

without paying the tax or furnishing security to the satisfaction of the Commissioner for payment thereof.

(2) At the time of issue of his certificate to the Magistrate, the Commissioner shall issue to such person a notification thereof by personal service, or registered post; but the non-receipt of any such notification by such person shall not invalidate proceedings under this section.

(3) Production of a certificate signed by the Commissioner, Deputy Commissioner, or an Assistant Commissioner stating that the tax has been paid or that security has been furnished for payment of the tax to a police officer in charge of a police station, shall be sufficient authority for allowing such person to leave the Colony.

79. Where the Commissioner is of opinion that application of any of the provisions of this Chapter has failed or is likely to fail to secure payment of the whole of the tax due from any person it shall be lawful for him to proceed to recover any sum remaining unpaid by any other means of recovery provided in this Chapter.

Use of more than one means of recovery.

CHAPTER XIII.

Repayment.

80. (1) If it is proved to the satisfaction of the Commissioner by claim duly made in writing within three years of the end of a year of assessment that any person has paid tax in excess of the amount with which he was properly chargeable for the year, such person shall be entitled to have refunded the amount so paid in excess:

Tax paid in excess to be refunded.

Provided that nothing in this section shall operate to extend or reduce any time limit for appeal or repayment specified in any other section or to validate any objection or appeal which is otherwise invalid, or to authorise the revision of any assessment or other matter which has become final and conclusive.

(2) Where through death, incapacity, bankruptcy, liquidation, or other cause a person who would but for such cause have been entitled to make a claim under sub-section (1) is unable to do so, his executor, trustee, or receiver, as the case may be, shall be entitled to have refunded to him for the benefit of such person or his estate any tax paid in excess within the meaning of sub-section (1).

CHAPTER XIV.

Penalties and Offences.

81. (1) Every person who without reasonable excuse—

(a) fails to comply with the requirements of a notice given to him under any of the following sections or subsections:— 52 (1), 52 (3), 52 (4) (a), 53 (1), or 53 (2); or

(b) fails to attend in answer to a notice or summons issued under sections 52 (4) (b), 65 (5), or 69 (6), or having attended fails without sufficient cause to answer any questions lawfully put to him; or

Penalties for failure to make returns, making incorrect returns, etc.

(c) fails to comply with the requirements of sections 52 (2), 52 (6), or 74 (2),

shall be guilty of an offence and shall for such offence be liable on summary conviction to a fine not exceeding two thousand dollars.

(2) Every person who without reasonable excuse—

(a) makes an incorrect return by omitting or understating any income of which he is required by this Ordinance to make return, either on his behalf or on behalf of another person or a partnership; or

(b) makes an incorrect statement in connection with a claim for any deduction or allowance under this Ordinance; or

(c) gives any incorrect information in relation to any matter or thing affecting his own liability to tax or the liability of any other person or of a partnership;

shall be guilty of an offence and shall for such offence be liable on summary conviction to a fine not exceeding the total of two thousand dollars and the amount of tax which has been undercharged in consequence of such incorrect return, statement, or information, or would have been so undercharged if the return, statement or information had been accepted as correct.

(3) No person shall be liable to any penalty under this section unless the complaint concerning such offence was made in the year of assessment in respect of or during which the offence was committed or within three years after the expiration thereof.

(4) The Commissioner may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

82. Every person who—

(a) acts under this Ordinance without taking an oath of secrecy as required by section 4(2); or

(b) acts contrary to the provisions of section 4(1) or to an oath taken under section 4(2); or

(c) aids, abets, or incites any other person to act contrary to the provisions of this Ordinance,

shall be guilty of an offence and shall for each such offence be liable on summary conviction to a fine not exceeding one thousand dollars.

Breach of secrecy and other matters to be offences.

83. (1) Any person who wilfully with intent to evade or to assist any other person to evade tax—

(a) omits from a return made under this Ordinance any income which should be included; or

(b) makes any false statement or entry in any return made under this Ordinance; or

Penal provisions relating to fraud, etc.

(c) makes any false statement in connection with a claim for any deduction or allowance under this Ordinance; or

(d) signs any statement or return furnished under this Ordinance without reasonable grounds for believing the same to be true; or

(e) gives any false answer whether verbally or in writing to any question or request for information asked or made in accordance with the provisions of this Ordinance; or

(f) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records; or

(g) makes use of any fraud, art, or contrivance, whatsoever or authorises the use of any such fraud, art, or contrivance,

shall be guilty of a misdemeanor and shall be liable (a) on summary conviction to a fine not exceeding two thousand dollars and treble the amount of tax for which he is liable under this Ordinance for the year of assessment in respect of or during which the offence was committed, and to imprisonment for any term not exceeding six months and (b) if convicted on indictment to a fine not exceeding ten thousand dollars and treble the amount of the tax and to imprisonment for any term not exceeding three years.

(2) The Commissioner may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

84. The institution of proceedings for, or the imposition of, a penalty, fine, or term of imprisonment under this Chapter shall not relieve any person from liability to assessment, or payment of any tax for which he is or may be liable.

85. No prosecution in respect of an offence under section 81 or section 83 may be commenced except at the instance of or with the sanction of the Commissioner.

CHAPTER XV.

General.

86. (1) The Board of Inland Revenue may from time to time make rules generally for carrying out the provisions of this Ordinance and for the ascertainment and determination of any class of income.

(2) Without prejudice to the generality of the foregoing power such rules may—

(a) prescribe the procedure to be followed on application for refunds and relief;

(b) provide for any matter which by this Ordinance is to be or may be prescribed.

Tax to be payable notwithstanding any proceedings for penalties, etc.

Prosecutions to be with the sanction of the Commissioner.

Power to make rules.

(3) Such rules may prescribe fines recoverable on summary conviction for any contravention thereof or failure to comply therewith not exceeding in each case a sum of two hundred dollars.

(4) All such rules made by the Board of Inland Revenue shall be submitted to the Governor, and shall be subject to the approval of the Legislative Council.

87. The Board of Inland Revenue may prescribe any forms which may be necessary for carrying this Ordinance into effect.

Board of Inland Revenue to prescribe forms.

88. Taxes under this Ordinance shall, subject to the provisions of this Ordinance and notwithstanding anything contained in any other written law or in any convention grant or agreement be charged at the rates specified for the year of assessment commencing on the first day of April, 1947, and for each subsequent year of assessment until the rates specified are amended by a subsequent Ordinance.

Incidence of taxes under this Ordinance.

89. The Governor in Council may by Order exempt any person, office or institution from payment of the whole or any portion of any tax chargeable under this Ordinance.

General power of Governor in Council to exempt.

90. The War Revenue Ordinance, 1941, is repealed.

Repeal of Ordinance No. 13 of 1941.

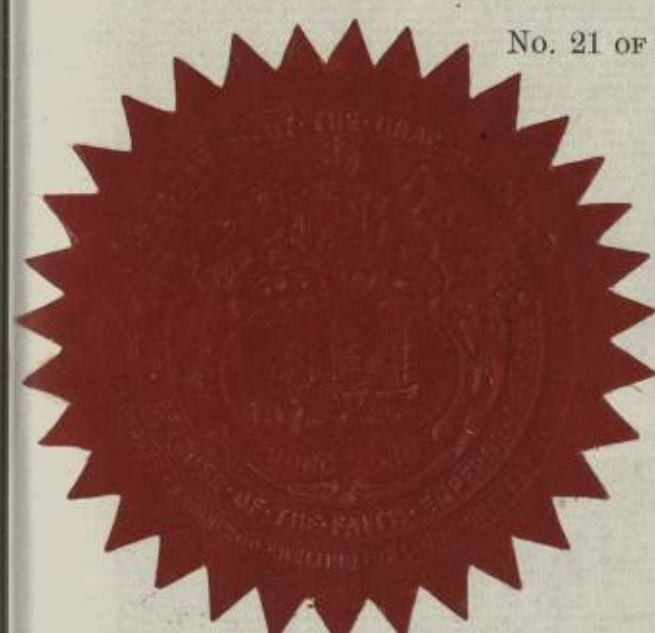
Passed the Legislative Council of Hong Kong, this 1st day of May, 1947.

[Handwritten signature]

Deputy Clerk of Councils.

HONG KONG.

No. 21 of 1947.



I assent.

Mark Young

Governor.

2nd May, 1947.

An Ordinance to amend the Mercantile Marine Assistance Fund Ordinance, 1933.

[2nd May, 1947.]

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

1. This Ordinance may be cited as the Mercantile Marine Assistance Fund Amendment Ordinance, 1947. Short title.

2. Section 3 of the Mercantile Marine Assistance Fund Ordinance, 1933, is hereby amended: Amendment of Section 3 of Ordinance No. 24 of 1933.

- (a) by substituting the word "April" for the word "January" in sub-section 1;
- (b) by substituting the word "March" for the word "December" in sub-section 2; and
- (c) by substituting the words "Accountant General" for the word "Treasurer" in sub-section 2.

Passed the Legislative Council of Hong Kong, this 1st day of May, 1947.

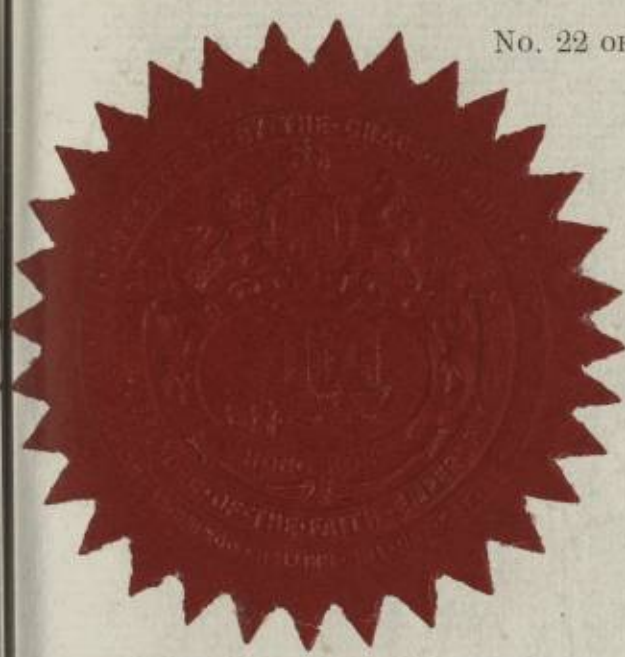
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Deputy Clerk of Councils.

HONG KONG.

No. 22 OF 1947.

I assent.



Mark Young

Governor.

9th May, 1947.

An Ordinance to amend the Hong Kong Dollar Loan Ordinance, 1934, to provide for the redemption of bonds due for redemption in past years.

[9th May, 1947.]

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

1. This Ordinance may be cited as the Hong Kong Dollar Loan Amendment Ordinance, 1947. Short title.

2. Section 5 of the Hong Kong Dollar Loan Ordinance, 1934, is hereby amended— Amendment
of Sec. 5 of
Ord. No. 11
of 1934.

(a) by the deletion of the word "Treasurer" wherever it occurs in the section and by the substitution therefor of the words "Accountant General";


(b) by the addition at the end thereof of the following sub-sections as sub-sections 10, 11 and 12:—

" (10) In the year 1947 there shall be redeemed, in addition to the bonds redeemable for that year in accordance with sub-section (2), the bonds which in accordance with that sub-section should have been redeemed in the years 1942, 1943, 1944, 1945 and 1946, that is to say, an additional one-fifth of each issue.

(11) The redemption directed by the preceding sub-section shall be effected at the time and in the manner and upon the conditions prescribed by sub-sections (2) to (8) (both inclusive) of this section and may be effected contemporaneously with the redemption prescribed for 1947 by sub-section (2) hereof.

(12) Compliance with the provisions of sub-sections (10) and (11) hereof shall in respect of the years 1942 to 1946 (both inclusive) be deemed to constitute a compliance with sub-section (2) hereof and redemption in accordance with the said sub-section shall be deemed to have been validly effected."

Passed the Legislative Council of Hong Kong, this 8th day of May, 1947.


Alastair Todd
Deputy Clerk of Councils.

HONG KONG.

No. 23 OF 1947.



I assent.

Mark Young
Governor.

9th May, 1947.

An Ordinance to amend the Pawnbrokers Amendment Ordinance, 1946.

[9th May, 1947.]

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

1. This Ordinance may be cited as the Pawnbrokers Amendment Ordinance, 1947. Short Title.

2. Section 5 of the Pawnbrokers Amendment Ordinance, 1946, is amended by the insertion, immediately before the full stop appearing in the last line of the said section, of the following words:— Amendment of Sec. 5 of Ord. No. 23 of 1946.

“and upon such cessation without prejudice to the transactions aforesaid the Pawnbrokers Ordinance, 1930, shall have effect as if this Ordinance had not been enacted”.

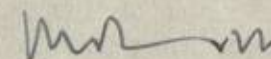
Passed the Legislative Council of Hong Kong, this 8th day of May, 1947.

Alastair Todd
Deputy Clerk of Councils.

HONG KONG.

No. 24 of 1947.

I assent.



Officer Administering the Government.

23rd May, 1947.

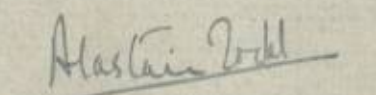
An Ordinance to amend the Urban Council (Transitional Provisions) Ordinance, 1946.

[23rd May, 1947.]

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

- | | |
|---|--|
| 1. This Ordinance may be cited as the Urban Council (Transitional Provisions) Amendment Ordinance, 1947. | Short title. |
| 2. In this Ordinance— | Interpretation. |
| “Principal Ordinance” means the Urban Council (Transitional Provisions) Ordinance, 1946. | Ordinance No. 6 of 1946. |
| 3. Sub-section 2 of section 4 of the principal Ordinance is hereby repealed. | Amendment of section 4 of the principal Ordinance. |
| 4. Section 5 of the principal Ordinance is hereby repealed. | Repeal of section 5 of the principal Ordinance. |
| 5. This Ordinance shall come into force on the twenty-fifth day of May, 1947. | Commencement. |

Passed the Legislative Council of Hong Kong, this 22nd day of May, 1947.


Deputy Clerk of Councils.



HONG KONG.

No. 25 of 1947.

I assent.

Officer Administering the Government.

23rd May, 1947.

An Ordinance to consolidate and amend the law relating to the restriction of rents.

[23rd May, 1947.]

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

1. This Ordinance may be cited as the Landlord and Tenant Ordinance, 1947.

Short title.

2. In this Ordinance—

Interpretation.

(a) "Business premises" includes every cubicle, room, portion of a floor, floor or building which is the subject of a separate letting and which is used wholly or primarily for the purpose of any trade, business or profession and every hotel or boarding-house whether such hotel or boarding-house is held by the keeper thereof under one lease or under more than one lease or is contained in one building or more than one building.

(b) "Court" means the Supreme Court in its Summary Jurisdiction.

(c) "Dependent premises" means premises which are the subject of a separate letting and which are not self-contained in respect of ablution, privy and cooking facilities.

(d) "Domestic premises" includes every bed-space, cubicle, room, portion of a floor, floor or building which is the subject of a separate letting and which is used wholly or primarily for human habitation: Provided that the following shall not be deemed to be domestic premises within the meaning of this definition:

- (i) any building or portion of a building which is used for habitation only by caretakers or watchmen not exceeding two in number;
- (ii) any building or portion of a building which is used for habitation only by office attendants or their families;
- (iii) any particular portion of any hotel or boarding-house which is let by the keeper of such hotel or boarding-house to a guest of such hotel or boarding-house.

(e) "Landlord" includes any person, other than the Crown, who is from time to time entitled to receive rent in respect of any premises and in relation to a particular tenant means the person entitled to receive rent from such tenant.

(f) "Lease" or "tenancy agreement" includes every agreement for the letting of any premises, whether oral or in writing.

(g) "Let" includes sub-let and "letting" includes sub-letting.

(h) "Order" includes any judgment or decree of the Court or the order of any Tribunal.

(i) "Premises" means the subject matter of any tenancy.

(j) "Principal tenant" means a tenant of premises other than a Crown lessee, who has or shall sub-let any part or parts thereof as a separate holding or holdings but shall not include a tenant, hereinafter referred to as a "derivative landlord", who has or shall sub-let the whole of such premises as one holding.

(k) "Standard rent" with respect to any premises other than dependent domestic premises means—

(i) if the premises were actually let unfurnished on the 25th December, 1941, the rate of rent which was recoverable from the sitting tenant; and

(ii) if the premises were not actually let on the 25th December, 1941, or were then let furnished, but had been let unfurnished on some previous date, the rate of rent which was recoverable from the sitting tenant on the last occasion before the 25th December, 1941, on which the premises were actually let unfurnished; and

(iii) if the premises were not let unfurnished until after the 25th December, 1941, then such rate of rent as may be fixed by a Tribunal under the provisions of section 17 of this Ordinance having regard to what would have constituted a fair rent for the premises if let unfurnished immediately before the 1st December, 1941;

and in respect of any dependent domestic premises means that proportion of the rent of the whole of the premises let to a Principal Tenant at the rate prescribed in sub-paragraphs (i), (ii) and (iii) of this definition, as the case may be, as is fairly attributable to such dependent domestic premises with an addition thereto of twenty per cent.

(l) "Tenancy" includes a sub-tenancy and "tenant" includes a sub-tenant.

(m) "Tenancy Tribunal" or "Tribunal" means a Tenancy Tribunal constituted under the provisions of Proclamation No. 15 made on the 22nd October, 1945, or any enactment amending or substituted therefor or under this Ordinance.

(n) "Tenant" does not include a Crown lessee but includes a sub-tenant.

(i) a person who before the coming into force of this Ordinance has retained possession of premises by virtue of any enactment repealed by this Ordinance and who on the coming into force of this Ordinance is in possession of premises, to which this Ordinance applies;

(ii) a person who shall retain possession of any premises by virtue of the provisions of this Ordinance;

(iii) the widow of a tenant, residing with the tenant at the time of his death or where the tenant leaves no widow or is a woman, the children or dependent members of the tenant's family residing with him or her at the time of the tenant's death.

3. (1) This Ordinance shall apply to every premises except—

Application of Ordinance.

(a) any entirely new building in respect of which the written permit of the Building Authority to occupy the same shall have been granted under the provisions of section 116 of the Buildings Ordinance, 1935, after the 16th August, 1945; or

Ordinance No. 18 of 1935.

(b) any premises which after the 16th August, 1945, have remained continuously untenanted which after the coming into force of this Ordinance have been rendered habitable by extensive repairs effected at the expense of the landlord.

For the purpose of this paragraph the expression "extensive repairs" means repairs wholly necessary for rendering the premises reasonably habitable and in respect of which expense incurred amounts to not less than the equivalent to the standard rent of the premises for 7 years; or

(c) any business premises which may after the 1st February, 1947, be let for a term of not less than seven years; or

(d) any particular portion of any hotel or boarding-house which is let furnished by the keeper of such hotel or boarding-house to a guest of such hotel or boarding-house; or

(e) any premises for the time being vested in or in the custody of the Custodian of Property or the Custodian of Enemy Property; or

(f) any lease from or tenancy under the Crown.

(2) In the event of any doubt or dispute as to whether any premises are excepted from the application of this Ordinance by any of the provisions of sub-section (1) of this section, the same may be determined by a Tribunal on the application of a landlord or tenant.

(3) Where immediately before the commencement of this Ordinance a tenant of premises to which this Ordinance does not apply was entitled to protection against eviction by reason of an enactment repealed by this Ordinance, he shall be deemed to be holding at the rent payable immediately before the commencement of this Ordinance and shall be entitled to such notice to quit as would have been required under the original contract of tenancy or if such notice had already been given and had expired at or before the commencement of this Ordinance, then to one month's notice.

4. Save as in this Ordinance provided no rent shall be recoverable in respect of any premises to which this Ordinance applies in excess of the standard rent thereof notwithstanding any agreement to the contrary whensoever made and whether oral or in writing.

No rent in excess of the standard rent save as authorised by Ordinance.

Restriction on recovery of possession and effect of retention of possession.

5. (1) No order against a tenant for the recovery of possession of or for ejection from any premises to which this Ordinance applies shall be made otherwise than under the provisions of this Ordinance or under the provisions of any Ordinance empowering any Court or Magistrate to make an order terminating the tenancy of any premises or for the closure of or ejection of the tenant from, any premises, by reason of the use thereof for immoral or illegal purposes or of the dangerous, insanitary or over-crowded state thereof, or with respect to which any offence has been committed.

(2) Any tenant who before the coming into force of this Ordinance has retained possession of any premises by virtue of any enactment repealed by this Ordinance and who is on the coming into force of this Ordinance in possession of premises to which this Ordinance applies and any tenant who shall retain possession by virtue of the provisions of this Ordinance shall so long as he retains possession observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as the same are consistent with the provisions of this Ordinance, and shall be entitled to give up possession only on giving such notice as would have been required under the original contract of tenancy, or, if no notice would have been so required on giving not less than one month's notice: Provided that notwithstanding anything in the contract of tenancy a landlord who obtains an order for the recovery of possession from or the eviction of any tenant retaining possession as aforesaid shall not be required to give any notice to quit to the tenant.

(3) Sub-section (1) of this section shall not apply to

(a) proceedings by a person claiming under a title adverse and superior to that under which the original tenancy, by virtue of which the tenant became entitled to retain possession, was derived; or

(b) proceedings against a derivative landlord provided always that no order or judgment against a derivative landlord for the recovery of possession or ejection therefrom shall affect the right of any sub-tenant to whom the premises or any part thereof shall have been lawfully sub-let before proceedings for recovery of possession or ejection were commenced to retain possession under this section or be in any way operative against any such sub-tenant.

Permitted increases and adjustments.

6. (1) In the case of domestic premises there shall be payable and recoverable by way of rent in addition to the standard rent thereof an amount equivalent to thirty per cent. of such standard rent and in the case of business premises there shall be recoverable by way of rent in addition to the standard rent thereof an amount equivalent to forty five per cent. of such standard rent: Provided that no such addition shall become due or recoverable until or in respect of any period prior to the expiry of one clear month after the landlord has served upon the tenant a valid notice in writing that payment of such additional amount will be required.

(2) Where as part of the tenancy agreement furniture is provided for the use of the tenant the landlord shall be entitled to make such a charge for the use of such furniture (whether expressed by way of rent or otherwise), as, having regard to the value of the same to the tenant, is reasonable.

Provided that no such charge shall be recoverable until the landlord has specified by notice in writing to the tenant the consideration (whether by way of rent or otherwise) which he attributes to such furniture.

(3) In case a landlord of any premises shall expend the sum of \$1,000 or upwards on additions or improvements thereto by which in the opinion of a Tribunal the rateable value thereof shall be increased the Tribunal may on application by the landlord for such purpose order that the rent of such tenement shall be increased beyond the standard rent by an annual sum equal to eight per cent. on the amount so expended by the landlord on such additions or improvements.

(4) If a Tribunal is satisfied on the application of a landlord or tenant of premises other than dependent domestic premises that the services and facilities which the landlord is liable to provide under the tenancy agreement differ from those which the landlord was liable to provide under the tenancy agreement by reference to which the standard rent was ascertained, it may adjust the standard rent accordingly and upon such adjustment the rent substituted by the Tribunal shall be and become the standard rent for the purposes of this Ordinance but without prejudice to further adjustment under this sub-section or under other provisions of this Ordinance.

(5) Nothing in this Ordinance shall be taken to authorise any increase of rent in respect of a period prior to the commencement of this Ordinance.

(6) If any notice served for the purposes of sub-section (1) of this section contains any statement or representation which is false or misleading in any material respect, the landlord shall be liable on summary conviction to a fine not exceeding one thousand dollars unless he proves that the statement was made innocently and without intent to deceive.

(7) Where the notice of an increase of rent which at the time was valid has been served on any tenant, the increase may be continued without service of any fresh notice on any subsequent tenant.

7. If the tenant of any premises has since the 16th August, 1945, with the consent of the landlord of such premises effected repairs thereto which were necessary to render the said premises reasonably habitable and the sum expended by such tenant has amounted to the equivalent of not less than the standard rent of such premises for a period of six months, the additional amount mentioned in sub-section (1) of section 6 shall not commence to accrue or become payable or recoverable until such time as the amount thereof would, but for this provision, have been equal to one-half of the amount expended by the tenant on such repairs.

Postponement of permitted increase where repairs effected by tenant.

8. (1) Every person who after the commencement of this Ordinance—

Offences.

(a) demands or receives more than the standard rent for any premises, together with such addition or increase as may be permitted by or under the provisions of this Ordinance or such addition or increase as may from time to time have been or be sanctioned by a Tenancy Tribunal; or

(b) demands or receives any consideration, whether in money, in kind or in any other manner whatsoever and whether by way of rent, fine, premium or otherwise, for the grant, renewal or continuance of any tenancy; or

(c) being or acting as a broker, agent or go-between demands or receives for his services in connection with the procuring of the grant, renewal or continuance of the tenancy of any premises any consideration the value of which exceeds five per cent. of the standard rent for one year of such premises;

(d) Where the purchase or hire of any furniture, fittings, fixtures or other articles is required by him as a condition for the grant, renewal or continuance of any tenancy, demands or receives any price or consideration for such purchase or hire in excess of a reasonable price or consideration therefor—

shall be guilty of an offence against this Ordinance and shall upon summary conviction be liable to a fine not exceeding two thousand dollars.

(2) Upon the hearing of any summons issued under the provisions of this section, it shall be lawful for a magistrate, whether the defendant is convicted or not, and in addition to imposing a fine if the defendant is convicted, to order the defendant to pay to the tenant—

(a) any sum received in excess of the rent lawfully recoverable; or

(b) the amount or value of the consideration mentioned in paragraph (b) or (c) of sub-section (1) of this section; or

(c) the amount by which the price or consideration for such purchase or hire as is mentioned in paragraph (d) of sub-section (1) of this section exceeds a reasonable price or consideration therefor; and

(d) if the defendant is a Principal Tenant, to order his ejection.

(3) Nothing in this section contained shall prejudice the right of any person to recover by civil action any such sums as a magistrate may order to be paid under the provisions of sub-section (2) of this section.

Recovery of excessive payments by civil action.

9. The person by whom, after the 1st March, 1946, any payment has been made or consideration has been given the demanding or receiving of which after the commencement of this Ordinance is made an offence under the provisions of section 8 of this Ordinance, may recover the amount or value thereof by action in the Court: Provided always that any action for such recovery in respect of any payment made or consideration given before the commencement of this Ordinance shall be commenced within six months after the commencement of this Ordinance and any action for such recovery in respect of any payment made or consideration given after the commencement of this Ordinance shall be commenced within six months after the making of such payment or giving of such consideration.

10. (1) If a tenant to whom sub-section (2) of section 5 applies, demands or receives the payment of any fine or premium or any other consideration for giving up possession of such premises to the landlord or to any other person with or without the knowledge or approval of the landlord, such tenant shall be guilty of an offence against this Ordinance and shall be liable on summary conviction to a fine not exceeding two thousand dollars.

Offence of protected tenant demanding premium, etc.

For the purposes of this section the demanding or receiving of a price or consideration for any furniture, fittings or fixtures or other articles in excess of a reasonable price or consideration therefor shall be deemed to be the demanding or receiving of a fine or premium.

(2) Upon the hearing of any summons issued under the provisions of this section, it shall be lawful for a magistrate, upon conviction of the defendant and in addition to imposing a fine—

(a) to order the defendant to pay to the person from whom such fine, premium or other consideration has been received the amount or value of any fine, premium or other consideration wrongfully demanded or received including the amount by which the price or consideration paid for any furniture, fittings, fixtures or other articles exceeds the reasonable value thereof; and

(b) to order the eviction of the tenant.

11. (1) Every Principal Tenant shall affix and shall keep affixed on a conspicuous part of the premises comprised in his principal tenancy a notice stating the rent payable by him to his landlord and shall give to each sub-tenant notice in writing of the part of such rent which he attributes to the premises let to such sub-tenant.

Duties of Principal Tenant.

(2) Every Principal Tenant shall, whether the same shall be demanded or not, give to each sub-tenant at the time of his paying the same a receipt for the amount of the rent paid and such receipt shall state the period in respect of which such rent was payable.

(3) Every Principal Tenant shall within one month after the commencement of this Ordinance or, if he is not a Principal Tenant at the time of such commencement, then within one month after becoming a Principal Tenant, furnish to his landlord a full and true statement showing the names of all the sub-tenants of such Principal Tenant with sufficient particulars of the parts of the premises occupied by and of the standard rent and gross rent payable by each of them.

(4) A Principal Tenant who fails to comply with any of the provisions of sub-sections (1), (2) and (3) of this section shall be guilty of an offence against this Ordinance and shall be liable on summary conviction to a fine not exceeding one thousand dollars.

(5) Upon the hearing of any summons issued under this section, it shall be lawful for a magistrate, whether the defendant is convicted or not, and in addition to imposing a fine if the defendant is convicted, to order the eviction of the defendant.

(6) Where a Principal Tenant is evicted under the provisions of this section or of section 8, the sub-tenants of such principal tenant shall be deemed to be and shall thereafter be tenants of the immediate landlord of such Principal Tenant and shall be deemed to hold their respective premises upon the terms and conditions upon which they held them from the Principal Tenant: Provided always that such immediate landlord shall be entitled to demand or receive from such sub-tenant only such rent as he would have been entitled to demand or receive if the tenancy of the Principal Tenant had been terminated under the provisions of section 12 of this Ordinance and shall undertake towards the sub-tenants all those obligations formerly undertaken by the Principal Tenant.

Termination
of Principal
Tenancy.

12. (1) The immediate landlord of a Principal Tenant whose original contract of tenancy has been or shall be determined by a valid notice to quit may at any time after the commencement of this Ordinance or the expiration of the period referred to in such notice whichever shall be the later serve on such Principal Tenant written notice under this section calling upon the Principal Tenant to deliver up at the expiration of one calendar month next following the service of such notice, possession of the premises save and except such part thereof if any as the Principal Tenant has retained for his own use. Any such notice shall state that the Principal Tenant may, at his option, either deliver up possession of that part of the premises (if any) as he had before the service of such notice retained for his own use or may retain possession thereof as tenant of the immediate landlord.

(2) Immediately on the giving of such notice as aforesaid the immediate landlord shall serve on each sub-tenant of such Principal Tenant (in this section called the sub-tenant) written notice that he has served such notice upon the Principal Tenant and calling upon the sub-tenant, after the expiration of the aforesaid calendar month, to pay to the immediate landlord or such person as he may appoint the rent of the premises the subject of the former sub-tenancy.

(3) From and after the expiration of the said calendar month the sub-tenant shall in every respect be deemed to be the tenant of such immediate landlord and to hold the premises subject to the terms and conditions upon which he held the same as sub-tenant of the Principal Tenant: Provided always that the immediate landlord shall be entitled to recover from the sub-tenant the standard rent of the premises together with an addition thereto in the case of domestic premises of thirty per cent. and, in the case of business premises, of forty-five per cent. and together also with any increase sanctioned by this Ordinance but shall not be entitled to recover any greater rent notwithstanding any agreement to the contrary made between the sub-tenant and the Principal Tenant.

(4) Where the Principal Tenant has retained for his own occupation any part of the premises the subject of his tenancy from the immediate landlord, he shall, after the expiration of the said calendar month, unless he shall then deliver up possession, be deemed to be the tenant of the immediate landlord in respect of that part of the premises so retained as aforesaid and to hold the same upon a monthly tenancy at such a rent as may be fairly attributable to that part of the premises retained by him having regard to the rents

recoverable by the landlord in respect of the other parts of the premises of which he was formerly the tenant: Provided always that in the event of any dispute or difference between the immediate landlord and the Principal Tenant as to the amount of the rent payable by such Principal Tenant the same may be referred to and decided by a Tenancy Tribunal.

(5) An immediate landlord who exercises the power conferred by sub-section (1) of this section shall undertake towards the sub-tenants all those obligations formerly undertaken by the Principal Tenant.

13. Subject to the provisions of section 10 hereof, nothing in this Ordinance shall be taken to limit the right of a landlord and tenant (whether or not the tenant is a tenant to whom sub-section 2 of section 5 applies) to agree to such stipulations and conditions as they shall think fit in regard to the duration of the tenancy and in particular to any stipulation in regard to termination of the tenancy in the event of the landlord desiring to sell the premises or to obtain possession for occupation by himself or any member of his family: Provided that no landlord shall be entitled by reason of any agreement made under the foregoing provision to obtain an order for the ejection of any tenant unless he satisfies a Tribunal or a Court, as the case may be, that the tenant intended by such agreement to deprive himself of the protection against ejection afforded by this Ordinance.

Savings as
to new
agreements
to vacate.

14. Nothing in this Ordinance shall entitle any landlord during the currency of any written lease of any premises for a definite and unexpired term, to any rent higher than the rent reserved in such lease.

Savings for
unexpired
term.

15. Notwithstanding the provisions of sections 4 and 14 of this Ordinance, a Tenancy Tribunal may in its discretion on the application of a landlord sanction the increase of the rent of any premises by such amount as may be agreed by the tenant thereof and the increased rent so sanctioned shall from the date on which such sanction is given be the rent of the premises during the continuance of this Ordinance.

Agreed
increase of
rent.

16. Subject to the provisions of section 14, if the standard rent of any premises either (a) is a rent which was agreed upon in writing at some date before the 1st July, 1937, or (b) is not higher than the rent recoverable from the tenant in actual occupation on the 1st July, 1937, it shall be lawful for the landlord of such premises to apply to a Tenancy Tribunal to fix and such Tribunal may fix such other rent as the Tribunal shall think fit as the standard rent to be paid in respect of such premises during the continuance of this Ordinance: Provided that nothing in this section shall affect any rent which became due before the date of the order made by the Tribunal.

Tribunal
may revise
rent in
certain cases.

17. It shall be lawful for a Tenancy Tribunal on the application of landlord or tenant:—

Tribunal
may fix or
apportion
rents in
certain cases.

(a) to fix any rent which for any reason is not otherwise determinable under the provisions of this Ordinance; or

(b) to apportion any rent to which this Ordinance relates; or

(c) to entertain and determine any dispute or difference as to the amount of rent payable in respect of any premises to which this Ordinance applies including any increase of rent, and any charge for the use of furniture by or the provision of services to the tenant, or so far as may be necessary to carry this Ordinance into effect as to the right to the possession of such premises; or

(d) to entertain and determine concurrently with any other application, any application for the payment of rent or mesne profits of any premises to which this Ordinance applies accruing due on or after the 1st October, 1945;

and to make such order thereon as the Tribunal shall think fit.

18. It shall be lawful for a Tenancy Tribunal on the application of a landlord to make an order for the recovery of possession from or the ejection of—

(a) a Principal Tenant of domestic premises who has been served with a notice under section 12 hereof and who has elected to quit and failed to do so or who has collected or attempted to collect rent from the sub-tenants of such premises in respect of a period subsequent to the expiration of a calendar month following the service of such notice;

(b) a tenant who has been convicted of an offence against this Ordinance or of using or suffering or permitting to be used the premises or any part thereof for an immoral or illegal purpose;

(c) a tenant whose rent or any part thereof, in so far as the same accrued due after the 1st October, 1945, is in arrears for more than thirty days;

(d) a tenant who has failed to observe and perform any stipulation or condition of his tenancy agreement other than save as hereinafter provided a stipulation or condition imposing an obligation to vacate the premises;

(e) a tenant who has agreed to vacate the premises and who, in the opinion of the Tribunal, intended by such agreement to deprive himself of the protection against ejection afforded by this Ordinance;

(f) a person who became a tenant between the 16th August, 1945, and the commencement of this Ordinance upon the condition that he should vacate the premises on the return of the person who was the tenant before the 25th December, 1941, and who has neglected or refused so to vacate the premises upon receipt of notice from the landlord that such former tenant had returned to the Colony and that the premises were required for his use;

(g) a tenant who has given written notice to quit the premises and has failed to quit the same on the expiry of such notice;

(h) a tenant who has been guilty of conduct, or has suffered any person residing or lodging with him to be guilty of conduct, which is a nuisance or annoyance to the landlord or to other tenants or the occupiers of adjacent premises, or has persistently failed to keep his premises in a reasonably sanitary condition by reason of which failure the landlord has been required to comply with notice served upon him under section 28 of the Public Health (Sanitation) Ordinance, 1935;

Order for
eviction by
Tenancy
Tribunal.

Ordinance
No. 15 of
1935.

(i) a tenant who obtained a tenancy by reason of being employed by his landlord and who has ceased to be in such employment;

(j) a tenant of land which has not been developed by the erection of buildings of a permanent character, which is required by a landlord for his own use or for the erection of buildings of a permanent character.

19. (1) It shall be lawful for a Tenancy Tribunal on the application of a landlord or of the personal representative of a deceased landlord (not being a landlord who has become such landlord by purchasing premises or any interest therein after the 1st September, 1946) to make an order for the recovery of possession of any domestic premises or for the ejection of the tenant therefrom where such premises are reasonably required for occupation as a residence for such landlord or for any son or daughter of his over eighteen years of age, or, where the landlord is dead, for the surviving spouse, son or daughter over eighteen years of age or father or mother of such deceased landlord: Provided that no such order shall be made unless the Tribunal is satisfied having regard to all the circumstances of the case, including any alternative accommodation available for the persons for whose occupation the premises are so required or for the tenant, that greater hardship would be caused by refusing to grant the order than by granting it.

(2) No person obtaining an order for the recovery of possession of or ejection from any premises under sub-section (1) of this section shall within twelve months after the date of such order assign, transfer, sub-let or part with the possession of the premises or any part thereof without the previous consent of a Tenancy Tribunal.

(3) Where a person has obtained an order for the recovery of possession of or ejection from any premises under the provisions of sub-section (1) of this section and it is subsequently made to appear to a Tenancy Tribunal that the order was obtained in bad faith or by the misrepresentation or concealment of material facts or where such person is shown to have acted in breach of the provisions of sub-section (2) of this section, the Tribunal may order the landlord to pay to the former tenant such sum as may appear to the Tribunal to be sufficient to compensate such tenant for the cost, damage, loss or inconvenience sustained by him as a result of the order for recovery of possession or ejection.

20. It shall be lawful for a Tenancy Tribunal on the application of a landlord to make an order for the recovery of possession from or ejection of the occupier of any premises the rent whereof is payable monthly, the tenant of which has, after the 1st March, 1946, without the consent in writing of the landlord, assigned, transferred, sub-let or parted with the possession of such premises or any part thereof: Provided that no order shall be made under the provisions of this section against an occupier holding as the sub-tenant of a Principal Tenant any portion of any domestic premises which premises before the 22nd October, 1945, were divided into and let as separate domestic premises, or since that date have, with the consent of the landlord, been so divided and let.

Order for
recovery
where
domestic
premises are
required for
occupation by
landlord, etc.

Order where
sub-letting
is made
without
Landlord's
consent.

Statement to be supplied as to standard rent.

21. A landlord of any premises to which this Ordinance applies shall, on being so requested in writing by the tenant of such premises or by the superior landlord of such landlord supply the tenant or the superior landlord as the case may be with a statement in writing as to what is the standard rent of such premises, and, if, without reasonable excuse, he fails within fourteen days so to do, or supplies a statement which is false in any material particular, he shall be liable on summary conviction to a fine not exceeding one thousand dollars.

Powers of Tribunal.

22. Upon any application for the recovery of possession of any premises or the ejection of the tenant therefrom the Tribunal may—

(a) in lieu of making an order adjourn the application for a period not exceeding thirty days and subject to such conditions as it thinks proper;

(b) upon making such order direct that it shall not be operative until the expiration of any period not exceeding thirty days specified in such order and may make any such direction subject to such conditions as it thinks proper.

Order for eviction of Principal Tenant not to operate against sub-tenants.

23. An order for ejection made against any Principal Tenant shall not, unless the Tribunal so directs, operate as an order for ejection of any sub-tenant of such Principal Tenant, but immediately upon the making of such an order such sub-tenants shall be deemed to be tenants of the immediate landlord of the Principal Tenant in like manner as is provided by section 12 (3) of this Ordinance and such immediate landlord shall undertake towards them the obligations theretofore undertaken by the Principal Tenant.

Giving effect to order for eviction.

24. Where an order for recovery of possession of or for ejection from any premises has been made and no appeal has been lodged in due time a bailiff of the Supreme Court may, upon production to him of a copy of such order certified to be a true copy by a member of the Tribunal making the order, and an affidavit sworn before any Justice of the Peace from which it appears that such order has not been complied with, proceed to enter (by force, if needful) into the premises and carry such order into effect and give possession of the premises, or any part thereof specified in the order, to the landlord or his agent: Provided that such entry shall not be made at any time except between 8 a.m. and 5 p.m. Any person resisting or obstructing a bailiff in the performance of his duties under this section shall be guilty of an offence against this Ordinance and shall be liable on summary conviction to a fine not exceeding five hundred dollars.

Power of entry and inspection.

25. Any person authorised generally in writing for that purpose by the Secretary for Chinese Affairs may at all times, without notice, enter and inspect any premises reasonably believed to be the subject of a sub-letting and, where such premises are held by a Principal Tenant, demand to see any notice required by section 11 of this Ordinance to be affixed on the premises or given to any sub-tenant and any person resisting or obstructing any such person in the performance of his duties shall be guilty of an offence under this Ordinance and shall be liable on summary conviction to a fine not exceeding five hundred dollars.

Appeal.

26. (1) Notwithstanding that the annual rent or value of the premises to which the appeal relates exceeds the sum of one thousand dollars any person aggrieved by an order or decision (other than a decision to make or to refuse to make any recommendation to the Governor in Council under section 32 hereof) of a Tribunal may within seven days from the date thereof appeal to the Court: Provided that the Court may, in its discretion and on such terms as it may think fit, on the application of such aggrieved person extend the time within which an appeal may be made notwithstanding that such time may have expired.

(2) The practice and procedure on appeal shall be by motion and in all matters, save as expressly provided by this Ordinance or any rules made hereunder, shall be in accordance with the practice and procedure prescribed by the Supreme Court (Summary Jurisdiction) Ordinance, 1873, and any amendment thereof from time to time in force as though such appeal were an action commenced in the Summary Jurisdiction of the Supreme Court.

(3) Where the appeal is from a decision on a question of law or on a matter of discretion only, it shall be heard upon a case to be stated at the request of the appellant by the Chairman of the Tribunal, setting forth the findings of fact and the grounds for the Tribunal's decision.

(4) In every other case, the Court may deal with the case solely upon the evidence originally taken or may re-examine any witness or may admit further evidence.

(5) The Court shall have power on every appeal, whether on a question of fact, or of law or of discretion, to try the case de novo.

(6) The Court may, on the application of the appellant, stay execution of any order of the Tribunal for such time and on such terms, if any, as to security or otherwise, as it may deem just.

(7) Upon the hearing of any such appeal the Court may make such order as may seem to it just and equitable including an order for the payment of costs of the appeal and of the costs, if any, of the proceedings before the Tribunal against whose order or decision the appeal was made.

(8) Any decision on any question of fact or of law made on any such appeal shall be subject to further appeal in the manner provided for by sections 34 to 38, both inclusive, of the Supreme Court (Summary Jurisdiction) Ordinance, 1873.

(9) When a case has been stated under the provisions of sub-section (5) of section 28 appeal shall not lie to the Court but shall lie to the Full Court in like manner as if it were an appeal from a decision of the Court save that it shall be unnecessary to obtain any leave to appeal. Upon any such appeal the Full Court shall have the powers given to the Court by this section.

27. (1) The Tenancy Tribunals constituted by and under the Regulations made on the 22nd November, 1945, by the Chief Civil Affairs Officer, which Regulations were published in the Hong Kong (British Military Administration) Gazette on the 24th November, 1945, and by and under any amendment or modification of such Regulations, shall be deemed to be and from the commencement of this Ordinance

Continuance of Tenancy Tribunals and Tenancy Tribunal Panel, and of pending proceedings and notices.

shall be and shall continue to be, Tenancy Tribunals within the meaning of and for the purposes of this Ordinance and all persons by or under the said Regulations appointed to form a Tenancy Tribunal Panel or thereafter appointed to be members of such Panel shall be deemed to be and shall be members of the Tenancy Tribunal Panel for the purposes of this Ordinance.

(2) Every order or decision of a Tenancy Tribunal made before the commencement of this Ordinance shall, subject to any right of appeal therefrom, be and remain in force and effect may be given to such order or decision and such order shall have the like effect in all respects as if the same had been made after the commencement of this Ordinance.

(3) Subject to the provisions of section 12 of the Interpretation Ordinance, 1911, all proceedings pending before any Tenancy Tribunal at the commencement of this Ordinance shall be continued before such Tribunal in all respects as if the same had been commenced under the provisions of this Ordinance.

(4) Every notice given before the commencement of this Ordinance which would have been valid under the provisions of the said proclamation or any amendment thereof or any regulation made thereunder and which would have been valid if given after the commencement of this Ordinance, shall be valid and effectual for all the purposes of this Ordinance.

Ordinance No. 31 of 1911.

Constitution and powers of Tribunals.

28. (1) Any three members of the Tenancy Tribunal Panel, when authorised in that behalf by the Chief Justice or his delegate or any Magistrate sitting alone, shall constitute and may exercise all the powers and discharge all the functions of a Tenancy Tribunal for the purposes of this Ordinance at such place or places as the Chief Justice or his delegate may direct.

(2) Every Tribunal shall have and may exercise any of the powers, rights, and privileges following, namely:

- (a) to enforce the attendance of parties and witnesses and examine them upon oath or otherwise;
- (b) to compel the discovery, inspection and production of documents;
- (c) to enter and view or to order the inspection of any premises the subject matter of any application;
- (d) to call in the aid of one or more assessors or experts to assist in the determination of any application.

(3) A summons or order under the hand of the presiding member of any Tribunal or of such Magistrate as aforesaid, as the case may be, issued or made for the purpose of exercising any of the foregoing powers, rights and privileges shall be of like force and effect as the corresponding form of process issued in any action or suit for the like purpose and may be enforced by a bailiff or other officer of the Supreme Court in like manner as such form of process would be enforced.

(4) Where a Tribunal consists of members of the Tenancy Tribunal Panel the decision or order of a majority of members of such Tribunal shall be deemed the decision or order of the Tribunal. If the Tribunal is unable to agree upon a decision or order the Tribunal shall state in the form of a Special Case for decision by the Court, the matter upon which an agreement cannot be reached.

(5) Any Tribunal may at any stage in the proceedings before it state in the form of a Special Case for the opinion of the Court any question of law arising in the course of the proceedings.

(6) (a) Every member of the Tenancy Tribunal Panel shall on his appointment to be a member of a Tribunal take oath in the following form:

“I,, swear by Almighty God that I will well and truly adjudicate upon all matters before the Tenancy Tribunal without fear or favour affection or ill-will.”

(b) Every interpreter at any proceedings before the Tribunal shall before he interprets have sworn in the following manner:

“I,, swear by Almighty God that I will well and truly interpret all matters which I am required to do in any proceedings in the Tenancy Tribunals and that I will not add anything thereto or take anything therefrom.”

29. Without prejudice to any right of appeal or to any other mode of enforcement authorised by this Ordinance, any order of a Tenancy Tribunal, whether made before or after the commencement of this Ordinance, may be enforced as if it were an order of the Supreme Court.

Enforcement of Order of Tribunals.

30. (1) It shall be lawful for the Chief Justice to make general rules and orders for regulating the procedure, business and hours of Tenancy Tribunals and of the offices connected therewith and in respect of appeals therefrom and the forms to be used and the fees to be payable therein and also the fees of counsel and the costs of solicitors: Provided always that no such rules or orders shall be binding until the same have been approved by the Legislative Council and have been published in the Gazette.

Power to make general rules and orders.

(2) The rules and forms contained and the fees specified in the Schedule to this Ordinance shall be of like effect as if they had been made, approved and published under the provisions of sub-section (1) of this section.

31. It shall be lawful for the Chief Justice from time to time—

Appointment of members of Tenancy Tribunal Panel and Tenancy Tribunals.

(a) to appoint such additional persons as he may think fit to be members of the Tenancy Tribunal Panel and to remove the name of any person from such Panel; and

(b) to appoint such Tribunals as he may deem necessary for the purposes of this Ordinance.

32. (1) The Governor in Council may, in his absolute discretion and without the necessity of hearing any interested party, by order exclude from the further application of this Ordinance any premises or any class of premises. Upon any such order being notified in the Gazette the tenant of any such premises shall be deemed to be holding at the rent payable immediately before the notification of such order and shall be entitled to such notice to quit, as would have been required under the original contract of tenancy, or, if such notice has

Power to exclude operation of Ordinance.

already been given and has expired, then to one month's notice expiring at the end of the calendar month next after the month in which such order was notified. Provided that in the event of any notice having been given prior to such order being notified nothing herein contained shall entitle a landlord to recover possession prior to the expiration of such notice.

(2) In any case in which such order will affect only particular premises to which this Ordinance applies and will not relate to all premises of a similar character the power hereinbefore conferred shall not be exercised save upon the recommendation of a Tenancy Tribunal.

(3) Any landlord or tenant desiring to obtain such recommendation shall serve notice thereof on the tenant or landlord as the case may be in Form No. 11 of the Schedule hereto and shall also post such notice in a conspicuous place at the entrance to the premises to which the application relates. Such service and posting shall be verified by Affidavit in Form No. 12 of the Schedule hereto which shall be lodged in the Registry of the Supreme Court together with a fee of twenty dollars for the hearing of the application.

(4) Any party other than the person served under sub-section (3) who opposes the application shall within fourteen days of such notice having been posted as aforesaid give notice in writing to the Registrar of the Supreme Court in Form No. 13 of the Schedule hereto stating his interest in the matter and whether he wishes to make written representations to the Tenancy Tribunal or whether he wishes to appear by himself or by his advocate on the hearing of the application.

(5) Upon expiration of such fourteen days—

(a) the Chief Justice shall appoint a Tenancy Tribunal to hear the application and to determine whether or not it should recommend to the Governor in Council that the premises to which the application relates should be excluded from the further application of this Ordinance, and

(b) the Registrar shall obtain the direction of a Judge in Chambers as to which parties in addition to the person served under sub-section (3) shall be entitled to be heard thereon and as to whether any person is to be at liberty to forward any written representations to the Tribunal, and shall notify the parties and any such person accordingly and of the day fixed for hearing such application.

(6) A Tenancy Tribunal appointed to determine any application under this section after hearing such parties and considering such representations as a Judge in Chambers has directed shall be heard and may be put forward respectively, may in its absolute discretion decide to recommend that the premises to which such application relates should be excluded from the further application of this Ordinance or to make no recommendation and shall inform the parties of its decision. In the event of the Tenancy Tribunal deciding to make a recommendation, the Chairman of the Tenancy Tribunal shall forward in writing such recommendation and the reasons therefor together with the papers and any record of the proceedings before the Tenancy Tribunal to the Clerk of Councils for the consideration of the Governor in Council.

(7) The costs of such application shall in any event be borne by the applicant. Such costs shall be allowable as would be granted in an action before the Court.

(8) Sub-sections (3) to (7) inclusive of this section may be rescinded, added to or varied by rules made under section 30.

33. Any notice given under the provisions of this Ordinance may be served upon the person affected thereby either personally or by leaving the same with any occupier of the premises to which the same relates, or by leaving the same with some adult inmate at the usual or last known place of business or residence of the person to be served, or, if the person to be served cannot readily be found, by affixing the notice on a conspicuous part of the premises to which the same relates.

Method of service of Notices.

34. (1) Every person who shall mala fide do any act whatsoever with intent to induce the lessee of any premises to give up possession thereof shall upon summary conviction be liable to a fine not exceeding one thousand dollars.

Prohibition of acts done mala fide with intent to induce a lessee to quit.

(2) Upon the hearing of any summons issued under this section it shall be lawful for a magistrate, whether the defendant is convicted or not and in addition to imposing a fine if the defendant is convicted, to order the defendant to pay to the lessee such sum as may appear to the magistrate to be sufficient to compensate the lessee for any costs, damages, loss or inconvenience sustained by him by reason of such act.

35. This Ordinance shall continue in force until and including the 31st December, 1948: Provided that it shall be lawful for the Legislative Council from time to time by resolution to extend the duration of this Ordinance for such term, not exceeding one year at any one time, as may be specified in such resolution.

Duration of Ordinance.

36. (1) Immediately after this Ordinance shall cease to be in force, any tenant who shall have been in occupation at the time when this Ordinance ceases to be in force shall be deemed to be holding at the rent payable immediately before this Ordinance ceases to be in force unless the landlord shall have given such tenant such notice to quit, terminating with the termination of this Ordinance, as would have been, as regards length of notice a due notice to quit under the terms of the tenancy if this Ordinance had not been passed.

Effect of the termination of the Ordinance.

(2) The expiration of this Ordinance shall not render recoverable by a landlord any rent or other sum which during the continuance thereof was irrecoverable, or affect the right of a tenant to recover any sum which during the continuance thereof was under this Ordinance recoverable by him.

37. Nothing in this Ordinance shall be construed so as to prevent a landlord from collecting from his tenant the rates for the time being payable in respect of any premises or such apportioned sum as shall properly be attributable to such premises in respect of rates, provided that the obligation of paying the rates in respect of such premises was assumed by the tenant under the terms of the tenancy.

Collection of rates not to be affected.

Repeal and
effect of
Repeal.

38. Proclamation No. 15 (Landlord and Tenant), Proclamation No. 25 (Landlord and Tenant Amendment) and those parts of Schedule I and Schedule II to the Law Amendment (Transitional Provisions) Ordinance, 1946, relating to Proclamation No. 15 and to modifications to Regulations, Rules and Orders made thereunder, are repealed and all regulations, rules and orders and amendments and modifications thereof made thereunder and all forms and fees prescribed thereby are rescinded.

Passed the Legislative Council of Hong Kong, this 22nd day of May, 1947.

Alastair Todd

Deputy Clerk of Councils.

SCHEDULE

(Section 30)

PART I.

RULES OF PROCEDURE.

Interpretation.

1. "Ordinance" means the Landlord and Tenant Ordinance, 1947.
- "Tribunal" means any Tenancy Tribunal constituted under the provisions of the Ordinance.
- "Office" means the offices of the Tribunal in Hong Kong and Kowloon.
- "Clerk of the Tribunal" means any Officer of the Tribunal discharging, for the time being, the duties of his office.
- "Application" means every Application made under the Ordinance.
- "Applicant" means a party making an Application, and includes a firm, a company registered under the Companies Ordinances, and a body corporate
- "Opponent" means a party opposing an Application, and includes a firm, a company registered under the Companies Ordinances, and a body corporate.
- "Answer" means every answer made by an opponent.

Any reference to "these Rules" shall include a reference to any Rules of the Tribunal made in addition to these Rules, or in substitution for any of them.

Any reference in these Rules to the Chairman of any Tenancy Tribunal shall be deemed to include a Magistrate constituting a Tribunal.

Sealing.

2. Applications, answers and orders shall be sealed with the seal of the Tribunal.

Forms.

3. The forms contained in the Second Part of this Schedule shall be used in the appropriate cases, with such variations and additions as the circumstances of the particular case may require, and shall, as regards the form thereof, be valid and sufficient.

4. Application forms may be obtained from the office on payment of the prescribed fees.

5. All Applications and other matters in respect of premises in Hong Kong and Kowloon will be dealt with by the Hong Kong and Kowloon Offices, respectively.

Preparation of Applications.

6. Applications shall be prepared in triplicate and in the English language (except as hereinafter provided), and shall be signed by the Applicant or by his advocate on his behalf.

7. The Applicant shall set out the reasons for and all material facts in support of his Application in triplicate on a separate sheet or sheets of paper which shall be of the same size as the application form, and which shall be annexed to each of the three copies of the Application.

8. The Applicant shall deliver the three copies of the Application to the Clerk of the Tribunal, who shall:

- (i) Enter the Application, if duly prepared, in a book to be kept for the purpose;
- (ii) Number the Application;
- (iii) Seal each copy thereof; and
- (iv) Return two copies to the Applicant.

Service.

9. The Applicant shall serve a sealed copy of the Application on the Opponent.

10. Except as otherwise directed, and unless the Tribunal thinks it just and expedient otherwise to direct, service of an Application shall be personal, that is, the Application shall be delivered to the party named as the Opponent.

11. Service shall not be made on a General Holiday, or before 8.00 a.m. or after 8.00 p.m.

12. Service shall be affected by a person who can identify the person to be served.

13. Service on a firm:

Service shall be effected either upon any one or more of the partners, or by delivering the Application to any person at the principal place of business of the partnership who at the time of service apparently has the control or management of the partnership business.

14. Service on incorporated company:

Service shall be effected by delivering the Application to the Manager or Secretary.

15. If for any reason personal service cannot be conveniently effected, the Applicant may apply to the Tribunal for an Order authorizing another mode of service. Such application will be made by letter accompanied by an affidavit or affirmation verifying the facts in support of the Application.

16. Any document required to be served on sub-tenants shall, if served upon an adult person at the premises and posted for three consecutive days at the main door or entrance thereof, be deemed to have been served upon all the sub-tenants of the premises or any part thereof.

17. The Applicant or his agent shall within two days after the service of an application inform the office of the Tribunal in writing of the date of such service.

18. The Tribunal may direct service of an Application or Answer upon any interested party.

Answers.

19. A party having been duly served with a sealed copy of an Application and desiring to oppose it, shall prepare an Answer setting forth his reasons and all material facts in support of his opposition.

20. The Answer shall be headed with the words "Grounds of Opposition", and shall be in triplicate in the English language (except as hereinafter provided) on paper similar in size to that of the Application. The Answer shall be signed by the Opponent or his advocate.

21. Where the rent of the premises is less than \$25.00 per month, Applications or Answers by the tenant may be in the Chinese language.

22. The Opponent or his advocate shall deliver two copies of the Answer (duly signed) to the office within seven days after service of the Application.

23. The Applicant shall, not less than seven and not more than ten days after service of the Application, obtain from the Clerk a copy of the Answer.

Date of Hearing.

24. Three days after a copy of the Answer has been obtained in accordance with Rule 22, notice of the date fixed for the hearing of the Application will be posted at the office. This shall be deemed to be due and proper notice to the parties.

25. At the date of the hearing, both parties shall appear before the Tribunal with their respective advocates, witnesses and documentary evidence.

26. If the party duly served with the Application does not, within the time prescribed therefor, deliver an Answer as aforesaid, the Applicant may, upon filing an affidavit of service, apply to the Tribunal to hear the Application in the absence of the defaulting party.

Sittings of Tribunal.

27. No member of a Tribunal shall hear an Application in respect of premises in which he is financially interested.

28. (1) The sittings of the Tribunal will be on stated days
(2) The sittings shall be public.

29. The Tribunal (for reasons which the Chairman shall record in the notes of proceedings) may at any time do any of the following things as it thinks just:

- (1) Defer or adjourn the hearing or determination of any Application.
- (2) Order or allow any amendments of an Application or other documents.
- (3) Appoint or allow a time for, or enlarge or abridge the time appointed or allowed for or allow further time for, the doing of any act.
- (4) Correct any errors in the record.

30. No Application or Answer shall be treated by the Tribunal as invalid on account of any technical error or mistake in form or in words.

Evidence and Witnesses.

31. (1) All witnesses (except those objecting or incompetent to take an oath) shall be examined upon oath, which shall be in the following form:

"I swear by Almighty God that the evidence I shall give shall be the truth, the whole truth and nothing but the truth."

(2) If any witness shall object to take an oath, or is held to be incompetent to take an oath, he may make a declaration in the following form:

"I, A.B., solemnly promise and declare, etc."

(3) These forms may be varied in conformity with the religious belief of the witness into any form which he shall declare or admit to be binding on his conscience.

32. Every witness is first examined-in-chief by the party calling him. After the conclusion of the examination-in-chief the opposing side has the right to cross-examine.

33. After the cross-examination, the party calling the witness has the right to re-examine him if any new fact arises out of the cross-examination or in explanation of any part of his cross-examination, but the re-examination must be strictly confined to matters arising out of the cross-examination. After the re-examination, no further questions shall be asked of any witness, except by leave of and through the Tribunal, but the Tribunal is at liberty at any stage of the proceedings to put all such questions to any witness as may be necessary in order to elicit all facts of the case. The Tribunal may at any time recall a witness for further questioning. When any document is produced to the Tribunal, it shall be read and admitted as evidence if relevant and if it appears to the Tribunal to be a genuine document.

34. The Tribunal may take into consideration any matter which it considers relevant to the Application before it notwithstanding that such matter is not strictly admissible under the law relating to evidence: Provided that nothing contained in this Rule shall preclude the Court upon any Appeal from disregarding anything so admitted if it considers such course desirable in the interests of justice.

Hearing.

35. (1) If at the hearing the Applicant appears, but the Opponent does not appear, the Tribunal shall, before hearing the Application, inquire into the service of the Application on the absent party.
(2) The Tribunal if not satisfied as to service, may adjourn the hearing to permit of such further service as it may direct; but if so satisfied, may proceed to hear the Application notwithstanding the absence of the Opponent.

36. If at the hearing the Applicant does not appear and the Opponent appears and does not admit the Application, the Tribunal may in its discretion dismiss or adjourn the Application upon such terms as to the Tribunal shall seem fit.

Amendments.

37. The Tribunal may at any stage of the hearing and in such manner and upon such terms as may be just, allow all such amendments to be made as may be necessary for the purpose of determining the real question in controversy between the parties.

Orders.

38. (1) Every Order made by the Tribunal shall be noted in the notes of the proceedings, at the time when the Order is made.
(2) Every such Order shall have the full force and effect of a formal Order.

39. The Court may at any time cause a formal Order to be drawn up on the Application of any party. A formal Order shall be certified by affixing thereto the seal of the Tribunal and shall be signed by the Chairman. An Order shall bear the date of the delivery of the decision on which the Order is founded.

Case Stated.

40. When a case has been stated under sub-section 5 of section 28 it shall be the duty of the Chairman to supply a copy thereof to the parties, who may within seven days apply by summons in Chambers to the Court for an Order directing the Chairman to amend the case in any particular. The Chairman shall if so directed by the Court amend the case in accordance with such direction.

41. The Court shall after the time for applying to amend the case has elapsed or if it has directed the case to be amended, after the case has been amended in accordance with its direction, at the request of either party, set down the case for argument before the Court.

Appeal.

42. All appeals shall be brought by notice of motion in a summary way.

43. The notice of motion shall be served on all persons affected by the appeal and it shall not be necessary to serve parties not so affected.

44. Notice of motion shall be a fourteen days notice.

45. An appeal must be brought within seven days after the Order or decision against which appeal is lodged.

46. A notice of motion shall operate as a stay of proceedings under the decision from which appeal is made.

47. It shall be the duty of the appellant to apply to the Chairman of the Tribunal for a signed copy of the notes of the proceedings before such Tribunal and to furnish such copy for the use of the Court in the appeal. The appellant shall also furnish such copy of the notes to the Respondent.

General.

48. The Fees specified in the Third Part of this Schedule shall be paid.

49. Where in regard to any matter of practice or procedure no provision is made in these Rules, the practice and procedure obtaining in the Supreme Court of Hong Kong may be observed, so far as circumstances permit.

50. These Rules may be cited as the Tenancy Tribunal Rules, 1947.

SCHEDULE

PART II.

LIST OF FORMS.

- No. 1. Application to Vary Rent.
- No. 2. Application to Apportion Rent.
- No. 3. Application for Order for Ejectment.
- No. 4. Application for Rent and/or Mesne Profits.
- No. 5. Application for leave to Assign, Transfer or Sub-let.
- No. 6. { Affidavit of Service.
Affirmation
- No. 7. Order Fixing Rent.
- No. 8. Order Apportioning Rent.
- No. 9. Order for Possession.
- No. 10. Notice of Motion on Appeal.
- No. 11. Notice of Application for Exemption under section 32.
- No. 12. Affidavit of Service and posting of Notice of Application for Exemption under section 32.
- No. 13. Application for leave to appear or make representations on applications for Exemption under section 32.

Form No. 1

TENANCY TRIBUNAL.

IN THE MATTER of the Landlord and Tenant Ordinance, 1947.

Application No.
[To be left blank.]

NATURE OF APPLICATION.

TO VARY THE RENT PAYABLE.

Particulars of Application.

- 1. Name and Address of Applicant.
- 2. Name and Address of Opponent.
- 3. Description of Premises.
- 4. Amount of Rent Payable.
- 5. Amount of Increase or Decrease Sought.
- 6. Reason for the Increase or Decrease.

(Reasons for and material facts in support should be stated on a separate piece or pieces of paper to be similar in size to this Form).

Form No. 2

TENANCY TRIBUNAL.

IN THE MATTER of the Landlord and Tenant Ordinance, 1947.

Application No.
[To be left blank.]

NATURE OF APPLICATION.

TO APPORTION THE RENT PAYABLE.

Particulars of Application.

- 1. Name(s) and Address(es) of Applicant(s).
- 2. Name(s) and Address(es) of Opponent(s).
- 3. Address and Description of Premises.
- 4. Amount of Rent Payable to the Landlord.
- 5. Apportionment of Rent Payable by each Sub-tenant. \$ by \$ by \$ by \$ by
- 6. State whether the Apportionment is based solely on the Floor Area or upon other considerations also.

TENANCY TRIBUNAL.

IN THE MATTER of the Landlord and
Tenant Ordinance, 1947.

Application No.
[To be left blank.]

NATURE OF APPLICATION.

FOR AN ORDER FOR EJECTMENT.

Particulars of Application.

1. Name and Address of Applicant.
2. Name and Address of Opponent.
3. Address and Description of Premises.
4. Reasons for the Application.

(Reasons for, and material facts in support, should be stated on a separate sheet or sheets of paper similar in size to this Form).

TENANCY TRIBUNAL.

IN THE MATTER of the Landlord and
Tenant Ordinance, 1947.

Application No.
[To be left blank.]

NATURE OF APPLICATION.

FOR PAYMENT OF RENT AND/OR MESNE PROFITS.

Particulars of Application.

- 1. Name and Address of Applicant.
- 2. Name and Address of Opponent.
- 3. Address and Description of Premises.
4. The Rent for the said Premises is \$.....per week/month.
5. The Opponent is in arrears with payment of the said rent as from19 ; alternatively, he is liable to the Applicant for mesne profits as from the said date.
6. The Applicant claims \$.....arrears of rent or mesne profits.

* These particulars need not be given where the application is made concurrently with any other application in which the same already appear.

TENANCY TRIBUNAL.

IN THE MATTER of the Landlord and
Tenant Ordinance, 1947.

Application No.
[To be left blank.]

NATURE OF APPLICATION.

FOR LEAVE TO ASSIGN, TRANSFER OR SUB-LET.

Particulars of Application.

1. Name and Address of Applicant.
2. Address and Description of Premises.
3. Number of Application pursuant to which Order for Possession was made.
4. Date of said Order.
5. Grounds for Application. (These should be stated on a separate piece or pieces of paper to be similar in size to this form).
6. Proposed Rent, and/or other consideration for Assigning, Transferring or Sub-letting.
7. Name and Address of proposed Assignee, Transferee or Sub-Tenant.
8. Whether whole or portion of premises is subject matter of Application.
9. Whether the ejected tenant has been offered the premises or portion thereof as the case may be.
10. Name and present Address (if known) of ejected Tenant.

TENANCY TRIBUNAL.

IN THE MATTER of the Landlord and
Tenant Ordinance, 1947.

Application No.
[To be left blank.]

AFFIDAVIT }
AFFIRMATION } OF PERSONAL SERVICE†

I, _____ of _____

+ { make oath and say as follows:
hereby sincerely and truly affirm and say as follows:

I did on the _____ day of _____ 19____, at _____

personally serve
the person named as the Opponent in the above Application, with a true
copy of the said Application.

*And I solemnly sincerely and truly affirm and say that the contents of
this my Affirmation are true.

{ SWORN at
AFFIRMED at

Victoria, Hong Kong this _____ day
Kowloon
of _____ 19____, having been duly
interpreted to the Deponent in the
dialect of the Chinese language by _____

Interpreter,
Before me,

† Strike out inapplicable words, according as Affidavit or Affirmation is made.

* For Affirmations only.

TENANCY TRIBUNAL.

IN THE MATTER of the Landlord and
Tenant Ordinance, 1947.

Application No.
[To be left blank.]

ORDER FIXING RENT.

UPON hearing this Application on the _____

It is decided that an { increase }
decrease } of the rent of _____

by \$ _____ is fair and reasonable,

AND IT IS ORDERED that the rent of the said premises be fixed at
\$ _____ per calendar month from the _____ day
of _____ 19____.

DATED the _____ day of _____ 19____.

.....
Chairman.

IN THE SUPREME COURT OF HONG KONG.

SUMMARY JURISDICTION.

IN THE MATTER of the Landlord and
Tenant Ordinance, 1947.

Action No.
[To be left blank.]

BETWEEN

and

Appellant

Respondent.

NOTICE OF MOTION ON APPEAL.

TAKE NOTICE that the Court will be moved ato'clock m.
onday theday of19....., or as
soon thereafter as may be.

The motion is on Appeal for an Order that the decision and/or order
made by the Tenancy Tribunal in Application No.be

reversed
set aside
varied

and that the said

pay to the said the costs of an incidental to this
Appeal and for such further or other Order as the Court may seem just.

AND FURTHER TAKE NOTICE that the grounds of this Appeal are
(here state concisely the grounds of the Appeal, stating each ground in a
separate paragraph):

DATED the day of 19 ..

.....
Solicitor for the Appellant.

To: The above-named Respondent
and
The Registrar, Supreme Court.

.....
Counsel for the Appellant.

TENANCY TRIBUNAL.

IN THE MATTER of the Landlord and
Tenant Ordinance, 1947.

Application No.
[To be left blank.]

NOTICE OF APPLICATION FOR EXEMPTION UNDER SECTION 32.

To:

(insert name and address of Landlord or Tenant)

TAKE NOTICE that
of intends to apply under
section 32 of the abovementioned Ordinance for a recommendation by a
Tenancy Tribunal that the premises (describe)

be exempted from the application of the said Ordinance.

AND FURTHER TAKE NOTICE that if you wish to oppose the
application you should within fourteen days of the date appearing below
give notice of such intention to the Registrar of the Supreme Court from
whom the appropriate form can be obtained.

DATED the day of 19 ..

.....
(Signature or chop)

TENANCY TRIBUNAL.

IN THE MATTER of the Landlord and
Tenant Ordinance, 1947.

AFFIDAVIT OF SERVICE AND POSTING OF NOTICE OF APPLICATION
FOR EXEMPTION UNDER SECTION 32.

I, _____ of _____
† {make oath and say as follows:
{hereby sincerely and truly affirm and say as follows:

I did on the _____ day of _____ 19 _____, post up at the
entry of the premises known as _____
a notice of intention to apply that the said premises be exempt from the
provisions of the abovementioned Ordinance, of which notice the document
now shown to me marked _____ is a true copy.

I also did on the _____ day of _____ 19 _____,
serve a duplicate of such Notice on _____
who is † { tenant }
{ landlord } of the said premises.

*And I solemnly sincerely and truly affirm and say that the contents
of this my Affirmation are true.

† {SWORN AT
{AFFIRMED AT
{Victoria, Hong Kong, this _____ day
{Kowloon
of _____ 19 _____, having been duly
interpreted to the Deponent in the
dialect of the Chinese language
by _____

Interpreter,

Before me,

† Strike out inapplicable words, according as Affidavit or Affirmation is made.

* For Affirmations only.

TENANCY TRIBUNAL.

IN THE MATTER of the Landlord and
Tenant Ordinance, 1947.

Application No.
[To be left blank.]

APPLICATION FOR LEAVE TO APPEAR OR MAKE REPRESENTATIONS ON
APPLICATIONS FOR EXEMPTION UNDER SECTION 32.

I, _____ of _____
hereby apply for leave (a)* to appear * { personally }
{ by advocate } before *(b) to make
written representations to, a Tenancy Tribunal on the hearing of an
application that the premises known as _____

be exempted from the provisions of the abovementioned Ordinance.

I am interested in the application because
(here state reason, e.g. "I am a sub-tenant of part of the said premises").

DATED the _____ day of _____ 19 _____.

(Signature or chop)

* Delete whichever is inapplicable.

SCHEDULE

PART III.

FEEs.

Where the rent does not exceed \$50.00 per month:

Cost of Application Form	\$ 1.00
Every other Form50

Where the rent exceeds \$50.00 per month:

Cost of Application Form	\$ 1.00
Every other Form50
Filing of Application	5.00

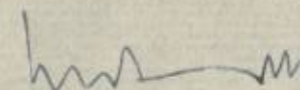
In all Cases:

Notice of Appeal	\$10.00
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HONG KONG.

No. 26 OF 1947.

I assent.



Officer Administering the Government.

14th June, 1947.

An Ordinance to amend the Summary Offences Ordinance, 1932.

[14th June, 1947.]

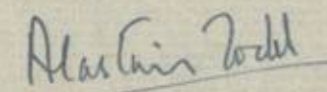
BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Summary Offences Amendment Ordinance, 1947. Short title.

2. In sub-section (4) of section 18A of the Summary Offences Ordinance, 1932, as enacted by the Summary Offences Amendment Ordinance, 1946, the interpretation of "imitation firearm" shall be deleted and the following shall be substituted: Amendment of s.18A of Ord. No. 40 of 1932.

" "imitation firearm" means anything other than an arm within the meaning of section 2 of the Arms and Ammunition Ordinance, 1933, which if observed in daylight has the appearance of being a lethal barrelled weapon of any description."

Passed the Legislative Council of Hong Kong, this 13th day of June, 1947.

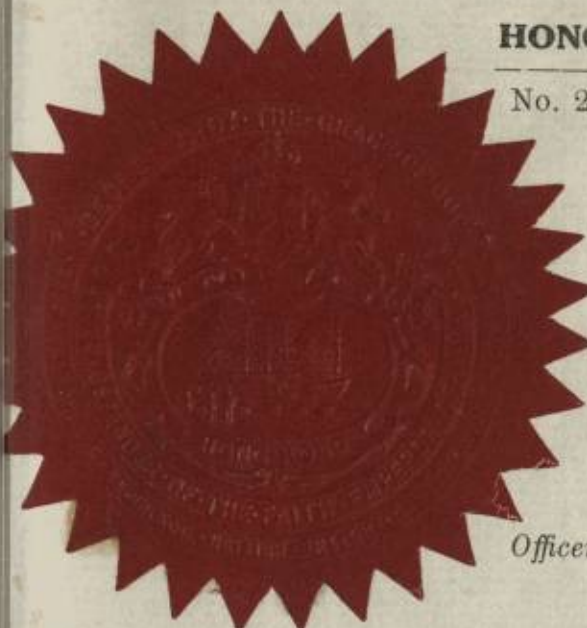

Deputy Clerk of Councils.



HONG KONG.

No. 27 of 1947.

I assent.


Officer Administering the Government.

14th June, 1947.

An Ordinance to amend the Arms and Ammunition Ordinance, 1933.

[14th June, 1947.]

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

1. This Ordinance may be cited as the Arms and Ammunition Amendment Ordinance, 1947. Short title.

2. (1) In this Ordinance "principal Ordinance" means the Arms and Ammunition Ordinance, 1933, as amended by the Arms and Ammunition Amendment Ordinance, 1946. Interpretation and Citation.

(2) The principal Ordinance as amended by this Ordinance may be cited together as the Arms and Ammunition Ordinance, 1933-1947.

3. Section 4 of the principal Ordinance is hereby amended by substituting in sub-section (6) thereof the figures "1899" for the figures "1889". Amendment of s.4 of Ord. No. 2 of 1933.

4. The following amendments are hereby made to section 29A of the principal Ordinance: Amendment of s.29A of Ord. No. 2 of 1933.

(a) the words "a firearm or" are substituted for the word "an" in line two of sub-section (1) and for the word "any" in line three of sub-section (2);

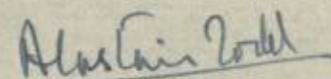
(b) the following is substituted for the last three lines of sub-section (5):—

" means any thing, other than an arm within the meaning of section 2 of the Arms and Ammunition Ordinance, 1933, which if observed in daylight has the appearance of being a lethal barrelled weapon of any description."

(c) the following is substituted for the marginal note to the said section:—

" Penalty for use and possession of firearms and imitation firearms in certain cases."

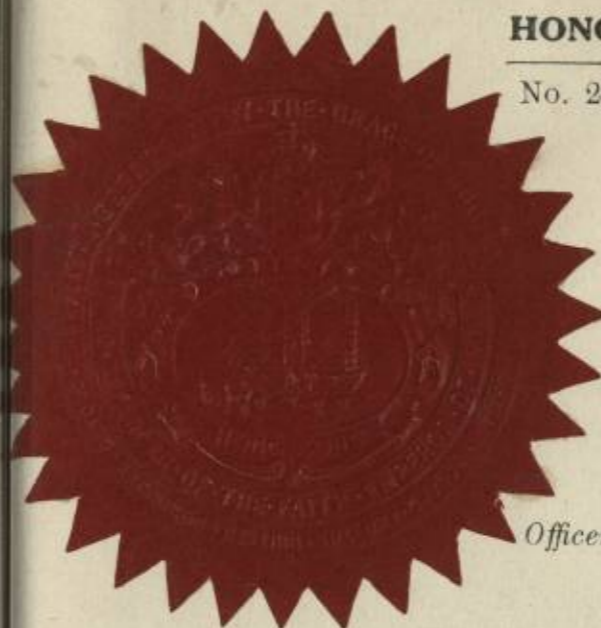
Passed the Legislative Council of Hong Kong, this 13th day of June, 1947.


Deputy Clerk of Councils.

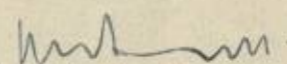


HONG KONG.

No. 28 OF 1947.



I assent.


Officer Administering the Government.

20th June, 1947.

An Ordinance to remove doubts as to the validity of certain Decrees granted in the Colony for the dissolution of a marriage.

[20th June, 1947.]

WHEREAS doubts have been entertained with respect to the validity of Decrees granted by the Supreme Court of Hong Kong on the 8th day of June, 1942, and the 10th day of December, 1942, in exercise of Divorce Jurisdiction in the matter of

Winifred May Dalziel — Petitioner
and
Adam Gray Dalziel — Respondent.

Now therefore :—

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

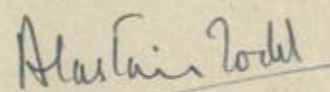
1. This Ordinance may be cited as the Divorce (Validity) (Dalziel) Ordinance, 1947. Short title.

2. In this Ordinance—

“Court” means the Supreme Court of Hong Kong in purported exercise of Divorce Jurisdiction at Stanley, Hong Kong. Interpretation.

3. For the removal of doubts it is hereby confirmed and declared that the decrees specified in the Schedule to this Ordinance are valid and shall be deemed always to have been valid in all respects as from the dates of the grant or making thereof. Validity of decrees.

Passed the Legislative Council of Hong Kong, this 19th day of June, 1947.


Deputy Clerk of Councils.



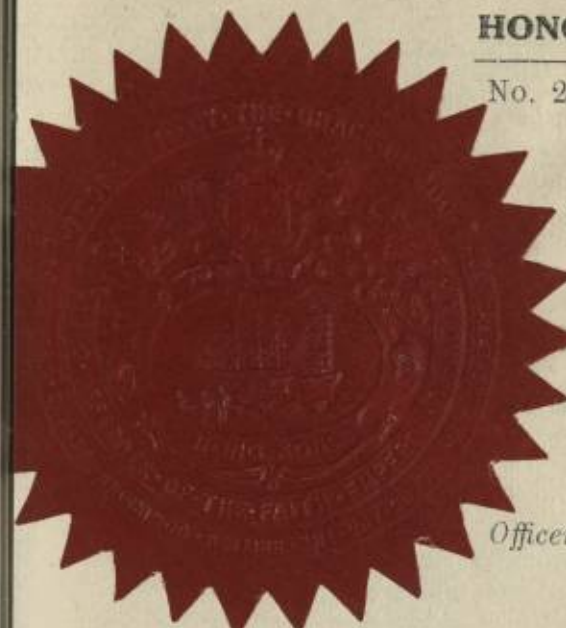
SCHEDULE.

Decree (Nisi) granted by the Court on the 8th day of June, 1942, Decree (Absolute) granted by the Court on the 10th day of December, 1942, for the dissolution of the marriage had and solemnised on the 2nd day of November, 1938, at the Registry Office, Victoria, in the Colony of Hong Kong, between Winifred May Dalziel (then Winifred May Marsh, spinster) and Adam Gray Dalziel.

HONG KONG.

No. 29 OF 1947.

I assent.



[Signature]

Officer Administering the Government.

20th June, 1947.

An Ordinance to make provision for the cessation of the emergency status attaching to certain companies registered under the Companies Ordinance, 1932, or incorporated under any other Ordinance of the Colony.

[20th June, 1947.]

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

- 1.** This Ordinance may be cited as the Companies (Cessation of Emergency Status) Ordinance, 1947. Short title.
- 2.** This Ordinance shall be construed as one with the Companies Ordinance, 1932, (which Ordinance is hereinafter referred to as the "principal Ordinance") and any amendment thereof for the time being in force. Construction.
Ord. No. 39
of 1932.

PART I.

- 3.** This part of this Ordinance shall apply to any company registered prior to the 25th December, 1941, under the principal Ordinance or incorporated under any other Ordinance of the Colony and which prior to such date had transferred its registered or head office from the Colony to some other part of the dominions of His Majesty pursuant to the provisions of the Defence (Companies Temporary Transfer of Registered or Head Office) Regulations, 1941, and which has not been registered in some territory within the dominions of His Majesty in accordance with the laws or regulations of that territory for the time being in force. Application
of Part I.

Govt. Notn.
32 of 9.1.41.
- 4.** It shall be lawful for any company to which this part of this Ordinance applies to pass a resolution by its Board of Directors authorising the return of its registered or head office to the Colony from such other part of the dominions of His Majesty in which the registered or head office of the company has been established. Resolution
of Board of
Directors to
return re-
gistered or
head office
to Hong
Kong.

Registrar to file resolution and issue certificate.

5. The resolution referred to in section 4 shall be filed with the Registrar of Companies who, when satisfied that the registered or head office has been re-established in the Colony and that the company is maintaining there its register of members, charges and of directors or managers, shall issue a certificate that the company has complied with the requirements of this part of this Ordinance and such certificate shall be conclusive evidence thereof.

Effect of issue of certificate.

6. From and after the issue of the certificate referred to in section 5—

Ordinance No. 39 of 1932.

(a) the provisions of the Companies Ordinance, 1932, shall apply to any company registered under it in the same manner as if the company's registered or head office had not been established outside the Colony but without prejudice to the validity of any act or thing done by the company during such time as its registered or head office was established elsewhere pursuant to the modifications of the Companies Ordinance, 1932, set out in the Schedule to the Defence (Companies Temporary Transfer of Registered or Head Office) Regulations, 1941;

(b) the provisions of any other Ordinance relating to any other company shall apply to such company but without such modifications (if any) as the Governor may have directed pursuant to the provisions of Regulation 5 (b) of the Defence (Companies Temporary Transfer of Registered or Head Office) Regulations, 1941, but without prejudice to the validity of any act or thing done pursuant to such modifications whilst the company's registered or head office was established elsewhere.

Compliance obligatory after notification by the Governor.

7. It shall be competent for the Governor at any time to specify by notification in the Gazette a date within six months of which every company coming within this part of this Ordinance shall, unless exempted from compliance by the Governor, comply with the provisions of this part of this Ordinance and any company which is required to comply with the provisions of this part of this Ordinance by virtue of such notification and the provisions of this section and which fails so to comply shall cease to exist as a company at the end of the aforesaid period of six months and shall thereupon be deemed to have been dissolved.

PART II.

Application of Part II.

S. R. & O. 1940 No. 1213.

8. This part of this Ordinance shall apply to any company registered under the principal Ordinance which, prior to the 25th December, 1941, had a registered office in the Colony or was prior to such date incorporated under any other Ordinance of the Colony and which in either case, pursuant to the provisions of the Defence (Companies) Regulations, 1940, of the United Kingdom or pursuant to any laws or regulations in force in any other territory within the dominions of His Majesty, became after the 25th December, 1941, registered as a company either in the United Kingdom or some other territory as aforesaid under the law

or regulations for the time being in force in such place relating to companies and which has not been wound-up or is not in the process of being wound-up.

9. (1) The Governor on being satisfied—

Re-registration of a Hong Kong Company.

(a) that a resolution of the Board of Directors has been passed authorising the re-registration of any company to which this Part of this Ordinance applies as a Company under the principal Ordinance or its re-establishment as a Company incorporated under any other Ordinance of the Colony, and either

(b) that provision has been made or will be made whereby upon re-registration of the company as a company under the principal Ordinance or upon re-establishment as a company incorporated under any other Ordinance of the Colony that the company will cease to be registered under the laws or regulations relating to companies having effect in any other part of the dominions of His Majesty, or

(c) that the company has been served with a notice by the appropriate authority in such other part of the dominions of His Majesty that such company shall cease to be so registered at the expiration of such period as is specified in such notice,

may by order direct that the company shall be re-registered as a company under the principal Ordinance or in the case of a company incorporated under any Ordinance of the Colony other than the principal Ordinance order that the company be re-established as a company incorporated under such Ordinance.

(2) In any case coming under paragraph (b) of sub-section (1) of this section such order of the Governor shall in the case of provision already having been made for the company to cease to be registered elsewhere in the dominions of His Majesty upon re-registration or re-establishment in Hong Kong, take effect as from the date upon which such order of the Governor is made and in any case in which no such provision has been made at the date of the order such order shall take effect as from the making of the requisite provision elsewhere in the dominions of His Majesty.

(3) In any case coming under paragraph (c) of sub-section (1) of this section, such order shall take effect from the date upon which the said company ceases to be registered in such other part of the dominions of His Majesty unless in the meantime such notice shall have been rescinded or withdrawn and provision made in manner mentioned in paragraph (b) of sub-section (1) of this section in which case the order of the Governor shall take effect in manner provided for in sub-section (2) of this section.

(4) Except in so far as any order made by the Governor pursuant to the provisions of this section specifies to the

contrary, any modification, adaptation or exclusion of any of the provisions of the Memorandum and Articles of the company effected by any order regulation or enactment made in any place within the dominions of His Majesty other than Hong Kong in which the company was or has been for the time being registered (and not being an amendment of the Articles of the company effected by a special resolution of the company) shall, upon the order of the Governor being made pursuant to the provisions of sub-section (1) of this section, be rescinded and revoked to the intent that the Memorandum and Articles of the company shall be restored (with the exception aforesaid) to their former state immediately prior to the registration of the company in such other part of His Majesty's dominions.

(5) Any order of the Governor re-registering or re-establishing any company pursuant to this section, may, if the Governor thinks fit, in relation to the company to which such order refers—

- (a) modify, adapt or exclude any of the provisions of the principal Ordinance but any such modification, adaptation or exclusion shall not have effect for any longer period than twelve months from the date of such order;
- (b) modify, adapt or exclude in any manner other than that provided for by sub-section (4) of this section any provision of the Memorandum and Articles of the company as in force immediately prior to the making of the order;
- (c) modify, adapt or exclude any of the provisions of any other Ordinance or instrument as then in force regulating the constitution or functions of the company provided that any modification, adaptation or exclusion of any of the provisions of any other Ordinance as aforesaid shall not have effect for any longer period than twelve months from the date of the making of such order;
- (d) contain such other transitional provisions as appear to the Governor to be necessary or expedient for enabling the company to re-register under the principal Ordinance or to re-establish itself as a company under any other Ordinance of the Colony or generally for the purposes of carrying on or re-commencing business;
- (e) contain such incidental supplemental and consequential provisions as appear to the Governor to be necessary or expedient for the purposes of the order.

10. Except in so far as an order otherwise provides such company shall from and after the date of such order be for all purposes a company incorporated under the principal Ordinance, or in the case of a company incorporated under any other Ordinance of the Colony, then under such Ordinance, but without prejudice to the validity of any act or thing done prior to the date of such order of the Governor.

Effect of
re-registra-
tion.

PART III.

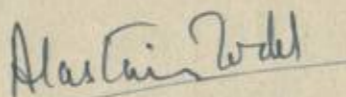
11. It shall be competent for the Governor to make rules for regulating the manner (including the imposition, collection and payment of fees) in which the provisions of this Ordinance shall be carried into effect. Without prejudice to the generality of the foregoing, the Governor may if he thinks fit make provision by such rules for the alteration of the currency of the capital of the company where such currency has been changed pursuant to the laws or regulations in force in any other part of His Majesty's dominions.

Power to
make rules.

12. It shall be competent for the Governor in any case in which he thinks expedient, upon such terms as he may consider fit, by order, to exempt any company from compliance with all or any of the provisions or requirements of this Ordinance or to grant any extensions of time for compliance herewith or to modify the provisions of this Ordinance in their application to any company or class of companies.

Power of
Governor
to grant
exceptions.

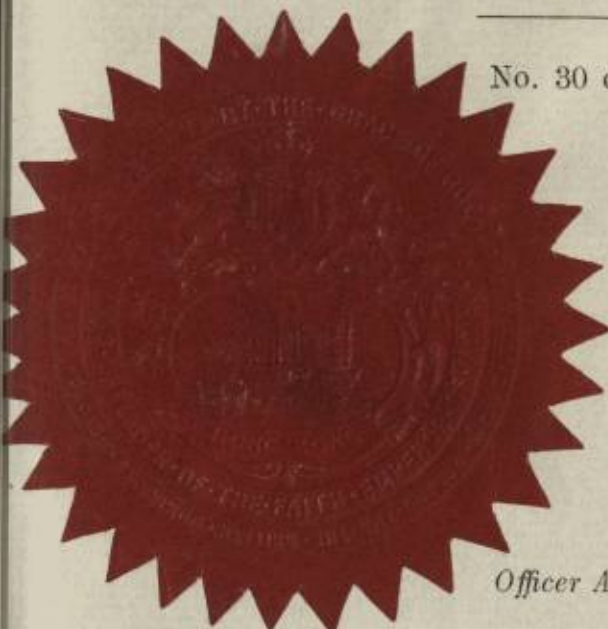
Passed the Legislative Council of Hong Kong, this 19th day of June, 1947.


Deputy Clerk of Councils.

HONG KONG.

No. 30 of 1947.

I assent.



W. H. U.
Officer Administering the Government.

4th July, 1947.

An Ordinance to amend the Midwives Ordinance, 1910.

[4th July, 1947.]

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

1. This Ordinance may be cited as the Midwives Amendment Ordinance, 1947. Short title.

2. Section 8 of the Midwives Ordinance, 1910, is amended by the addition of the following proviso at the end thereof:— Amend-
ment of
Ordinance
No. 22 of
1910, s. 8.

Provided that every certified and enrolled woman employed in the service of the Hong Kong Government shall be entitled to have her name retained on the roll during the time she remains so employed, without notification of such desire and without payment of any retention fee, and her name shall be so retained.

Passed the Legislative Council of Hong Kong, this 3rd day of July, 1947.

Arthur Clarke
Deputy Clerk of Councils.