used as a place of public entertainment."

Passed by the Hong Kong Legislative Council this 7th day of January, 1970.


Deputy Clerk of Councils.


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


Deputy Clerk of Councils.

HONG KONG

No. 8 OF 1970.

I assent.



Heuch
Governor.

28th January, 1970.

An Ordinance to provide for temporary security of tenure in respect of tenancies of domestic premises, and for purposes connected therewith.

³⁰
[29th January, 1970.]

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

1. This Ordinance may be cited as the Security of Tenure (Domestic Premises) Ordinance 1970. Short title.

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

“court” means the District Court;

“landlord” means 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;

"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;

"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 existing at the date of commencement of this Ordinance 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—

- (a) a building to which the Landlord and Tenant Ordinance does not apply by virtue of paragraph (a) or (d) 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.

(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

(Cap. 255.)

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.

(Cap. 335.)

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

(a) a tenancy or sub-tenancy for—

(i) a fixed term of three years or more the agreement for which contains no provision for earlier determination by the landlord of such tenancy or sub-tenancy other than for breach of any of the provisions of the agreement;

(ii) a fixed term of less than three years the agreement for which contains no provision for earlier determination by the landlord of such tenancy or sub-tenancy other than for breach of any of the provisions of the agreement, if the term of such tenancy or sub-tenancy may be extended so that the total term thereof is for three years or more at the same rent by the exercise of an option on the part of the tenant without the consent of the landlord and without the payment of any fine or premium;

(b) a tenancy or sub-tenancy of premises to which the Landlord and Tenant Ordinance applies, or of premises in respect of which there is in existence an order made under section 38 of that Ordinance;

(Cap. 255.)

(c) a tenancy or sub-tenancy where the tenant or sub-tenant remains in occupation of the premises otherwise than with the consent of the landlord or principal tenant after the expiration of a valid notice to quit taking effect prior to the commencement of this Ordinance;

(d) 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, or under any Ordinance replaced thereby;

(Cap. 123.)

(e) a tenancy or sub-tenancy of agricultural land, which expression shall have the meaning assigned to it by the

(Cap. 116.)

Rating Ordinance, including such a tenancy or sub-tenancy where there exists on the land any dwelling house occupied by persons working the land;

- (f) 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;
- (g) 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;
- (h) a tenancy or sub-tenancy which is enjoying protection under section 3 of the Tenancy (Prolonged Duration) Ordinance;
- (i) a tenancy or sub-tenancy which is continuing, after ceasing to enjoy protection under section 3 of the Tenancy (Prolonged Duration) Ordinance (whenever it ceased or ceases to enjoy such protection), on the same terms and conditions (save in so far as the same may have been modified, added to or varied by any enactment) as those which applied when it was enjoying such protection, for so long as it continues on those terms and conditions;
- (j) 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; or
- (k) tenancy or sub-tenancy of premises which the landlord has, before the date of the commencement of this Ordinance, contracted to sell and which contract provides for the delivery of vacant possession of such premises after the commencement of this Ordinance.

(Cap. 276.)

(Cap. 335.)

(6) A dispute as to whether a tenancy or sub-tenancy is excluded by reason of paragraph (j) of subsection (5) shall not be justiciable in the courts but shall be determined by the Secretary for Home Affairs in a summary manner on application in writing being made to him, and his decision shall be final and binding. The Secretary for Home 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.

Meaning of "domestic tenancy".

(2) Notwithstanding the purpose for which premises were let, in determining the nature of the tenancy for the purposes of this Ordinance, regard shall be had to the following—

- (a) in any agreement in writing between a landlord and tenant, or between a tenant and sub-tenant, a term that the premises shall be used for a specified purpose shall be *prima facie* evidence that the premises are being used for such purpose;
- (b) notwithstanding any evidence as to whether premises were originally let as a dwelling or not, where such premises are being used primarily for another purpose, they shall be deemed to have been let for such other purpose:

Provided that where such primary user is in breach of any term in the agreement with the landlord or principal tenant, as the case may be, then the tenant or sub-tenant shall be required to establish that such user has been agreed to or condoned, expressly or by implication, by the landlord or principal tenant;

- (c) where there exists insufficient evidence as to whether premises were let as a dwelling or not, the nature of the tenancy or sub-tenancy shall be determined by the primary user of the premises which in the case of a sub-tenancy shall be subject to paragraph (d);
- (d) where there is evidence that premises were let otherwise than as a dwelling, or that they were being used otherwise than as a dwelling at the commencement of a sub-tenancy created out of the original tenancy, any premises the subject of such sub-tenancy shall themselves be deemed to be used otherwise than as a dwelling until the sub-tenant satisfies the court to the contrary.

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

- (a) covenants and conditions in any Crown lease, tenancy or sub-tenancy;

(Cap. 123.)

- (b) any occupation permit given by the Building Authority under the Buildings Ordinance, 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 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.

Continuation
of tenancies.

5. (1) Save as is provided in section 6 no tenancy or sub-tenancy existing at the date of commencement of this Ordinance 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.

Termination
of tenancies.

6. (1) A tenancy or sub-tenancy shall terminate where—
- (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 (7) 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), (6) and (7), take effect as if neither this Ordinance nor the Tenancy (Notice of Termination) Ordinance had been enacted where in such notice the landlord or principal tenant specifies—

(Cap. 335.)

- (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), (6) and (7), take effect as if neither this Ordinance nor the Tenancy (Notice of Termination) Ordinance 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 Home Affairs or by a public officer authorized by him in writing in that behalf to the effect that the specified annoyance, inconvenience or disturbance has continued after a warning given by an officer of the Secretariat for Home Affairs to the sub-tenant causing the same.

(5) A notice to quit given under subsection (2) or (4) shall not be valid unless there are set out therein the provisions of subsection (6) and, where the notice to quit is given on the ground specified in paragraph (a) of subsection (2), the provisions of the proviso to subsection (7).

(6) 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 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.

(7) On receipt of a counter notice under subsection (6) the landlord or principal tenant, as the case may be, may apply to the 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.

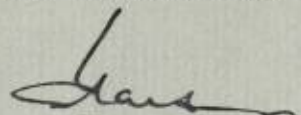
(8) Where a tenancy or sub-tenancy is terminated on any ground specified in paragraph (a) or (b) of subsection (2) and the same premises are the subject of a subsequent tenancy or sub-tenancy, at any time in the case of a tenancy or sub-tenancy terminated on the ground specified in paragraph (a) of subsection (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.

7. (1) The District Court shall have jurisdiction for the purpose of hearing and determining an application under section 6, 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 on the amount of the rent or mesne profits being claimed exceeds five thousand dollars.

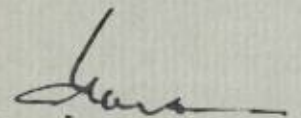
(2) All determinations of the District Court under this Ordinance shall be final and no appeal shall lie therefrom.

Jurisdiction
of the
District
Court.

Passed by the Hong Kong Legislative Council this 28th day of January, 1970.


Deputy Clerk of Councils.


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


Deputy Clerk of Councils.

HONG KONG

No. 9 OF 1970.

I assent.



Wrench.

Governor.

29th January, 1970.

An Ordinance to amend further the Supreme Court Ordinance.

[30th January, 1970.]

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

1. This Ordinance may be cited as the Supreme Court (Amendment) Ordinance 1970. Short title.

2. Section 2 of the principal Ordinance is amended by adding, after the definition of "cause", the following new definition— Amendment of section 2. (Cap. 4.)

"“Commissioner” means a Commissioner of the Supreme Court appointed under subsection (1) of section 13A;”.

3. Section 12 of the principal Ordinance is amended by deleting subsections (1) and (2) and substituting the following— Amendment of section 12.

“(1) The Supreme Court shall consist of the Chief Justice, the Senior Puisne Judge and one or more Puisne Judges.

(2) A judge, other than—

- (a) a judge appointed under subsection (1) or (2) of section 13; and
- (b) a Commissioner,

shall be appointed by Letters Patent under the Public Seal by the Governor, in accordance with such instructions as the Governor may receive through a Secretary of State.”.

4. Sections 13, 14 and 15 of the principal Ordinance are repealed and replaced by the following—

“Acting appointments.

13. (1) If the office of Chief Justice or Senior Puisne Judge becomes vacant, by death or otherwise, the Governor may appoint another person to act in such office until an appointment is made under subsection (2) of section 12.

(2) If the Chief Justice or the Senior Puisne Judge is temporarily ill or absent, the Governor may appoint another person to act in his office until he resumes the duties thereof.

Appointment of Commissioners.

13A. (1) The Chief Justice may appoint a person to be a Commissioner of the Supreme Court if—

- (a) the office of any Puisne Judge becomes vacant for any reason; or
- (b) he considers that the interests of the administration of justice require that a Commissioner should be appointed temporarily.

(2) Subject to the terms of his appointment, a Commissioner shall have and may exercise all the jurisdiction, powers and privileges and shall have and perform all the duties of a Puisne Judge, and any reference in any law to a Puisne Judge shall be construed accordingly.

(3) Without prejudice to the powers conferred on him by subsection (1), the Chief Justice may appoint a Commissioner under that subsection—

- (a) for the purposes of a specified case or class of cases only; or
- (b) for a specified period only.

(4) Notwithstanding subsection (2), the Chief Justice may terminate the appointment of a Commissioner at any time.

Repeal and replacement of sections 13, 14 and 15.

Powers of Commissioners in cases which are part-heard on termination of appointment.

13B. If the hearing of any proceedings before a Commissioner (whether sitting alone or as a member of the Full Court) is adjourned or if judgment is reserved in any such proceedings, the Commissioner or the Full Court (including the Commissioner), as the case may be, shall have power to resume the hearing and determine the proceedings or to deliver judgment, notwithstanding that the appointment of the Commissioner has expired or has been terminated.

Precedence.

14. The judges shall take precedence in the following order—

- (a) the Chief Justice;
- (b) the Senior Puisne Judge;
- (c) the Puisne Judges, who among themselves shall rank according to the priority of their respective appointments as such in Hong Kong:

Provided that where the Secretary of State is of the opinion that there are sufficient reasons for so doing, he may determine the precedence of the Puisne Judges irrespective of the priority of such appointments;

- (d) Commissioners, who among themselves shall rank according to the priority of their respective appointments:

Provided that where the Governor is of the opinion that there are sufficient reasons for so doing, he may determine the precedence of Commissioners irrespective of the priority of such appointments.

Professional qualifications of judges.

15. (1) No person shall be appointed to be a judge unless—

- (a) he is qualified to practise as an advocate in a court in England, Scotland, Northern Ireland or some other part of the Commonwealth or the Republic of Ireland having unlimited jurisdiction either in civil or criminal matters; and
- (b) since becoming so qualified or, in the case of a person who prior to becoming so qualified was qualified to practise as a solicitor in such a court, since becoming so

qualified to practise as a solicitor, he has for a period of or periods totalling not less than ten years—

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

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

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

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

(v) been a District Judge appointed by instrument under the Public Seal in accordance with the provisions of section 4 or 7 of the District Court Ordinance; or

(Cap. 5.)

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

(Cap. 227.)

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

(Cap. 87.)

(viii) held any office specified in the Registrar General (Establishment) Ordinance 1969 appointment to which is restricted to persons who are legally qualified.

(1 of 1969.)

(2) For the purposes of calculating such period of ten years, periods of less than ten years falling within any of the sub-paragraphs of paragraph (b) of subsection (1) may be combined."

Repeal and replacement of section 16.

5. Section 16 of the principal Ordinance is repealed and replaced by the following new section—

"Judge not to hold any other office of profit.

16. No judge, other than a Commissioner, shall accept or perform any other office or place of profit or emolument not authorized by law, except with the sanction of the Secretary of State."

Addition of new section 16A.

6. The principal Ordinance is amended by adding, after section 16, the following new section—

"Judges to be justices of the peace *ex officio*."

16A. A judge shall be a justice of the peace by virtue of his office."

7. Section 18 of the principal Ordinance is amended, in subsection (7), by deleting "rules of court or under or by virtue of this Ordinance may" and substituting the following—

Amendment of section 18.

"any Ordinance may, subject to any provision to the contrary in any Ordinance,".

8. Section 29 of the principal Ordinance is repealed and replaced by the following new sections—

Repeal and replacement of section 29.

"Appeals to the Full Court in civil matters.

29. (1) Subject to subsection (3), an appeal shall lie as of right to the Full Court from every judgment, order or decision of the court in any civil cause or action.

(2) An appeal shall lie as of right to the Full Court from every judgment, order or decision of a special referee given or made—

(a) on the trial of any civil cause or matter; or

(b) in respect of any question or issue of fact which arises out of a civil cause or matter and which is ordered to be tried before the special referee.

(3) No appeal shall lie—

(a) from an order of the court allowing an extension of time for appealing from a judgment or order;

(b) from an order of the court giving unconditional leave to defend an action;

(c) from a judgment, order or decision of the court, where it is provided by any enactment or by rules of court that the same is to be final;

(d) from an order absolute for the dissolution or nullity of marriage in favour of any party who having had time and opportunity to appeal from the decree *nisi* on which the order was founded, has not appealed from that decree;

(e) without the leave of the judge making the order, or of the Full Court, from an order made with consent of the parties or as to costs only which by law are left to the discretion of the court;

(f) from a judgment order or decision of a judge given or made in summarily determining under sub-paragraph (b) or (c) of paragraph

15 & 16, Geo. 5, c. 49, s. 31.

(Cap. 4,
sub. leg.)

(2) of rule 5 of Order 17 of the Rules of the Supreme Court any question at issue in interpleader proceedings, unless leave to appeal is given by the judge or the Full Court:

Provided that this paragraph shall have no effect in relation to any interpleader issue which is tried by a judge whether with or without a jury.

Motion for
new trial.
15 & 16,
Geo. 5, c. 49,
s. 30.

29A. Every motion for a new trial, or to set aside a verdict, finding or judgment, in any civil cause or matter in the court in which there has been a trial thereof or of any question or issue of fact therein with a jury, shall be heard and determined by the Full Court."

Amendment of
section 3 of
Interpretation
and General
Clauses
Ordinance.
(Cap. 1.)

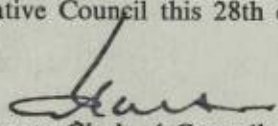
9. Section 3 of the Interpretation and General Clauses Ordinance is amended by deleting the definition of "judge" and substituting the following—

"judge" means the Chief Justice, the Senior Puisne Judge, a Puisne Judge and a Commissioner of the Supreme Court;"

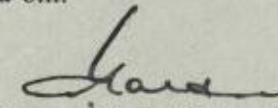
Transitional
provisions.

10. Notwithstanding the repeal and replacement of section 14 of the principal Ordinance (hereinafter called "the repealed section") by this Ordinance, where prior to the commencement of this Ordinance any proceedings were commenced before a person appointed under the repealed section (whether the proceedings were commenced before such person sitting alone or sitting as a member of the Full Court), such person or the Full Court (including such person), as the case may be, shall have power to continue the hearing and deliver judgment, or to deliver judgment, as the case may be.

Passed by the Hong Kong Legislative Council this 28th day of January, 1970.


Deputy Clerk of Councils.


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


Deputy Clerk of Councils.

HONG KONG

No. 10 OF 1970.

I assent.



Heuch

Governor.

29th January, 1970.

An Ordinance to amend further the Full Court Ordinance.

[30th January, 1970.]

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

1. This Ordinance may be cited as the Full Court (Amendment) Ordinance 1970.

Short title.

2. Section 2 of the principal Ordinance is repealed.

Repeal of section 2. (Cap. 2.)

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

Repeal and replacement of section 3.

*Constitution and precedence.

3. (1) There shall be a Full Court which shall as occasion requires be constituted by two or more judges as the Chief Justice may direct and shall be composed of such judges as the Chief Justice may direct.

(2) The judges shall take precedence in the following order—

- (a) the Chief Justice;
- (b) the Senior Puisne Judge;
- (c) the Puisne Judges, who among themselves shall rank according to their precedence as judges of the Supreme Court;
- (d) Commissioners of the Supreme Court, who among themselves shall rank according to their precedence as judges of the Supreme Court.

(3) The Chief Justice shall be President of the Full Court, and in his absence the Presidency of the Court shall be determined in accordance with the order of precedence prescribed by subsection (2)."

Amendment of section 4.

3A. Section 4 of the principal Ordinance is amended by deleting subsection (1) and substituting the following—

"(1) Where a Full Court consisting of more than two judges sits, the judgment or order which is that of the majority of the judges sitting shall be deemed to be the judgment or order of the Full Court, but if there is no judgment or order which is that of a majority of the judges sitting, the judgment or order appealed from shall be deemed to be the judgment or order of the Full Court."

Addition of new sections 5 and 6.

4. The principal Ordinance is amended by adding, after section 4, the following new sections—

"Powers of Full Court on appeal.
(Cap. 221.)
15 & 16, Geo.
5, c. 49, s. 27.

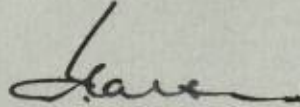
5. Subject to the provisions of the Criminal Procedure Ordinance, in the exercise of its jurisdiction to hear and determine appeals, and for all the purposes of and incidental to the hearing and determination of any appeal, and the amendment, execution and enforcement of any order or judgment made thereon, the Full Court shall have all the power, authority and jurisdiction of the Supreme Court.

Power of single judge, etc. in civil matters.
15 & 16, Geo.
5, c. 49, s. 69.

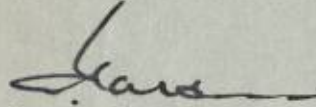
6. (1) In any civil cause or matter pending before the Full Court, any order or direction not involving the decision of the appeal may be made or given by one or more judges sitting in court or in chambers, and one or more judges may likewise make any interim order to prevent prejudice to the claims of any party pending an appeal, as he or they may think fit.

(2) Every order or direction made or given in pursuance of this section may be discharged or varied by the Full Court sitting in court or in chambers."

Passed by the Hong Kong Legislative Council this 28th day of January, 1970.


Deputy Clerk of Councils.


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


Deputy Clerk of Councils.

HONG KONG

No. 11 of 1970.

I assent.



Wrench.

Governor.

29th January, 1970.

An Ordinance to amend further the District Court Ordinance.

[30th January, 1970.]

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

1. This Ordinance may be cited as the District Court (Amendment) Ordinance 1970. Short title.

2. Section 8 of the principal Ordinance is amended by deleting subsection (4). Amendment of section 8. (Cap. 5.)

3. The principal Ordinance is amended by adding, after section 8, the following new sections— Addition of new sections 8A, 8B and 8C.

8A. Where a magistrate is appointed to be a judge or a temporary judge he may, notwithstanding such appointment, exercise and discharge all such jurisdiction, powers, authorities and duties as were prior to such appointment vested in him as a magistrate, but in relation only to any proceedings which

"Jurisdiction in part-heard cases of magistrates appointed to be District Court Judges.

were duly commenced before him in his capacity as a magistrate prior to such appointment.

Jurisdiction in part-heard cases of District Judges appointed to be Supreme Court Judges. (Cap. 4.)

8B. Where a judge or a temporary judge is appointed—

- (a) to be a judge of the Supreme Court under subsection (2) of section 12 of the Supreme Court Ordinance; or
- (b) to be a Commissioner of the Supreme Court under subsection (1) of section 13A of the Supreme Court Ordinance.

he may, notwithstanding such appointment, exercise and discharge all such jurisdiction, powers, authorities and duties as were prior to such appointment vested in him as a judge or a temporary judge of the District Court, but in relation only to any proceedings which were duly commenced before him in his capacity as a judge or temporary judge of the District Court prior to such appointment.

Judges and temporary judges to be justices of the peace *ex officio*.

8C. Every judge and temporary judge shall be a justice of the peace by virtue of his office.”

Passed by the Hong Kong Legislative Council this 28th day of January, 1970.

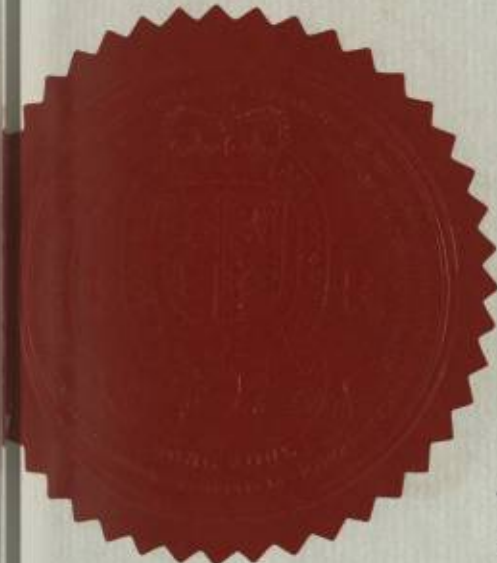
[Signature]
Deputy Clerk of Councils.

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

[Signature]
Deputy Clerk of Councils.

HONG KONG

No. 12 OF 1970.



I assent.

[Signature]
Governor.

29th January, 1970.

An Ordinance to amend further the Promissory Oaths Ordinance.

[30th January, 1970.]

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

1. This Ordinance may be cited as the Promissory Oaths (Amendment) Ordinance 1970. Short title.

2. The principal Ordinance is amended by adding, after section 1, the following new section— Addition of new section 1A. (Cap. 90.)

Interpretation. **1A.** In this Ordinance, unless the context otherwise requires—

“Judge” means any judge of the Supreme Court, other than a Commissioner of the Supreme Court appointed under subsection (1) of section 13A of the Supreme Court Ordinance.”

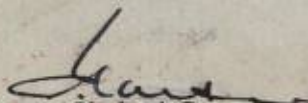
(Cap. 4.)

Amendment of
First Schedule.

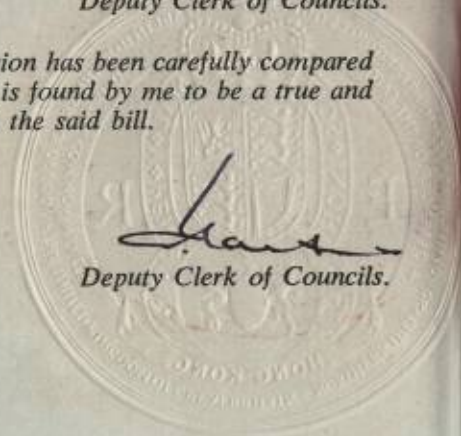
3. The principal Ordinance is amended in the First Schedule by adding, after "The Judges The Oaths to be tendered by the Governor.", the following—

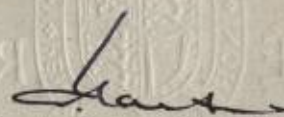
"The Commissioners of The Oaths to be tendered by a
the Supreme Court Judge."

Passed by the Hong Kong Legislative Council this 28th day of January, 1970.


Deputy Clerk of Councils.

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

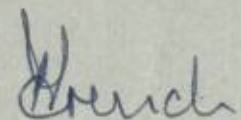



Deputy Clerk of Councils.

HONG KONG

No. 13 OF 1970.

I assent.



Governor.

29th January, 1970.

An Ordinance to amend further the Corporal Punishment Ordinance and to make other consequential amendments.

[30th January, 1970.]

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

1. This Ordinance may be cited as the Corporal Punishment (Amendment) Ordinance 1970.

Short title.

2. Sections 2 and 3 of the principal Ordinance are repealed and replaced by the following—

Repeal and replacement of sections 2 and 3. (Cap. 222.)

"Interpretation.

2. For the purposes of this Ordinance, "Court" means the Supreme Court, the District Court and a magistrate.

Offences for which caning may be imposed on a male person. Schedule.

3. (1) Where any male person apparently of or above the age of sixteen years is convicted by a Court of any offence specified in Part I of the Schedule, the Court may, in addition to or in lieu of any other punishment for such offence, sentence the offender to be caned.

(2) Where any male person apparently under the age of sixteen years is convicted by a Court of any offence specified in Part I or Part II of the Schedule, the Court may, in addition to or in lieu of any other punishment for such offence, sentence the offender to be caned.

(3) Where any male person apparently under the age of sixteen years is convicted by a Court of any offence other than an offence specified in Part I or Part II of the Schedule, the Court may, in lieu of any other punishment for such offence, sentence the offender to be caned.

Enforcement of sentence of corporal punishment.

3A. (1) Where upon conviction by a Court—

- (a) a person is sentenced to be caned; and
- (b) no term of imprisonment or a term of imprisonment not exceeding fourteen days is imposed on him,

the Court may—

- (i) order the offender to enter into a recognizance for such amount as the Court deems sufficient, with or without sureties, that he will appear at such time and at such place as are specified in the order so that the sentence of caning may be duly carried out;
 - (ii) order that the offender shall be committed to custody in accordance with subsection (3) until the sentence of caning is duly carried out; or
 - (iii) make an order under subsection (2).
- (2) If, after conviction by a Court for an offence, a person who is sentenced to be caned informs the Court that he wishes to forgo any right of appeal which would be available to him under any law in respect of that offence, the Court may order—
- (a) that the sentence of caning shall be carried out as soon as practicable within the next twenty-four hours; and
 - (b) that the offender shall be committed to custody in accordance with subsection (3) for the purpose of complying with paragraph (a).
- (3) For the purposes of this section—
- (a) an offender who is under the age of sixteen years may be committed to a place of deten-

(Cap. 226.)

tion appointed under the Juvenile Offenders Ordinance and thereupon shall be subject to the provisions of that Ordinance;

- (b) an offender who is of or over the age of sixteen years but below the age of twenty-one years may be committed to a training centre established under the Training Centres Ordinance and thereupon shall be subject to the provisions of that Ordinance; and
- (c) any other offender may be committed to a prison and while therein shall, notwithstanding his conviction, be treated as a person remanded for trial.

(Cap. 280.)

(4) An offender under the age of twenty-one years committed to a place of detention or training centre under subsection (3) may be removed therefrom to the premises of the Court by which the sentence of caning was imposed or to a prison in order that the sentence may be carried out in accordance with section 4.

(5) A recognizance or surety under subsection (1) may be enforced in like manner as a recognizance may be enforced under Part VI of the Criminal Procedure Ordinance or Part II of the Magistrates Ordinance, as the case may require.”

(Cap. 221.)

(Cap. 227.)

3. Subsection (1) of section 4 of the principal Ordinance is amended—

- (a) by deleting “the punishment of caning is awarded” and substituting the following—
“a sentence of caning is imposed”;
- (b) by deleting “in a prison” in paragraph (e); and
- (c) by substituting a semicolon for the full stop at the end of paragraph (e) and adding the following—
“(f) the caning shall be carried out in full on one occasion;
(g) the caning shall be administered in a prison or, in the case of an offender apparently under the age of sixteen years, in the premises of the Court by which the sentence of caning was imposed and in the presence, if they desire to be present, of the parent, guardian, relative, master, mistress or person in charge of the offender.”.

Amendment of section 4.

Repeal of section 7.

Amendment of Schedule.

4. Section 7 of the principal Ordinance is repealed.
5. The Schedule to the principal Ordinance is amended—
- (a) by inserting after the heading "SCHEDULE" the following—

"PART I."; and

- (b) by adding at the end thereof the following—

"PART II.

1. Larceny or any offence which is by law deemed or declared to be simple larceny or punishable as simple larceny.
2. Assault occasioning actual bodily harm.
3. Indecent assault."

Amendments to Magistrates Ordinance.
(Cap. 227.)

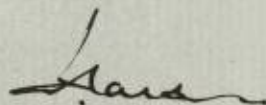
6. Sections 95 and 96 of the Magistrates Ordinance are repealed and replaced by the following—

"Supplementary powers over persons under 16.

96. Where a person apparently under the age of sixteen years is convicted of any offence, the magistrate may, in addition to or in lieu of any other punishment for such offence, order the offender—

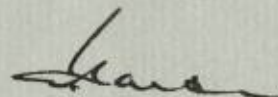
- (a) to be discharged after due admonition; or
- (b) to be delivered to his parent, guardian or nearest adult relative or, if the offender is an apprentice or servant, to his master or mistress or, if the offender is a pupil, to the person in charge of the school at which the offender is attending, on such parent, guardian, relative, master, mistress or person in charge of a school executing a bond, with or without sureties, that he will be responsible for the good behaviour and also, if the magistrate thinks it necessary, for the proper education of the offender for any period not exceeding twelve months."

Passed by the Hong Kong Legislative Council this 28th day of January, 1970.



Deputy Clerk of Councils.

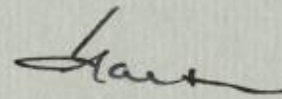
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.



Deputy Clerk of Councils.

*Passed the Legislative Council
this 28th day of January 1970*


Ray King



HONG KONG

No. 14 OF 1970.

I assent.



Heurich.

Governor.

29th January, 1970.

An Ordinance to amend further the Legal Practitioners Ordinance.

[30th January, 1970.]

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

1. This Ordinance may be cited as the Legal Practitioners (Amendment) Ordinance 1970. Short title.

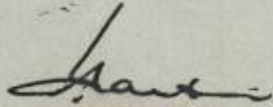
2. Section 2 of the principal Ordinance is amended by deleting the definition of "Society" and substituting the following— Amendment of section 2. (Cap. 159.)

"Society" means The Law Society of Hong Kong;".

Passed by the Hong Kong Legislative Council this 28th day of January, 1970.

[Signature]
Deputy Clerk of Councils.

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



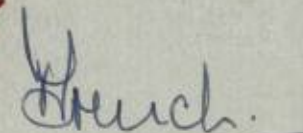
Deputy Clerk of Councils.



HONG KONG

No. 15 OF 1970.

I assent.



Governor.

29th January, 1970.

An Ordinance to amend further the Probate and Administration Ordinance.

[30th January, 1970.]

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

1. This Ordinance may be cited as the Probate and Administration (Amendment) Ordinance 1970.

Short title.

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

Addition of new sections 3A and 3B. (Cap. 10.)

3A. (1) Subject to section 3B, a grant of probate or administration may be made, amended or resealed by the Registrar of the court in the name and under the seal of the court.

"Registrar may exercise jurisdiction of court in certain cases.

(2) In every case in which the Registrar of the court has jurisdiction under this section, he may exercise, as ancillary to that jurisdiction, all powers which the court or a judge may exercise in like circumstances.

- (3) Nothing in this section shall—
- (a) limit or prevent the exercise by a judge of any jurisdiction conferred upon the Registrar of the court by this section; or
- (b) confer upon the Registrar of the court jurisdiction to revoke a grant.
- (4) In this section and in section 3B—

“grant” means a grant or the resealing of a grant, of probate or administration or any amendment thereto;

“Registrar of the court” means the Registrar of the Supreme Court and any Deputy or Assistant Registrar thereof.

Restrictions upon exercise of jurisdiction by Registrar.

3B. (1) No grant shall be made by the Registrar of the court under section 3A—

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

(2) The Registrar of the court, where he exercises jurisdiction under section 3A—

- (a) shall refer the matter to a judge if it appears to the Registrar of the court—
- (i) doubtful whether or not a grant should be made;
- (ii) that a grant ought not to be made without the direction of a judge; or
- (iii) that a question of special difficulty arises in relation to a grant or an application for a grant; and
- (b) may refer to a judge any matter which appears to him to be proper for the decision of a judge.

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

3. The principal Ordinance is amended by adding after section 36 the following new heading and section—

Addition of new section 36A.

“*Executors and administrators.*”

Number of personal representatives, and minority or life interest. 1925, c. 49, s. 160.

36A. (1) Probate or administration shall not be granted to more than four persons in respect of the same property, and administration shall, if there is a minority or if a life interest arises under the will or intestacy, be granted either to a trust corporation, with or without an individual, or to not less than two individuals:

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

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

(3) This section shall apply to grants made after the commencement of the Probate and Administration (Amendment) Ordinance 1970, whether the testator or intestate died before or after that date.

(4) In this section—

“trust corporation” means the Public Trustee in England or a corporation appointed by the court in any particular case to be a trustee (if authorized by its constitution to act as trustee) or any trust company registered under Part VIII of the Trustee Ordinance.”

[cf. Cap. 29, s. 2.]

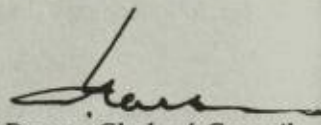
(Cap. 29.)

4. (1) Section 62 of the principal Ordinance is repealed.

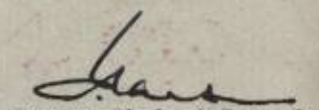
Repeal of section 62.

(2) Notwithstanding subsection (1), section 62 of the principal Ordinance shall continue to apply with respect to the estate of any person referred to in subsection (1) of that section who died before the coming into operation of this Ordinance as if this Ordinance had not been enacted.

Passed by the Hong Kong Legislative Council this 28th day of January, 1970.


Deputy Clerk of Councils.

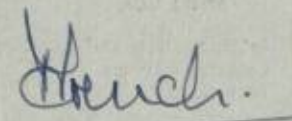
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.


Deputy Clerk of Councils.

HONG KONG

No. 16 OF 1970.

I assent.



Governor.

29th January, 1970.

An Ordinance to amend further the Magistrates Ordinance and to make consequential amendments to other Ordinances.

[30th January, 1970.]

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

- | | |
|---|--|
| <p>1. This Ordinance may be cited as the Magistrates (Amendment) Ordinance 1970.</p> | Short title. |
| <p>2. The heading to Part IV of the principal Ordinance is amended by deleting "INDICTABLE".</p> | Amendment of heading to Part IV. (Cap. 227.) |
| <p>3. Section 88 of the principal Ordinance is amended by deleting subsection (1) and substituting the following—</p> <p style="padding-left: 40px;">“(1) Notwithstanding anything contained in any other provision of this Ordinance, whenever any person is accused before a magistrate of any indictable offence not</p> | Amendment of section 88. |

Second
Schedule.

included in any of the categories specified in Part III of the Second Schedule, the magistrate, upon application made by or on behalf of the Attorney General—

- (a) shall make an order transferring the charge or complaint in respect of the indictable offence to the District Court; and
- (b) may, if the person is also accused of any offence triable summarily only, make an order transferring the charge or complaint in respect of the summary offence to the District Court.”.

Consequential
amendments.
Schedule.

4. The Ordinances specified in the first column of the Schedule are amended to the extent and in the manner set out in the second column of the Schedule.

SCHEDULE.

[s. 4.]

Short title.

Amendments.

(Cap. 1.)

Interpretation and
General Clauses
Ordinance.

Section 89 is amended in subsection (1)—

- (a) by deleting the full stop at the end of paragraph (c), and substituting the following—
“; or”; and
- (b) by inserting, after paragraph (c), the following new paragraph—
“(d) the offence is transferred to the District Court in accordance with Part IV of the Magistrates Ordinance.”.

(Cap. 5.)

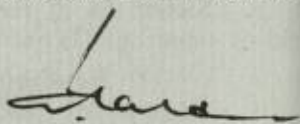
District Court
Ordinance.

1. Section 30 is amended—

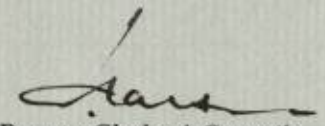
- (a) in subsection (1), by deleting “for a similar offence”; and
- (b) in subsection (2), by inserting, after “the Magistrates Ordinance”, the following—
“and any offence triable summarily only”.

2. Section 33 is amended by deleting “on indictment”.

Passed by the Hong Kong Legislative Council this 28th day of January, 1970.


Deputy Clerk of Councils.


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


Deputy Clerk of Councils.

HONG KONG

No. 17 OF 1970.

I assent.



French.

Governor.

12th February, 1970.

An Ordinance to give effect in Hong Kong to the Vienna Convention on Consular Relations; to enable effect to be given in Hong Kong to other agreements entered into by Her Majesty's Government in the United Kingdom concerning consular relations and to make further provision with respect to consular relations in Hong Kong between the United Kingdom and other countries and matters arising in connexion therewith; to restrict the jurisdiction of courts in Hong Kong with respect to certain matters concerning or arising on board certain ships or aircraft; to enable diplomatic agents and consular officers in Hong Kong to administer oaths and do notarial acts in certain cases; and for purposes connected with those matters.

[]

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

1. This Ordinance may be cited as the Consular Relations Ordinance 1970 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

Application
of Vienna
Convention,
1968 c. 18, s. 1,
First Schedule.

2. (1) Subject to section 3 and to subsection (2) of section 4, the provisions set out in the First Schedule (being Articles or parts of Articles of the Vienna Convention on Consular Relations signed in 1963) shall have the force of law in Hong Kong and shall for that purpose be construed in accordance with subsections (2) to (9) of this section.

(2) In those provisions—

“authorities of the receiving State” shall be construed as including any police officer and any person exercising a power of entry to any premises under any enactment;

“grave crime” shall be construed as meaning any offence punishable (on a first conviction) with imprisonment for a term that may extend to five years or with a more severe sentence;

“Ministry for Foreign Affairs” shall be construed as meaning the Foreign and Commonwealth Office;

“national of the receiving State” shall be construed as meaning a citizen of the United Kingdom and Colonies, a person who is a British subject by virtue of section 2, 13 or 16 of the British Nationality Act 1948 or the British Nationality Act 1965, or a British protected person within the meaning of the said Act of 1948.

(1948 c. 56.)
(1965 c. 34.)

(3) The reference in paragraph 2 of Article 17 to any privileges and immunities accorded by customary international law or by international agreements shall be construed as a reference to any privileges and immunities conferred in Hong Kong under the Diplomatic Privileges Ordinance.

(Cap. 190.)

(4) The references in Article 44 to matters connected with the exercise of the functions of members of a consular post shall be construed as references to matters connected with the exercise of consular functions by consular officers or consular employees.

(5) For the purposes of Article 45 and that Article as applied by Article 58 a waiver shall be deemed to have been expressed by a State if it has been expressed by the head, or any person for the time being performing the functions of head, of the superintending diplomatic mission of that State or of the consular post concerned.

(6) Articles 50, 51, 52, 54, 62 and 67 shall be construed as granting any privilege or immunity which they require to be granted.

(7) The reference in Article 57 to the privileges and immunities provided in Chapter II shall be construed as referring to those provided in Section II of that Chapter.

(8) The reference in Article 70 to the rules of international law concerning diplomatic relations shall be construed as a reference to the provisions of the Diplomatic Privileges Act 1964.

(1964 c. 81.)

(9) The references in Article 71 to additional privileges and immunities that may be granted by the receiving State or to privileges and immunities so far as these are granted by the receiving State shall be construed as referring to such privileges and immunities as may be specified by the Governor by order.

3. If it appears to the Governor that the privileges and immunities accorded to a consular post of the United Kingdom in a territory of any State, or to persons connected with such a consular post, are less than those conferred by this Ordinance on a consular post of that State or on persons connected with such a consular post, the Governor may by order withdraw such of the privileges and immunities so conferred from all or any of the consular posts of that State in Hong Kong or from such persons connected therewith as appears to the Governor to be proper.

Restriction of
privileges and
immunities.
1968 c. 18, s. 2.

4. (1) Where any agreement made, whether before or after the commencement of this Ordinance, between the United Kingdom and any other State provides for according to consular posts and persons connected with them privileges and immunities not accorded to them by the other provisions of this Ordinance, the Governor may by order exercise, with respect to the consular posts of that State in Hong Kong and persons connected with them, the powers specified in the Second Schedule so far as may be necessary to give effect to that agreement.

Agreements
providing for
additional
or reduced
privileges and
immunities.
1968 c. 18, s. 3.

Second Schedule.

(2) Where any agreement made, whether before or after the commencement of this Ordinance, between the United Kingdom and any other State provides for according to consular posts and persons connected with them some but not all of the privileges and immunities accorded to them by the other provisions of this Ordinance, the Governor may by order provide for excluding, with respect to consular posts of that State in Hong Kong and persons connected with them, any of those privileges and immunities which are not provided for by the agreement.

Civil jurisdiction concerning service on board ship or aircraft.
1968 c. 18, s. 4.

5. The Governor may by order make provision for excluding or limiting the jurisdiction of any court in Hong Kong to entertain proceedings relating to the remuneration or any contract of service of the master or commander or a member of the crew of any ship or aircraft belonging to a State specified in the order, except where a consular officer of that State has been notified of the intention to invoke the jurisdiction of that court and has not objected within such time as may be specified by or under the order.

Jurisdiction over offences committed on board ship.
1968 c. 18, s. 5.

6. (1) The Governor may by order make provision for securing that, where an offence is alleged to have been committed on board any ship by the master or a member of the crew and the ship belongs to a State specified in the order, proceedings for the offence instituted otherwise than at the request or with the consent of a consular officer of that State are not entertained by any court in Hong Kong unless—

- (a) the offence is alleged to have been committed by or against a person who is a citizen of the United Kingdom and Colonies or is otherwise comprised in the definition of "national of the receiving State" in subsection (2) of section 2, or against a person other than the master or a member of the crew; or
- (b) the offence is one involving the tranquillity or safety of a port, or the law relating to safety of life at sea, public health, oil pollution, wireless telegraphy, immigration or customs or is of any other description specified in the order; or
- (c) the offence is one comprised in the definition of "grave crime" in subsection (2) of section 2.

(2) For the purposes of this section, an offence which affects the property of any person shall be deemed to have been committed against him.

(3) For the purposes of this section, any document purporting to be signed by or on behalf of a consular officer and stating that he has requested or consented to the institution of any proceedings shall be sufficient proof of that fact unless the contrary is shown.

7. The Governor may by order designate any State for the purposes of this section; and where a State is so designated, a member of the crew of a ship belonging to that State who is detained in custody on board for a disciplinary offence shall not be deemed to be unlawfully detained unless—

- (a) his detention is unlawful under the laws of that State or the conditions of detention are inhumane or unjustifiably severe; or
- (b) there is reasonable cause for believing that his life or liberty will be endangered for reasons of race, nationality, political opinion or religion, in any country to which the ship is likely to go.

8. For the purposes of section 5, 6 or 7, a ship, and for the purposes of section 5, an aircraft, shall be treated as belonging to a State in such circumstances as may be specified by an order made under that section; and different circumstances may be so specified with respect to different States and different classes of ship or aircraft.

9. (1) The Governor may authorize the Director of Commerce and Industry to make such arrangements as the Governor thinks fit for securing the refund of duties imposed on hydrocarbon oils under the Dutiable Commodities Ordinance where such hydrocarbon oils are—

- (a) imported into Hong Kong; and
- (b) used for such purpose that, had they been imported for that use, exemption from customs duty would have been required to be granted under—
 - (i) Article 50 in the First Schedule to this Ordinance; or
 - (ii) an order made under subsection (1) of section 4 of this Ordinance.

(2) Any arrangements made under this section may impose conditions subject to which any refund shall be made.

(3) Any amount of money refunded under arrangements made under this section shall be paid from the general revenue of the Government of Hong Kong.

Detention on board ship for disciplinary offences.
1968 c. 18, s. 6.

Ship and aircraft belonging to a State.
1968 c. 18, s. 16(2).

Authorized refund of duties paid on hydrocarbon oils.
1968 c. 18, s. 8.
(Cap. 109.)

First Schedule.

Right of diplomatic agents and consular officers to administer oaths and do notarial acts in certain cases.
1968 c. 18, s. 10.

10. (1) A diplomatic agent or consular officer of any State may, if authorized to do so under the laws of that State, administer oaths, take affidavits and do notarial acts—

- (a) required by a person for use in that State or under the laws thereof; or
- (b) otherwise required by a national of that State but not for use in Hong Kong except under the laws of some other country.

(2) The Governor may by order exclude or restrict the provisions of subsection (1) in relation to the diplomatic agents or consular officers of any State in Hong Kong if it appears to him that in any territory of that State diplomatic agents or consular officers of the United Kingdom are not permitted to perform functions corresponding in nature and extent to those authorized by that subsection.

(3) In this section "diplomatic agent" has the same meaning as in the Diplomatic Privileges Act 1964.

(1964 c. 81.)

Evidence.
1968 c. 18, s. 11.

11. Where any question arises whether or not any person is entitled to any immunity or privilege under this Ordinance, a certificate issued by the Colonial Secretary stating any fact relating to that question shall be conclusive evidence of that fact.

Privileges and immunities of official representatives of Commonwealth countries, etc.

12. (1) The Governor may by order direct that any person in the service of a Commonwealth country or of the Republic of Ireland or in the service of a State or Province of any such country holding such office or class of office as are or may be specified in the order, being such an office or class of office as appears to the Governor to involve the performance of duties substantially corresponding to those which, in the case of a sovereign foreign Power, would be performed in Hong Kong by a consular officer within the meaning of this Ordinance shall have all such immunities and privileges as are or may be conferred upon a consular officer under the provisions of this Ordinance.

(2) Where the Governor has made an order under subsection (1) in respect of any person—

- (a) the members of the staff of such person shall have such immunities and privileges as are conferred upon the staff of a consular officer under the provisions of this Ordinance; and

(b) the provisions of Articles 31 to 39 and 51 in the First Schedule to this Ordinance shall apply *mutatis mutandis* in relation to the premises, official archives, communications, documents and personal property of any such person.

First Schedule.

(3) Any order made by the Governor under subsection (1) may exclude from any immunity or privilege conferred under it any person who is permanently resident in Hong Kong or who is a person within the definition of "national of the receiving State" in subsection (2) of section 2.

(4) Any order made by the Governor under subsection (1) may apply to the persons specified in the order and to the premises, residences and communications of such persons the provisions of the Second Schedule.

Second Schedule.

13. For the purposes of paragraphs 4, 5 and 6 of the Second Schedule, paragraphs 1, 2, 3, 4 and 5 of the Third Schedule (being Articles 29, 31, 22, paragraph 1 of Article 30 and Article 27, respectively, of the Vienna Convention on Diplomatic Relations signed in 1961) shall have the force of law in Hong Kong.

Application of specified Articles in the Vienna Convention on Diplomatic Relations 1961.
Second Schedule.
Third Schedule.

14. (1) The Consular Conventions Ordinance is amended—

- (a) by repealing section 5; and
- (b) by deleting "or 5" from section 6.

Consequential amendment and repeal of Ordinances.
(Cap. 267.)

(2) The following Ordinances are repealed—

- (a) Consular Privileges Ordinance;
- (b) Trade Commissioners Privileges Ordinance; and
- (c) Commonwealth Countries and Republic of Ireland (Immunities and Privileges) Ordinance.

(Cap. 189.)

(Cap. 192.)

(Cap. 296.)

FIRST SCHEDULE.

[ss. 2 & 12(2).]

PROVISIONS OF VIENNA CONVENTION HAVING THE FORCE OF LAW IN HONG KONG.

ARTICLE 1.

Definitions.

1. For the purposes of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

- (a) "consular post" means any consulate-general, consulate, vice-consulate or consular agency;
- (b) "consular district" means the area assigned to a consular post for the exercise of consular functions;

- (c) "head of consular post" means the person charged with the duty of acting in that capacity;
- (d) "consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions;
- (e) "consular employee" means any person employed in the administrative or technical service of a consular post;
- (f) "member of the service staff" means any person employed in the domestic service of a consular post;
- (g) "members of the consular post" means consular officers, consular employees and members of the service staff;
- (h) "members of the consular staff" means consular officers, other than the head of a consular post, consular employees and members of the service staff;
- (i) "member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post;
- (j) "consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;
- (k) "consular archives" includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indices and any article of furniture intended for their protection or safe-keeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers. The provisions of Chapter II of the present Convention apply to consular posts headed by career consular officers; the provisions of Chapter III govern consular posts headed by honorary consular officers.

3. The particular status of members of the consular posts who are nationals or permanent residents of the receiving State is governed by Article 71 of the present Convention.

CHAPTER I.—CONSULAR RELATIONS IN GENERAL.

ARTICLE 5.

Consular functions.

Consular functions consist in:

- (a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
- (b) furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention;
- (c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested;
- (d) issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State;
- (e) helping and assisting nationals, both individuals and bodies corporate, of the sending State;
- (f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;
- (g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession *mortis causa* in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;
- (h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons;
- (i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;
- (j) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;
- (k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;
- (l) extending assistance to vessels and aircraft mentioned in subparagraph (k) of this Article and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the laws and regulations of the sending State;
- (m) performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

ARTICLE 15.

Temporary exercise of the functions of the head of a consular post.

1. If the head of a consular post is unable to carry out his functions or the position of head of consular post is vacant, an acting head of post may act provisionally as head of the consular post.

2. The full name of the acting head of post shall be notified either by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, or, if he is unable to do so, by any competent authority of the sending State, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry. As a general rule, this notification shall be given in advance. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic agent nor a consular officer of the sending State in the receiving State conditional on its consent.

3. The competent authorities of the receiving State shall afford assistant and protection to the acting head of post. While he is in charge of the post, the provisions of the present Convention shall apply to him on the same basis as to the head of the consular post concerned. The receiving State shall not, however, be obliged to grant to an acting head of post any facility, privilege or immunity which the head of the consular post enjoys only subject to conditions not fulfilled by the acting head of post.

4. When, in the circumstances referred to in paragraph 1 of this Article, a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State is designated by the sending State as an acting head of post, he shall, if the receiving State does not object thereto, continue to enjoy diplomatic privileges and immunities.

ARTICLE 17.

Performance of diplomatic acts by consular officers.

1. In a State where the sending State has no diplomatic mission and is not represented by a diplomatic mission of a third State, a consular officer may, with the consent of the receiving State, and without affecting his consular status, be authorized to perform diplomatic acts. The performance of such acts by a consular officer shall not confer upon him any right to claim diplomatic privileges and immunities.

2. A consular officer may, after notification addressed to the receiving State, act as representative of the sending State to any inter-governmental organization. When so acting, he shall be entitled to enjoy any privileges and immunities accorded to such a representative by customary international law or by international agreements; however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

CHAPTER II.—FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR POSTS, CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST.

SECTION I.—FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO A CONSULAR POST.

ARTICLE 31.

Inviolability of the consular premises.

1. Consular premises shall be inviolable to the extent provided in this Article.

2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.

.....

4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

ARTICLE 32.

Exemption from taxation of consular premises.

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

ARTICLE 33.

Inviolability of the consular archives and documents.

The consular archives and documents shall be inviolable at all times and wherever they may be.

ARTICLE 35.

Freedom of communication.

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post

may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.

3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this Article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.

4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State he shall be neither a national of the receiving State, nor, unless he is a national of the sending State, a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State, its diplomatic missions and its consular posts may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5 of this Article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

ARTICLE 39.

Consular fees and charges.

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this Article, and the receipts for such fees and charges, shall be exempt from all dues and taxes in the receiving State.

SECTION II.—FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST.

ARTICLE 41.

Personal inviolability of consular officers.

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specified in paragraph 1 of this Article, consular officers shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

ARTICLE 43.

Immunity from jurisdiction.

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.

2. The provisions of paragraph 1 of this Article shall not, however, apply in respect of a civil action either:

- (a) arising out of a contract concluded by a consular officer or a consular employee in which he did not contract expressly or impliedly as an agent of the sending State; or
- (b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

ARTICLE 44.

Liability to give evidence.

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.

2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.

3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and documents relating thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

ARTICLE 45.

Waiver of privileges and immunities.

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in Articles 41, 43 and 44.

2. The waiver shall in all cases be express, except as provided in paragraph 3 of this Article, and shall be communicated to the receiving State in writing.

3. The initiation of proceedings by a consular officer or a consular employee in a matter where he might enjoy immunity from jurisdiction under Article 43 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

ARTICLE 48.

Social security exemption.

1. Subject to the provisions of paragraph 3 of this Article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition:

- (a) that they are not nationals of or permanently resident in the receiving State; and
- (b) that they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

ARTICLE 49.

Exemption from taxation.

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of Article 32;

(c) estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of Article 51;

(d) dues and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;

(e) charges levied for specific services rendered;

(f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 32.

2. Members of the service staff shall be exempt from dues and taxes on the wages which they receive for their services.

3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

ARTICLE 50.

Exemption from customs duties and inspection.

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

- (a) articles for the official use of the consular post;
- (b) articles for the personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this Article in respect of articles imported at the time of first installation.

3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in sub-paragraph (b) of paragraph 1 of this Article, or articles the import or export of which is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

ARTICLE 51.

Estate of a member of the consular post or of a member of his family.

In the event of the death of a member of the consular post or of a member of his family forming part of his household, the receiving State:

- (a) shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his death;
- (b) shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

ARTICLE 52.

Exemption from personal services and contributions.

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

ARTICLE 53.

Beginning and end of consular privileges and immunities.

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when he enters on his duties with the consular post.

2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this Article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 of this Article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a consular officer or a consular employee in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

ARTICLE 54.

Obligations of third States.

1. If a consular officer passes through or is in the territory of a third State, which has granted him a visa if a visa was necessary, while proceeding to take up or return to his post or when returning to the sending State, the third State shall accord to him all immunities provided for by the other Articles of the present Convention as may be required to ensure his transit or return. The same shall apply in the case of any member of his family forming part of his household enjoying such privileges and immunities who are accompanying the consular officer or travelling separately to join him or to return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the transit through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to *force majeure*.

ARTICLE 55.

Respect for the laws and regulations of the receiving State.

2. The consular premises shall not be used in any manner incompatible with the exercise of consular functions.

3. The provisions of paragraph 2 of this Article shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event, the said offices shall not, for the purposes of the present Convention, be considered to form part of the consular premises.

ARTICLE 57.

Special provisions concerning private gainful occupation.

2. Privileges and immunities provided in this Chapter shall not be accorded:

- (a) to consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State;
- (b) to members of the family of a person referred to in subparagraph (a) of this paragraph or to members of his private staff;
- (c) to members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

CHAPTER III.—REGIME RELATING TO HONORARY CONSULAR OFFICERS AND
CONSULAR POSTS HEADED BY SUCH OFFICERS.

ARTICLE 58.

General provisions relating to facilities, privileges and immunities.

1. Articles 35, and 39, paragraph 3 of Article 54 and paragraphs 2 and 3 of Article 55 shall apply to consular posts headed by an honorary consular officer. In addition, the facilities, privileges and immunities of such consular posts shall be governed by Articles 60, 61 and 62.

2. Articles 43, paragraph 3 of Article 44, Articles 45 and 53 shall apply to honorary consular officers. In addition, the facilities, privileges and immunities of such consular officers shall be governed by Articles 66 and 67.

3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee employed at a consular post headed by an honorary consular officer.

ARTICLE 60.

Exemption from taxation of consular premises.

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

ARTICLE 61.

Inviolability of consular archives and documents.

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the materials, books and documents relating to their profession or trade.

ARTICLE 62.

Exemption from customs duties.

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on the following articles, provided that they are for the official use of a consular post headed by an honorary consular officer: coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post.

ARTICLE 66.

Exemption from taxation.

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending State in respect of the exercise of consular functions.

ARTICLE 67.

Exemption from personal services and contributions.

The receiving State shall exempt honorary consular officers from all personal services and from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

CHAPTER IV.—GENERAL PROVISIONS.

ARTICLE 70.

Exercise of consular functions by diplomatic missions.

1. The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

.....

4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this Article shall continue to be governed by the rules of international law concerning diplomatic relations.

ARTICLE 71.

Nationals or permanent residents of the receiving State.

1. Except in so far as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided in paragraph 3 of Article 44.

2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular officers referred to in paragraph 1 of this Article, shall enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State.

SECOND SCHEDULE. [ss. 4(1), 12(4) & 13.]

PROVISIONS FOR GIVING EFFECT TO OTHER AGREEMENTS.

1. The like exemption from dues and taxes may be extended to the residence of any member of a consular post as is accorded under Article 32 in the First Schedule to the residence of the career head of a consular post.
2. Paragraph 1 of Article 49 in that Schedule may be extended to members of the service staff.
3. Paragraph 2 of Article 50 in that Schedule may be applied as if it were among the Articles mentioned in paragraph 2 of Article 58 in that Schedule, as if the reference to consular employees included members of the service staff and also such members of the families of consular employees or of members of the service staff as form part of their households, and as if the words "in respect of articles imported at the time of first installation" were omitted.
4. Paragraphs 1 and 2 of the Third Schedule (inviolability and immunity from jurisdiction and arrest of diplomatic agents and exemption from duty to give evidence) may be extended to members of a consular post and members of their families forming part of their households.
5. Paragraph 3 of the Third Schedule (inviolability and protection of mission) may be extended to consular premises; and paragraph 4 of that Schedule (inviolability of private residence) may be extended to the residences of consular officers.
6. Paragraph 5 of the Third Schedule (freedom of communications) may be extended to the communications of a consular post.

THIRD SCHEDULE.

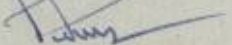
[s. 13.]

APPLIED ARTICLES OF THE VIENNA CONVENTION ON
DIPLOMATIC RELATIONS SIGNED IN 1961.


1. The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.
2. (1) A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of—
 - (a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
 - (b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
 - (c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

- (2) A diplomatic agent is not obliged to give evidence as a witness.
 - (3) No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under sub-paragraphs (a), (b) and (c) of paragraph 1 of this Article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.
 - (4) The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.
3. (1) The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
 - (2) The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
 - (3) The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.
 4. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.
 5. (1) The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.
 - (2) The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.
 - (3) The diplomatic bag shall not be opened or detained.
 - (4) The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use.
 - (5) The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.
 - (6) The sending State or the mission may designate diplomatic couriers *ad hoc*. In such cases the provisions of paragraph (5) of this Article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.
 - (7) A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

Passed by the Hong Kong Legislative Council this 11th day of February, 1970.


Clerk of Councils.


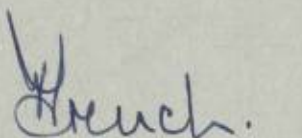
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.


Clerk of Councils.

HONG KONG

No. 18 OF 1970.

I assent.



Governor.

12th February, 1970.

An Ordinance to amend further the Diplomatic Privileges Ordinance.

[13th February, 1970.]

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

1. This Ordinance may be cited as the Diplomatic Privileges (Amendment) Ordinance 1970. Short title.
2. The long title of the principal Ordinance is amended by inserting the following after "*such organizations*;"—
"to confer immunities and privileges on the officers and servants of the Commonwealth Secretariat and members of the families of such officers and servants;". Amendment of long title.
(Cap. 190.)
3. The principal Ordinance is amended by deleting "Schedule" wherever it occurs and substituting the following—
"First Schedule". Amendment of principal Ordinance.

Addition of
new section 7.

4. The principal Ordinance is amended by adding the following new section after section 6—

"Immunities
and privi-
leges of
officers of
the Com-
monwealth
Secretariat.

7. (1) The Governor may, by notification in the *Gazette*, confer upon any person who satisfies him that he is—

(a) a senior officer of the Commonwealth Secretariat;

(b) a citizen of a country mentioned in subsection (3) of section 1 of the British Nationality Act 1948; and

(c) permanently resident outside Hong Kong, and upon any member of his family, the immunities and privileges specified in Part I of the Second Schedule.

(11 & 12
Geo. 6, c. 56.)

Second
Schedule.

(2) The Governor may, by notification in the *Gazette*, confer upon any person who satisfies him that he is—

(a) an officer or servant of the Commonwealth Secretariat other than a senior officer; and

(b) a citizen of a country mentioned in subsection (3) of section 1 of the British Nationality Act 1948,

the immunities and privileges specified in Part II of the Second Schedule.

(3) Any immunity or privilege conferred by the Governor on any person by notification in the *Gazette* under subsection (1) or (2) may be waived by the Secretary-General of the Commonwealth Secretariat or by any person for the time being exercising his functions.

(4) Where any question arises whether or not a person is entitled to any immunity or privilege conferred by the Governor on any person by notification in the *Gazette* under subsection (1) or (2), a certificate issued by the Colonial Secretary stating any fact relating to the question shall be conclusive evidence of the fact.

(5) For the purposes of this section—

(a) "the Commonwealth Secretariat" means the Commonwealth Secretariat established at the Commonwealth Prime Ministers' Meeting of June 1965; and

(b) "senior officer", in relation to the Commonwealth Secretariat, means any officer of the Secretariat recognized by a Secretary of State as being a senior officer of the Secretariat."

5. The principal Ordinance is amended by adding the following after the First Schedule—

Addition of
new Second
Schedule.

"SECOND SCHEDULE.

[s. 7.]

PART I.

IMMUNITIES AND PRIVILEGES OF SENIOR OFFICERS
OF THE COMMONWEALTH SECRETARIAT.

1. Every senior officer of the Commonwealth Secretariat and any member of his family forming part of his household, other than a member who is a citizen only of the United Kingdom and Colonies, shall, if permanently resident outside Hong Kong, have the like privileges and immunities as are accorded by law in the United Kingdom to a diplomatic agent and the members of his family forming part of his household, except that any such person shall not be exempt from liability for salaries tax in respect of any salary or emoluments payable to him by the Secretariat.

2. Every senior officer of the Commonwealth Secretariat and any member of his family forming part of his household, other than a member who is a citizen only of the United Kingdom and Colonies, shall be exempt from all duties and charges payable under the Road Traffic Ordinance, the Motor Vehicles (First Registration Tax) Ordinance and the Commonwealth Preference (Motor Vehicles) Ordinance.

(Cap. 220.)
(Cap. 330.)
(Cap. 47.)

PART II.

IMMUNITIES AND PRIVILEGES OF OFFICERS AND SERVANTS OF THE
COMMONWEALTH SECRETARIAT OTHER THAN SENIOR OFFICERS.

1. Every officer and servant of the Commonwealth Secretariat other than a senior officer shall have—

(a) immunity from suit and legal process in respect of acts or omissions of his in the course of the performance of official duties, except immunity from suit and legal process in respect of a civil action for damage alleged to have been caused by a motor vehicle belonging to or driven by him, or in respect of a motor traffic offence involving such a vehicle; and

(b) the like inviolability for all his official papers and documents as is accorded by law in the United Kingdom to the diplomatic agent of a sending State.


2. Every officer and servant of the Commonwealth Secretariat other than a senior officer shall, if ordinarily resident outside Hong Kong immediately before taking up his post with the Secretariat, be exempt from—

(a) duties on the importation, on the occasion of his first taking up that post, of personal household effects; and

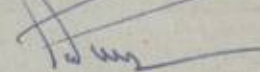
(Cap. 220.)
(Cap. 330.)
(Cap. 47.)

(b) all duties and charges payable under the Road Traffic Ordinance, the Motor Vehicles (First Registration Tax) Ordinance and the Commonwealth Preference (Motor Vehicles) Ordinance."

Passed by the Hong Kong Legislative Council this 11th day of February, 1970.


Clerk of Councils.

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

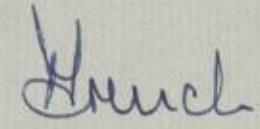

Clerk of Councils.

HONG KONG

No. 19 OF 1970.



I assent.


Governor.

12th February, 1970.

An Ordinance to amend further the Pensions Ordinance.

[1st November, 1967.]

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

1. This Ordinance may be cited as the Pensions (Amendment) Ordinance 1970 and shall be deemed to have had effect as from the 1st November 1967.

Short title
and com-
mencement.

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

Amendment of
section 2.
(Cap. 89.)

(a) in paragraph (a) of the definition of "pensionable emoluments"—

(i) by deleting "and" at the end of sub-paragraph (ii);

(ii) by deleting the comma at the end of sub-paragraph (iii) and substituting the following—

"; and"; and

(iii) by inserting after sub-paragraph (iii) the following new sub-paragraph—

“(iv) special allowance or, in the case of an officer who has elected, ninety *per cent* of special allowance;” and

(b) by inserting, after the definition of “salary”, the following—

““special allowance” means a special addition to salary declared to be pensionable as a special allowance by a resolution of the Legislative Council under section 2A;”.

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

“Power of Legislative Council to declare a special allowance pensionable.

2A. (1) The Legislative Council may by resolution declare a special addition to salary to be pensionable as a special allowance for the purposes of this Ordinance.

(2) A resolution under subsection (1) shall specify the date from which it shall have effect and such date may be before the date on which the resolution is passed but shall not be before the 1st November 1967.”.

Passed by the Hong Kong Legislative Council this 11th day of February, 1970.

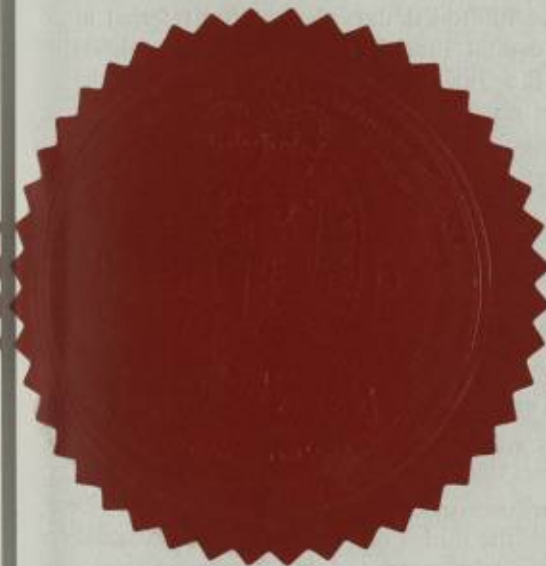
[Signature]
Clerk of Councils.

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

[Signature]
Clerk of Councils.

HONG KONG

No. 20 OF 1970.



I assent.

[Signature]

—Governor.

12th February, 1970.

An Ordinance to establish a fund for providing or assisting in providing facilities for recreational, sporting, cultural and social activities and for the due administration of such fund and for purposes connected with the matters aforesaid.

[13th February, 1970.]

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

1. This Ordinance may be cited as the Sir David Trench Fund for Recreation Ordinance 1970. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.
“fund” means the trust fund established by section 3;
“trustee” means the Accountant General as trustee of the fund;
“vesting day” means the date of commencement of this Ordinance.

3. (1) There is hereby established a fund to be known as the Sir David Trench Fund for Recreation. Establishment and vesting of fund.