

(3) Where regulations made under section 55 contain provisions prescribing the composition of, or prohibiting or restricting the addition of any substance to, any food or drug, a purchaser of that food or drug shall, unless the contrary is proved, be deemed, for the purposes of subsection (1), to have demanded a food or drug complying with the provisions of such regulations.

(4) In any proceedings for an offence under the provisions of subsection (1), it shall not be a defence to allege that the purchaser bought for analysis or examination and therefore was not prejudiced.

(5) In this section, save in so far as it relates to drugs, any reference to sale shall be construed as a reference to sale for human consumption.

(6) For the purposes of subsection (2), the expression "alcoholic liquor" means spirits, liqueurs, wines and Chinese type liquor.

53. (1) In any proceedings under section 52 for an offence consisting of the sale of food to which any substance has been added, or in the preparation of which any substance has been used as an ingredient, or from which any constituent has been abstracted, or which has been subjected to any other process or treatment, other than food thereby rendered injurious to health, it shall be a defence for the person charged to prove that the operation in question was not carried out fraudulently, and that the article was sold having attached thereto a notice of adequate size, distinctly and legibly printed and conspicuously visible, stating explicitly the nature of the operation, or was sold in a wrapper or container displaying such a notice.

(2) The provisions of subsection (1) shall apply in relation to an offence consisting of the sale of a drug to which any substance has been added, or from which any constituent has been abstracted, other than a drug thereby injuriously affected in its quality, constitution or potency, as they apply in relation to any such offence as is therein mentioned.

(3) In proceedings under section 52 in respect of any food or drug containing some extraneous matter, it shall be a defence for the defendant to prove that the presence of that matter was an unavoidable consequence of the process of collection or preparation.

54. (1) Subject to the provisions of this section, any person who—

- (a) sells, or offers or exposes for sale, or has in his possession for the purpose of sale or preparation for sale; or
- (b) deposits with, or consigns to, any person for the purpose of sale or of preparation for sale,

any food intended for, but unfit for, human consumption, or any drug intended for use by man but unfit for that purpose, shall be guilty of an offence.

Defences available in proceedings under section 52.

Offences in connexion with the sale, etc. of unfit food or drugs.

(2) Subject as aforesaid, where any food or drug in respect of which an offence under paragraph (a) of subsection (1) has been committed was sold to the offender by some other person, that person also shall be guilty of an offence.

(3) Where a person is charged with an offence under paragraph (b) of subsection (1), or under subsection (2), it shall be a defence for him to prove either—

- (a) that he gave notice to the person with whom he deposited, or to whom he consigned or sold, the food or drug in question that it was not intended for human consumption or for use by man, as the case may be; or
- (b) that, at the time when he delivered or despatched it to that person, either it was fit for human consumption or for use by man, as the case may be, or he did not know, and could not with reasonable diligence have ascertained, that it was not so fit.

55. (1) The Governor in Council may, so far as appears to him to be necessary or expedient in the interests of the public health, or otherwise for the protection of the public, make regulations for any of the following purposes—

- (a) for requiring, prohibiting or regulating the addition or extraction of any specified substance, or any substance of any specified class, to food intended for sale for human consumption or to any drug intended for sale for use by man or any class of such food or drug, or the use of any substance as an ingredient in the preparation or preservation of any such food or drug, and generally for regulating or prescribing the composition of such food or drug or the bacteriological or chemical standard thereof;
- (b) for prohibiting, restricting or regulating the importation or manufacture, or the sale, possession for sale, offer or exposure for sale, or consignment or delivery, of food or drugs or any ingredients thereof which do not comply with any such regulations, or in relation to which an offence under such regulations has been committed or would have been committed if any relevant act or omission had taken place in the Colony, or for prohibiting or regulating the importation of any such food or drugs or of any food or drugs which, in his opinion, are or may be prejudicial to the public health;
- (c) for prohibiting, restricting or regulating the importation or the use of any specified materials, or of materials of any specified class, in the manufacture of apparatus or utensils designed for use in the preparation or preservation of food for human consumption or drugs for use by man and the sale or importation

Regulations as to composition of food and drugs, etc.

for sale of apparatus or utensils designed for such use and containing any specified materials, or materials of any specified class;

- (d) for imposing requirements as to, and otherwise regulating, the labelling, marking or advertising of food intended for sale for human consumption or drugs intended for sale for use by man, and the descriptions which may be applied to such food or drugs;
- (e) for prescribing or providing for methods of analysis for the purpose of ascertaining the presence in, or absence from, any food or drug of any specified substance, or the quantity of any such substance which is present in any food or drug;
- (f) for fees to be paid in respect of analysis of food or drugs by a public analyst.

(2) In the exercise of his functions under subsection (1) in relation to the composition of food, the Governor in Council shall have regard to the desirability of restricting, so far as practicable, the use of substances of no nutritional value as foods.

56. (1) Without prejudice to the provisions of section 55, the Authority may make regulations for securing the observance of sanitary and cleanly conditions and practices and wholesome methods in connexion with—

- (a) the sale of food for human consumption or drugs for use by man;
- (b) the manufacture, preparation, transport, storage, packaging, marking, exposure for sale, service or delivery of food intended for sale or sold for human consumption and drugs intended for sale or sold for use by man and ice, or otherwise for the protection of the public health in connexion with any such matters.

(2) Without prejudice to the generality of the provisions of subsection (1), regulations made under this section may make provision—

- (a) for prohibiting, restricting or regulating the sale, or storage, possession or exposure for sale, of any specified food or drug, either generally or in any specified district, area or place or by any specified person or class of persons;
- (b) for imposing requirements as to the construction, lay-out, drainage, equipment, maintenance, cleanliness, ventilation and extraction of fumes or heat, lighting, water-supply and use of premises in, at or from which food for human consumption or drugs for use by man are sold or offered, exposed, stored, prepared or manufactured for sale (including any parts of such premises in which apparatus and utensils are cleansed or in which refuse is disposed of or stored);

Regulations
as to food
and drugs
hygiene.

- (c) for imposing requirements as to the provision, maintenance and cleanliness of sanitary and washing facilities in connexion with such premises, the disposal of refuse and the maintenance and cleanliness of apparatus, equipment, furnishings and utensils used in such premises, and in particular for imposing requirements that every sanitary convenience situated in such premises shall be supplied with water through a suitable flushing appliance;
 - (d) for prohibiting or restricting spitting on premises where food for human consumption or drugs for use by man are sold, or offered, exposed, stored, prepared or manufactured for sale (including any parts of such premises in which apparatus and utensils are cleansed);
 - (e) for imposing requirements as to the clothing to be worn by persons engaged to work in such premises;
 - (f) for requiring the medical examination of persons engaged in any such premises or class of premises (including any parts of such premises in which apparatus and utensils are cleansed), the immunization of such persons against any specified diseases and the prohibition of the employment of any such person found to be suffering from any specified disease;
 - (g) for requiring the marking, staining or treating of meat intended for human consumption;
 - (h) for regulating generally the treatment and disposal of any food which is unfit for human consumption or any drug which is unfit for use by man or any food or drug which does not comply with any of the provisions of any regulation made under section 55 relating to the composition or standard of quality of food and drugs;
 - (i) for prohibiting or regulating the sale for human consumption, or the possession, offer, exposure, distribution or collection for sale for human consumption, of shellfish.
- (3) Regulations made under this section may require or provide for the registration or licensing of premises, businesses or persons engaged in or connected with any of the matters specified in paragraph (a) or (b) of subsection (1), and may prescribe the fees to be paid in respect of such registration or licensing or in respect of any other matter.
- (4) Regulations made under this section may make different provisions in relation to different classes of business, and, without prejudice to any other provisions of this section, any such regulations imposing requirements in respect of premises may impose on the occupier of the premises to which such regulations apply responsibility for compliance with those regulations.

(5) The Authority may from time to time take such steps as it may think fit for publishing codes of practice in connexion with matters which may be made the subject of regulations under this section, for the purpose of giving advice and guidance to persons responsible for compliance with such regulations.

(6) A failure on the part of any person to observe any provisions of a code published under subsection (5) shall not of itself render that person liable to criminal proceedings of any kind but any such failure may, in any proceedings whether civil or criminal and including proceedings for an offence under this Ordinance, be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.

57. Regulations made under section 56 may include provision for the prohibition, restriction or regulation of the sale, or the possession, offer or exposure for sale or consignment or delivery for sale, of live poultry and live fish in the same manner as if such live poultry and live fish were food.

58. (1) For the purposes of the exercise by the Governor in Council and the Authority of the powers vested in them by sections 55 and 56, respectively, the Governor, in relation to section 55, and the Authority, in relation to section 56, may, by order require any person who at the date of the order or at any subsequent time carries on a business which includes the production, importation, or use of substances of any class specified in the order to furnish to such public officer as shall be specified in the order, within such time as may be so specified, such particulars as may be so specified of the composition and use of any such substance sold in the course of that business for use in the preparation of food for sale for human consumption or drugs for sale for use by man or used for that purpose in the course of that business.

(2) Without prejudice to the generality of the provisions of subsection (1), an order made thereunder may require the following particulars to be furnished in respect of any substance, that is to say—

- (a) particulars of the composition and the chemical nature of the substance;
- (b) particulars of the manner in which the substance is used or proposed to be used in the preparation of food or drugs;
- (c) particulars of any investigations carried out by or to the knowledge of the person carrying on the business in question, for the purpose of determining whether and to what extent the substance, or any product formed when the substance is used as aforesaid, is injurious to, or in any way affects, health;

Live poultry and live fish deemed food for purposes of regulations.

Power to call for information as to composition of substances used in the preparation of food or drugs.

(d) particulars of any investigations or inquiries carried out by or to the knowledge of the person carrying on the business in question for the purpose of determining the cumulative effect on the health of a person consuming or using the substance in ordinary quantities.

(3) No particulars furnished in accordance with an order made under the provisions of subsection (1), and no information relating to any individual business obtained by means of such particulars, shall, without the previous consent in writing of the person carrying on the business in question, be disclosed except—

- (a) in accordance with the directions of the Governor so far as the purposes of section 55, and the Authority so far as the purposes of section 56, may require; and
 - (b) for the purposes of any proceedings for an offence against the order, or any report of those proceedings.
- (4) Any person who discloses any particulars or information in contravention of the provisions of subsection (3) shall be guilty of an offence.

(5) Any person who fails to comply with the requirements of any order made under the provisions of subsection (1) shall be guilty of an offence.

59. (1) Any public officer authorized in writing in that behalf by the Authority may examine any food which is, or which appears to him to be, intended for human consumption, or any drug which is, or which appears to him to be, intended for use by man, and, if it appears to him to be unfit for human consumption or for use by man, as the case may be, or that any of the provisions of any regulation made under section 55 or 56 or any of the provisions of the New Territories Rules have been contravened in respect thereof, may seize and remove such food or drug and any package in which the same was contained.

(2) If it appears to any public officer authorized in writing in that behalf by the Authority that any food or drug, whether seized under the provisions of subsection (1) or not, is unfit for human consumption or for use by man, respectively, or that any of the provisions of any regulations made under section 55 or 56 or any of the provisions of the New Territories Rules have been contravened in respect of any such food or drug, he may—

- (a) affix to such food or drug a mark, seal or other designation; or
 - (b) destroy or otherwise dispose of such food or drug or cause the same to be destroyed or otherwise disposed of.
- (3) If any person sells, offers or exposes for sale, or deposits or consigns to any person for the purpose of sale or preparation for sale, or otherwise uses, any food or drug contrary to the purport of any mark,

Examination and seizure and marking or destruction of food or drugs.

(Vol. IX, p. 89).

seal or other designation affixed thereto under the provisions of subsection (2), or removes, alters or obliterates any such mark, seal or designation with intent to deceive any person, he shall be guilty of an offence.

(4) Before any food or drug is destroyed or otherwise disposed of under the provisions of subsection (2), there shall be recorded a description and such other details as will suffice to identify such food or drug, and the Authority shall keep such record in its custody for a period of not less than twelve months.

(5) If any person considers himself aggrieved by the seizure and removal, or by the marking, sealing or otherwise designating, or by the destruction or other disposal, of any food or drug under the provisions of subsection (1) or (2) he may, within seventy two hours after the doing of such act, complain to the court and the court may confirm or disallow the act, either wholly or in part, and shall, in the case of any act disallowed, or disallowed in part, order the removal of such mark, seal or other designation or the restoration of the food or drug seized and removed, either as to the whole or as to such part in respect of which the act was disallowed, or, if the food or drug in question, or any part thereof, has been destroyed or otherwise disposed of, or is no longer fit for human consumption or for use by man, as the case may be, or is depreciated in value at the time of making such order by reason of such act, order the Authority to pay by way of compensation such sum of money, not exceeding the market value of such food or drug at the time of the doing of such act, as the court may, having regard to the circumstances of the case, consider just.

(6) In the case of any conviction for an offence under subsection (1) or (2) of section 54 or for an offence under any of the provisions of any regulation made under section 55, the court may order that any food or drug to which the conviction relates and any similar food or drug found on the defendant's premises or in his possession at the time of the commission of the offence or of the seizure of the food or drug in question, shall be forfeited, together with all packages containing the same.

(7) Any food or drug, and any package containing the same, forfeited under the provisions of subsection (6) shall be disposed of in such manner as the Authority may direct.

60. (1) Sections 54 and 59 shall apply in relation to—

- (a) any food intended for human consumption, or any drug intended for use by man, which is offered as a prize or reward in connexion with any entertainment to which the public are admitted, whether on payment of money or not, as if such food or drug were, or had been, exposed for sale by each person concerned in the organization of the entertainment;

Food or
drugs offered
as prizes, etc.

- (b) any food intended for human consumption, or any drug intended for use by man, which is offered as a prize or reward or given away for the purpose of advertisement, or in furtherance of any trade or business, as if the food or drug were, or had been, exposed for sale by the person offering or giving it away;
- (c) any food intended for human consumption, or any drug intended for use by man, which is exposed or deposited in any premises for the purpose of being so offered or given away as aforesaid, as if the food or drug were, or had been, exposed for sale by the occupier of such premises.

(2) In this section, the expression "entertainment" includes any social gathering, amusement, exhibition, performance, game, sport or trial of skill.

61. (1) If any person gives with any food or drug sold by him, or displays with any food or drug exposed for sale by him, a label, whether or not the same is attached to or printed on the wrapper or container, which—

False label-
ing and advertise-
ment of
food or
drugs.

(a) falsely describes the food or drug; or
(b) is calculated to mislead as to its nature, substance or quality, he shall be guilty of an offence, unless he proves that he did not know, and could not with reasonable diligence have ascertained, that the label was of such a character as aforesaid.

(2) Subject to the provisions of subsection (3), if any person publishes, or is party to the publication of, an advertisement, other than a label to which the provisions of subsection (1) apply which—

- (a) falsely describes any food or drug; or
(b) is likely to mislead as to the nature, substance or quality of any food or drug,

he shall be guilty of an offence, and, in any proceedings against the manufacturer, producer or importer of the food or drug, it shall rest on the defendant to prove that he did not publish, and was not a party to the publication of, the advertisement.

(3) In any proceedings for an offence under subsection (2), it shall be a defence for the defendant to prove either—

- (a) that he did not know, and could not with reasonable diligence have ascertained, that the advertisement was of such a character as is described in that subsection; or
(b) that, being a person whose business it is to publish, or arrange for the publication of, advertisements, he received the advertisement in the ordinary course of business.

(4) For the purposes of this section, a label or advertisement which is calculated to mislead as to the nutritional or dietary value of any food is calculated to mislead as to the quality of the food.

(5) In any proceedings under this section, the fact that a label or advertisement in respect of which the offence is alleged to have been committed contained an accurate statement of the composition of the food or drug shall not preclude the court from finding that the offence was committed.

(6) In this section, save in so far as it relates to drugs, references to sale shall be construed as references to sale for human consumption.

Power to
take samples.

62. (1) Any public officer authorized in writing in that behalf by the Authority may take samples for analysis, or for bacteriological or other examination, of any food or drug, or of any substance capable of being used in the preparation of any food or drug, which appears to him to be intended for sale or to have been sold for human consumption or for use by man, as the case may be, or which is found by him on or in any premises, stall, vehicle, vessel, aircraft or place which he is authorized to enter for the purposes of this Ordinance:

Provided that—

(a) such officer shall pay or tender payment of the market price of any such sample, or, if the market price be unknown or not readily ascertainable, a reasonable price, to the person appearing to have the lawful custody of such food, drug or substance; and

(b) where any such food, drug or substance is kept for retail sale in unopened packages, no such sample shall consist of less than the whole of the contents of any one such package.

(2) When taking any sample under this section, such officer shall take such steps as may be necessary to satisfy himself that the sample taken is a fair sample of the bulk of the food, drug or other substance in question.

(3) Nothing in this section shall be construed as authorizing any purchase or sale of drugs in contravention of the provisions of the Dangerous Drugs Ordinance.

(Cap. 134).

(4) Any person who fails to comply with any demand or requisition made under the provisions of this section shall be guilty of an offence.

Provisions
as to the
taking of
samples for
analysis.

63. (1) An officer who takes a sample under the provisions of section 62 of any food, drug or substance for the purpose of analysis shall forthwith divide such sample into three parts, each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall—

(a) with respect to one part of the sample comply with the provisions of subsection (2); and

(b) with respect to the remaining parts of the sample comply with the provisions of subsection (3).

(2) (a) If the sample was obtained by purchase from a dealer in the food, drug or substance in question the officer shall give the one part to the vendor, such vendor being permitted to select such part from the three parts.

(b) If the sample was obtained by purchase from an automatic machine—

(i) if the name and address (being an address in the Colony) of a person stated to be the proprietor of the machine appears on the machine, the officer shall give the one part of the sample to that person;

(ii) in any other case, the officer shall give the one part to the occupier of the premises on which the machine stands or to which it is affixed.

(c) If the sample is of any food, drug or substance consigned from outside the Colony and was taken by the officer before delivery to the consignee, the officer shall give the one part of the sample to the consignee.

(d) If the sample is of any food, drug or substance in transit from a consignor within the Colony to a consignee (whether within or without the Colony), the officer shall give the one part of the sample to the consignor.

(e) If none of the foregoing paragraphs of this subsection apply, the officer shall give the one part of the sample to the person appearing to him to be the owner of the food, drug or substance of which the sample was taken.

(3) Of the remaining two parts of the sample, the officer shall, unless he decides not to have an analysis made, personally submit one to the public analyst, and retain the other for future comparison.

(4) In every case to which the provisions of subsection (2) apply, the officer shall inform the person to whom the part of the sample is given that the sample was taken for the purpose of analysis by the public analyst.

(5) When any sample which has been taken for analysis consists of the contents of an unopened package, the officer shall retain the packing material and, if he decides to have an analysis made, deliver such sample, together with such packing material and any label which may have been attached thereto at the time when the sample was taken, to the public analyst with the part of the sample submitted in accordance with the provisions of subsection (3).

(6) Any part of a sample which under the provisions of this section is to be given to any person may be given either by delivering it to him or to his agent, or by sending it to him by post in a registered packet:

Provided that where, after reasonable inquiry, the officer is unable to find the person to whom the part of the sample is to be given or to ascertain his name and address, he may, in lieu of giving the part to that person, retain it.

(7) If it appears to the officer that any food, drug or substance of which he has taken a sample for the purpose of analysis was manufactured or put into its wrapper or container by a person (not being a person to whom one part of the sample is required to be given by virtue of the provisions of subsection (2)) having his name, and an address in the Colony, displayed on the wrapper or container, the officer shall, unless he decides not to have an analysis made, within three days after taking such sample, send to that person a notice informing him that the sample has been taken by him and where the sample was taken or, as the case may be, from whom it was purchased.

(8) Where a sample taken under the provisions of section 62 has been analysed by a public analyst, any person to whom a part of the sample was given in accordance with the provisions of subsection (2) shall be entitled, on payment of a fee of one dollar, to be supplied with a copy of the certificate given by such public analyst under section 64.

(9) Any person who, for the purpose of advertisement, uses any certificate of analysis obtained under the provisions of subsection (8) shall be guilty of an offence.

Certificate of analysis.

Seventh Schedule.

Evidence of analysis.

Seventh Schedule.

64. (1) In every case in which a sample for analysis is delivered to the public analyst under the provisions of section 63, the analyst shall cause it to be analysed as soon as practicable and shall give to the officer requesting the analysis a certificate specifying the result of the analysis in the form of Form A prescribed in the Seventh Schedule.

(2) A certificate of the results of an analysis given by a public analyst in pursuance of the provisions of subsection (1) shall be signed by him, but the analysis may be made by any person acting under his directions.

65. (1) In any proceedings under this Part, the production by one of the parties of a document purporting to be a certificate of the public analyst in the form of Form A prescribed in the Seventh Schedule, or of a document supplied to him by the other party as being a copy of such a certificate, shall be *prima facie* evidence of the facts stated therein, unless, in the first mentioned case, the other party requires that the public analyst shall be called as a witness.

(2) In any such proceedings, if a defendant intends to produce a certificate of the public analyst, or, under the provisions of subsection (1), to require that the public analyst shall be called as a witness, notice of his intention, together, in the first mentioned case, with a copy of the

certificate, shall be given to the other party not less than three clear days before the day on which the summons is returnable, and, if this requirement is not complied with, the court may adjourn the hearing on such terms as it thinks proper.

(3) Where any relevant method of analysis has been prescribed by regulations made under paragraph (e) of subsection (1) of section 55, evidence of an analysis carried out by the prescribed method shall be preferred to evidence of any other analysis or test.

66. (1) In any proceedings under this Part in respect of an article or substance sampled, the summons shall not be made returnable less than fourteen days from the day on which it is served, and a copy of any certificate of analysis obtained on behalf of the prosecutor shall be served with the summons.

Proceedings in respect of articles or substances sampled.

(2) In any proceedings under this Part, where a sample has been procured in such circumstances that its division into parts is required by this Ordinance, the part of the sample retained by the person who took it shall be produced at the hearing.

67. (1) For the purposes of this Part—

Presumptions.

(a) any article commonly used for human consumption, or any drug commonly used by man, shall, if sold or offered, exposed or kept for sale, be presumed, until the contrary is proved, to have been sold, or as the case may be, to have been or to be intended for sale for human consumption or for use by man;

(b) any article commonly used for human consumption, or any drug commonly used by man, which is found on any premises or in any vessel, vehicle or aircraft used for the preparation, storage, transport or sale of that article or drug, and any article commonly used in the manufacture of products for human consumption or drugs for use by man which is found on any premises or in any vessel, vehicle or aircraft used for the preparation, storage, transport or sale of those products or drugs, shall be presumed, until the contrary is proved, to be intended for sale, or for manufacturing products for sale for human consumption or for use by man, as the case may be;

(c) any substance capable of being used in the composition or preparation of any article commonly used for human consumption or any drug commonly used by man which is found on any premises or in any vessel where that article or drug is prepared shall, until the contrary is proved, be presumed to be intended for such use.

(2) Where any food for human consumption or any drug for use by man is sold, or deposited with or consigned to any person for the purpose of sale for human consumption or use by man, as the case

may be, contained in an unopened package, any person who appears from any statement thereon or attached thereto to have imported, manufactured or prepared such food or drug or to have enclosed it in such package shall, until the contrary is proved, be deemed to have so imported, manufactured, prepared or enclosed the same.

(3) For the purposes of this Part, the expression "for use by man" means for human consumption or for external application to the human body.

Power to examine food and drugs in course of transit, etc.

68. (1) Subject to the provisions of subsection (2), any public officer authorized under the provisions of subsection (1) of section 59, who has reason to suspect that any vehicle, vessel or container contains any food which is intended for human consumption or any drug which is intended for use by man or any food or drug which is in the course of delivery after sale for human consumption or for use by man may examine the contents of such vehicle, vessel or container and may for that purpose, if necessary, detain the vehicle, vessel or container, and, in the case of a vehicle or vessel in motion, may call upon such vehicle or vessel to stop.

(2) Nothing in this section shall authorize the detention of any vehicle, vessel or container used by a carrier of goods for the purposes of his trade as such a carrier.

(3) Any person, being a person in charge of a vehicle or vessel which is called upon to stop under the provisions of subsection (1), who fails to stop when so called upon shall be guilty of an offence.

Restriction on movement of imported food or drugs.

69. (1) Without prejudice to any power of examining food or drugs conferred by this Part, any public officer authorized in writing in that behalf by the Authority may give directions to the person in possession of any food or drug imported with a view to sale for human consumption or for use by man, as the case may be, prohibiting or restricting its removal or delivery—

- (a) during any period not exceeding forty eight hours; and
- (b) if within that period the officer so requires, until that person has notified the officer of the name of the person to whom, and the address to or at which, he proposes to send or deliver such food or drug.

(2) A person who fails to comply with any direction given under the provisions of subsection (1), or who, in a notification thereunder, knowingly makes any false statement, shall be guilty of an offence.

Contraventions due to some other person.

70. (1) A person against whom proceedings are brought under this Part shall, upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have any person to whose act or default he alleges that

the contravention of the provisions in question was due brought before the court in the proceedings, and, if, after the contravention has been proved, the original defendant proves that the contravention was due to the act or default of that other person, that other person may be convicted of the offence, and, if the original defendant further proves that he has used all due diligence to secure that the provisions in question were complied with, he shall be acquitted of the offence.

(2) Where the defendant seeks to avail himself of the provisions of subsection (1)—

- (a) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence;
- (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears to the Authority that an offence has been committed in respect of which proceedings might be taken under this Part against some person and the Authority is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person and that the first-mentioned person could establish a defence under subsection (1), the Authority may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person, and, in any such proceedings, the defendant may be charged with, and, on proof that the contravention was due to his act or default, be convicted of, the offence with which the first-mentioned person might have been charged.

(4) In proceedings instituted under the provisions of subsection (3), the information or complaint shall set out the facts and state that the Authority concerned is reasonably satisfied that the offence of which complaint is made was due to the act or default of the person against whom the proceedings are brought.

71. (1) Subject to the provisions of this section, in any proceedings for an offence under this Part, being an offence consisting of selling, or offering, exposing or advertising for sale or having in possession for the purpose of sale, any article or substance, it shall be a defence for the defendant to prove—

- (a) that he purchased it as being an article or substance which could lawfully be sold or otherwise dealt with as aforesaid, or, as the case may be, could lawfully be sold or dealt with under the name or description or for the purpose under or for which he sold or dealt with it, and with a written warranty to that effect; and

Conditions under which warranty may be pleaded as defence.

- (b) that he had no reason to believe at the time of the commission of the alleged offence that it was otherwise; and
- (c) that it was then in the same state as when he purchased it.
- (2) A warranty shall only be a defence in proceedings under this Part if—
- (a) the defendant—
- (i) has, not later than three clear days before the date of the hearing, sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it; and
 - (ii) has also sent a like notice to that person; and
- (b) in the case of a warranty given by a person resident outside the Colony, the defendant proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained therein.

(3) Where the defendant is a servant or agent of the person who purchased the article or substance under a warranty, he shall be entitled to rely on the provisions of this section in the same way as his employer or principal would have been entitled to do if he had been the defendant.

(4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

(5) For the purposes of this section and of section 72, a name or description entered in an invoice shall be deemed to be a written warranty that the article or substance to which the entry refers can be sold or otherwise dealt with under that name or description by any person without contravening any of the provisions of this Part.

72. (1) A defendant who in any proceedings under this Part wilfully applies to any article or substance a warranty or certificate of analysis given in relation to any other article or substance shall be guilty of an offence.

(2) A person who, in respect of any article or substance sold by him, being an article or substance in respect of which a warranty might be pleaded under section 71, gives to the purchaser a false warranty in writing shall be guilty of an offence, unless he proves that when he gave the warranty he had reason to believe that the statements or description contained therein were accurate.

73. For the purpose of this Part, every person shall be deemed to sell, offer, expose or advertise for sale, or have in his possession for sale, any food for human consumption or drug for use by man, who

Offences in relation to warranties or certificates of analysis.

Sale, etc. by servants or agents.

sells, offers, exposes or advertises for sale, or has in his possession for sale, such food or drug either on his own account or as the servant or agent of some other person, and, where such person is the servant or agent of some other person, such other person shall, subject to the provisions of this Part, be under the same liability as if he had himself sold, exposed or advertised for sale, or had in his possession for sale, such food or drug.

74. (1) Where a person is convicted of an offence under this Part, the court may order that all expenses incidental to the taking of any sample or the making of any analysis of any food or drug in respect of which the conviction is obtained shall be paid by the person convicted.

Recovery of expenses incidental to taking of samples.

(2) All such expenses shall be recoverable in the same manner as a fine is recoverable.

75. If any person is convicted of an offence under this Part relating to the sale or preparation for sale of any food for human consumption or drug for use by man, the Authority may cause to be published in any newspaper circulating in the Colony—

Notification of convictions in newspapers.

- (a) the name of the offender;
- (b) the address (if any) of the place at which the offence was committed;
- (c) the nature of the offence; and
- (d) the fine, forfeiture or other penalty imposed.

76. Save as otherwise provided in this section, no information laid in respect of any offence under this Part shall be admitted in evidence and no witness in any proceedings for an offence under this Part shall be obliged or permitted to disclose the name or address of any informer or state any matter which might lead to his discovery, and, if any books, documents or papers which are in evidence or liable to inspection in any such proceedings contain any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery, but no further:

Protection of informers.

Provided that, if the court after full inquiry into the case is satisfied that the informer wilfully made in his information a material statement which he knew or believed to be false, or did not believe to be true, or if it appears to the court that justice cannot otherwise fully be done, it shall be lawful for the court to require the production of the original information and permit inquiry and require full disclosure concerning the informer.

Regulations
as to
slaughtering
and
slaughter-
houses.

77. (1) The Authority may in relation to the slaughter of animals or birds for food for human consumption make regulations prescribing or providing for—

- (a) the regulation or control (including prohibition) of slaughtering in any place other than a slaughterhouse;
- (b) the methods, instruments or appliances which may be used when slaughtering is carried out;
- (c) the sanitary maintenance and proper staffing and management of slaughterhouses, including exclusion therefrom of undesirable persons or persons suffering from any specified communicable disease;
- (d) the disposal, treatment or processing of waste matters, refuse and by-products resulting from the slaughtering of animals or birds in any slaughterhouse;
- (e) the examination, inspection and marking of animals intended for slaughter;
- (f) the control of the transport of carcasses or parts of carcasses from any public or private slaughterhouse to any other place;
- (g) in the case of public slaughterhouses—
 - (i) the payment of fees or charges for the use of any slaughterhouse or for the use of any services provided therein or in connexion therewith; and
 - (ii) the persons by whom all or any of the activities of any slaughterhouse may be carried on;
- (h) in the case of private slaughterhouses—
 - (i) the registration, licensing or prohibition thereof, and fees or charges in connexion with such registration or licensing;
 - (ii) requirements as to construction, lighting, ventilation and drainage, and as to the periodic painting or limewashing, of the premises or any parts thereof; and
 - (iii) the control of fees or charges levied for the use of any such slaughterhouse or for the use of any facilities provided thereat.

(2) No regulation made under this section relating to any public slaughterhouse shall be so framed or construed as to deny to any religious community reasonable facilities for obtaining as food the flesh of animals or birds slaughtered by the method specially required by their religion.

Power to seize
and dispose of
unfit carcasses
of slaughtered
animals.

78. (1) The Authority may seize, and dispose of in such manner as it may think fit, the carcass, or any part of the carcass, of any animals received into a public slaughterhouse for the purpose of slaughter for food for human consumption which on examination is

found to be diseased or unfit for human consumption, and no compensation shall be payable to the owner of such carcass or any such part of any such carcass.

(2) Where, in pursuance of the provisions of subsection (1), any carcass or any part of any carcass is seized by the Authority, the Authority shall, before the same is disposed of, cause to be recorded—

- (a) such description or other particulars as will suffice to identify such carcass or such part of such carcass; and
- (b) the grounds upon which the seizure was effected.

(3) If any person considers himself aggrieved by the seizure of any carcass or any part of any carcass under the provisions of subsection (1), he may, within seventy two hours after such seizure was effected, complain to the court and the court may confirm or disallow the seizure, either wholly or in part, and shall, in the case of any seizure disallowed, or disallowed in part, order the Authority to restore the carcass, or the part of the carcass, which has been seized, either as to the whole or as to such part in respect of which the seizure was disallowed, or, if the carcass or the part of the carcass in question has been disposed of or is no longer fit for human consumption, as the case may be, or is depreciated in value by reason of the seizure, order the Authority to pay by way of compensation such sum of money, not exceeding the market value of such carcass or such part of the carcass at the time of the seizure, as the court may, having regard to the circumstances, consider just.

PART VI.

MARKETS AND HAWKERS.

Markets.

79. (1) This Ordinance shall apply to every market, being a market in which food is sold, which is declared by the Governor to be a market to which the Ordinance applies.

Markets to
which
Ordinance
applies, etc.

(2) In relation to any market situated in the New Territories, the Governor may declare the area to be served thereby.

(3) Any person, other than the Government, who opens or maintains a market in the urban areas shall be guilty of an offence.

80. (1) The Authority may make regulations in relation to public markets and private markets prescribing or providing for—

Regulations
in relation to
markets.

- (a) the grant by lease, licence or permit to any person, or any group or class of persons, of the right to possess or to use shops, stalls, sheds, pens or standings therein;

- (b) the control (including prohibition) of the kinds or classes of commodities which may be sold, offered or exposed for sale, and of the kinds of business or occupation for gain which may be carried on, in any market;
 - (c) the proper management and sanitary maintenance of markets, including the manner of sale, or exposure for sale in, or the transport in, to or from, any market of any kind of commodity;
 - (d) the prohibition of persons convicted of such offences as may be specified in any such regulation from carrying on any business, or being employed in or taking part in any business, in any market;
 - (e) such other matters as, in the opinion of the Authority, are necessary for the proper regulation and control of such markets in the public interest.
- (2) The Authority may make regulations in relation to private markets prescribing or providing for—
- (a) the licensing or registration of the operation of any such market, and fees or charges in connexion therewith;
 - (b) the management of any such market and the control and appropriation of the funds derived from or in connexion with any such market;
 - (c) the type and construction of any shop, stall, shed, pen or standing in any such market.

Market rules. **81.** (1) The Director of Urban Services, or such other public officer as the Governor may authorize by notice published in the *Gazette*, may in relation to any market make rules for the better control, direction and information of persons using or resorting to such market:

Provided that such rules shall not be inconsistent with any of the provisions of this Ordinance or of any regulations made under the provisions of section 80.

(2) Any person who fails to comply with any rule made under the provisions of this section shall be guilty of an offence.

82. (1) Without prejudice to the provisions of section 59, where in any market it appears to any police officer or to any public officer authorized in that behalf by the Authority that any of the provisions of any regulation made under section 80 or any of the provisions of the New Territories Rules relating to markets have been contravened in respect of any article or thing sold in such market or any furniture or paraphernalia used in such market, such police officer or such public

Seizure and forfeiture of articles, etc. in markets.

(Vol. IX, p. 89).

officer may seize, carry away and detain at the owner's risk such article or thing or such furniture or paraphernalia, whether or not the owner thereof is known or can be found:

Provided that, in the case of any such article or thing which is perishable, the Commissioner of Police or the Authority, as the case may be, may cause the same to be sold or otherwise disposed of forthwith.

(2) Where any article or thing or any furniture or paraphernalia is seized under the provisions of subsection (1), a notice, written in the Chinese language, declaring the seizure shall be posted in a conspicuous place in the market.

(3) If, within forty eight hours of the posting of such notice, the owner of such article, thing, furniture or paraphernalia makes a claim to the Authority for its return, the Authority shall, if it is satisfied that the claimant is the owner thereof and if the same is not detained or otherwise dealt with under the provisions of any other enactment or required as an exhibit in any proceedings, return such article, thing, furniture or paraphernalia to the claimant or, if it has been sold or otherwise disposed of under the provisions of the proviso to subsection (1), pay to the claimant such sum by way of compensation as it may consider just.

(4) If no claim for the return of such article, thing, furniture or paraphernalia is made to the Authority within forty eight hours of the posting of such notice, such article, thing, furniture or paraphernalia shall become the property of the Crown and may be sold or otherwise disposed of in such manner as the Commissioner of Police or the Authority, as the case may be, shall direct:

Provided that—

- (a) nothing in this subsection shall be construed to prevent the immediate disposal of perishables under the provisions of the proviso to subsection (1); and
- (b) any person who considers himself aggrieved by such seizure may, within seven days thereafter, complain to the court, and the court shall, if satisfied—

(i) as to the title of the complainant; and

(ii) that no such contravention occurred in respect of the article, thing, furniture or paraphernalia in respect of which the complaint is made, direct either that the same be returned to the complainant or, if it has been sold or otherwise disposed of, that such sum by way of compensation be paid to the complainant as it may consider just.

Hawkers.

Regulations relating to hawkers.

83. (1) The Authority may make regulations in relation to hawkers prescribing or providing for—

- (a) the registration or licensing of hawkers, and fees or charges in connexion therewith;
- (b) the classification of hawkers according to the nature of their respective trades;
- (c) the restriction or prohibition of hawkers carrying on business in any specified place or area or otherwise than in any specified place or area, and the regulation or control of the manner in which any such business may be conducted;
- (d) the control (including prohibition) of the hawking of any specified commodities, skill in handicraft or services;
- (e) the wearing by hawkers of numbers or insignia;
- (f) such other matters as, in the opinion of the Authority, may be necessary for the proper regulation and control of hawkers in the public interest.

(2) Any regulation made under paragraph (c) of subsection (1) relating to the restriction or prohibition of hawkers carrying on business in any specified place or area or otherwise than in any specified place or area may provide that such place or area be prescribed by the Authority by order published in the *Gazette*, and may, in addition to publication in the *Gazette*, provide for any other means of making known such place or area to the public.

84. (1) Any public officer authorized in writing in that behalf by the Authority may arrest without warrant any person whom he may reasonably suspect of being guilty of any scheduled offence.

(2) If any person forcibly resists the endeavour of any such officer to arrest him or attempts to evade the arrest, such officer may use all means necessary to effect the arrest.

(3) If any such officer who is in pursuit of any person to be arrested has reason to believe that such person has entered into or is in any place, the person residing in or in charge of such place shall on demand of such officer allow him free ingress thereto and afford reasonable facilities for search therein.

(4) Save as provided in section 85, any person who is arrested by any such officer shall forthwith be taken to the nearest police station or given into the custody of a police officer, whereupon the provisions of section 47 of the Police Force Ordinance or of sections 46 and 47 of that Ordinance, as the case may be, shall apply.

(5) The Governor in Council may by order amend, or add any enactment to or delete any enactment from, the First Schedule.

(Cap. 232).

First Schedule.

85. (1) (a) Where he is satisfied as to the identity, name and place of residence (if any) of such person, any public officer who has arrested any person under the provisions of subsection (1) of section 84 and any police officer who has arrested any person in respect of a scheduled offence may, in lieu of proceeding in the manner provided by subsection (4) of section 84 or by the Police Force Ordinance, as the case may be, serve on such person a notice in the form of Form B prescribed in the Seventh Schedule specifying the offence in respect of which he has been arrested and requiring him to attend at the place, and on the day and at the time, specified in the notice for the purpose of being dealt with in the manner provided in subsections (2), (3) and (4).

(b) Whenever such public or any police officer serves such a notice on any person, he shall, at the same time, prepare a duplicate copy of such notice, which shall be produced to the court if the court so requires.

(c) For the purpose of satisfying himself as to the identity of any person whom he has arrested, any such public officer or police officer may require the person to furnish him with such evidence thereof as he may consider necessary.

(2) When any person attends at the place specified in such a notice in accordance with such notice, the case shall be inquired into—

(a) where such notice was served by a police officer, by a police officer appointed in that behalf by the Commissioner of Police;

(b) where such notice was served by any such public officer, by the Commandant of the Hawker Control Force or a member of that Force authorized in that behalf by the Commandant thereof,

who shall, if he considers it appropriate, charge such person with the offence or offences specified in such notice or with such other scheduled offence or offences as he considers proper or with both the offence or offences specified in such notice and such other scheduled offence or offences as he considers proper.

(3) If such police officer or the Commandant of the Hawker Control Force or such member of that Force, as the case may be, does not consider it appropriate to charge such person with any such offence, he shall notify such person accordingly and shall discharge him forthwith.

(4) A person who has been charged under the provisions of subsection (2) shall thereupon be released and shall appear before the appropriate magistrate's court on the same day.

Procedure in lieu of taking arrested person to police station in certain cases, etc.

(Cap. 232).

Seventh Schedule.

- (5) (a) If a person upon whom a notice has been served under the provisions of subsection (1) fails to attend at the place, and on the day and at the time, specified therein and if a person who has been charged and released in accordance with the provisions of subsection (4) fails to attend before the appropriate court, the court may, on application by any police officer or by or on behalf of the Commandant of the Hawker Control Force and on oath being made before it substantiating the matter of the application to its satisfaction, issue a warrant for the arrest of such person.
- (b) Any such warrant—
- (i) shall be in the form of Form C prescribed in the Seventh Schedule and shall be under the hand and seal of the magistrate by whom it was issued;
- (ii) may be directed to any police officer by name or generally to all the police officers within the Colony or to any member of the Hawker Control Force by name or generally to all members of that Force;
- (iii) shall state the ground upon which it was issued; and
- (iv) shall name or otherwise describe the person in respect of whom it was issued.
- (c) Any such warrant shall remain in force until it is executed.
- (d) Any such warrant may be executed by arresting the person in respect of whom it was issued at any place within the Colony, and where the warrant is directed to all police officers within the Colony or to all members of the Hawker Control Force, any police officer or any member of such Force, as the case may be, may execute the same in like manner as if it were directed to him by name.
- (e) No such warrant shall be avoided by the death of the magistrate who issued the same or by his ceasing to be a magistrate for any other reason.
- (6) The provisions of subsections (2), (3) and (4) of section 84 shall apply to any person arrested or to be arrested under any such warrant as they apply to a person arrested or to be arrested under the provisions of subsection (1) of that section.
- (7) When any person who has been arrested under any such warrant is brought before the court, the court may, at the conclusion of the proceedings in respect of the offence or offences with which he was charged, call upon such person to show cause why he should not be punished in respect of his failure to attend in accordance with the notice served upon him under the provisions of subsection (1) or of his

Seventh
Schedule.

failure to appear before the court in accordance with the provisions of subsection (4), as the case may be, and, if he fails to show any reasonable cause to the satisfaction of the court, such person shall be liable to a fine of five hundred dollars and to imprisonment for two months.

86. (1) Any stall, table, show board, barrow, cart, tricycle or bicycle or any other furniture or paraphernalia, together with any accompanying appliances or utensils, and also any food, drink or goods of whatever kind intended for sale, whether they appear to be abandoned or not, belonging to or in the possession of, or appearing to such officer to belong to or to be in the possession of, a person committing, or appearing to such officer to be committing or to have committed, any scheduled offence may be seized, carried away and detained at the owner's risk by any police officer or any public officer authorized in writing in that behalf by the Authority, either generally or in any particular case:

Seizure and
forfeiture of
goods in
certain cases.

Provided that, in the case of anything which is perishable, the Commissioner of Police or the Authority, as the case may be, may cause the same to be sold or otherwise disposed of forthwith.

(2) If, within forty eight hours of its seizure, the owner of anything seized under the provisions of subsection (1) makes a claim to the Authority for its return, the Authority shall, if it is satisfied that the claimant is the owner of such thing and if such thing is not detained or otherwise dealt with under the provisions of any other enactment or required as an exhibit in any proceedings, return such thing to the claimant or, if it has been sold or otherwise disposed of under the provisions of the proviso to subsection (1), pay to the claimant such sum by way of compensation as it may consider just.

(3) If no claim for the return of anything seized under the provisions of subsection (1) is made to the Commissioner of Police or to the Authority within forty eight hours of its such seizure, such thing shall become the property of the Crown, and may be sold or disposed of in such manner as the Commissioner of Police or the Authority, as the case may be, shall direct:

Provided that—

- (a) nothing in this subsection shall be construed to prevent the immediate disposal of perishables under the provisions of the proviso to subsection (1); and
- (b) any person who considers himself aggrieved by such seizure may, within seven days thereafter, complain to the court, and the court shall, if satisfied—
- (i) as to the title of the complainant; and
- (ii) that no such offence was committed by the complainant or by any other person in relation to the thing in respect of which the complaint is made,

direct either that such thing be returned to the complainant or, if it has been sold or otherwise disposed of, that such sum by way of compensation be paid to the complainant as it may consider just.

PART VII.

TENEMENTS, HOTELS AND BOARDING HOUSES.

Abatement of overcrowding.

87. (1) Any premises used for the purpose of human habitation or any part of any such premises which are so overcrowded as to be dangerous or injurious to the health of the inmates thereof, whether members of the same family or not, shall be a nuisance which may be dealt with summarily under the provisions of section 127.

(2) In considering for the purpose of any proceedings whether any premises used for human habitation which are also used as a workplace are a nuisance by reason of overcrowding, the court shall have regard to the circumstances in which they are used as such workplace.

(3) For the purposes of this section, the expression "premises" includes "vessel".

Regulations in relation to overcrowding.

88. (1) Without prejudice to the provisions of section 87, the Authority may make regulations in relation to overcrowding or protection of health prescribing or providing for—

- (a) the control of the number of persons who may at any one time occupy, work in or use any premises or any part of any premises;
 - (b) the separation of the sexes occupying the same premises or the same part of any premises for the purpose of habitation;
 - (c) the control (including prohibition) of the use for any specified purposes of any premises or any part of any premises;
 - (d) the proper access of light and ventilation to premises or any part of any premises;
 - (e) the control (including prohibition) of the erection, alteration or maintenance of verandahs, balconies, cocklofts, cubicles, partitions, bunks, beds or other facilities provided for the accommodation of persons in any premises or part of any premises used for human habitation.
- (2) Regulations made under subsection (1)—
- (a) may be of general application or be limited to any particular premises or classes or kinds of premises or to any particular districts or areas; and
 - (b) may require the closing of any premises or parts of any premises which are found to be injurious or dangerous to health under paragraph (a) of subsection (1) of section 127 or

which are found to be occupied or used for human habitation in contravention of the provisions of the Buildings Ordinance, (68 of 1955). 1955.

(3) Regulations made under this section shall not apply to any workplace registered under the Factories and Industrial Undertakings Ordinance, 1955.

(34 of 1955).

89. Where, in contravention of any of the provisions of any regulation made under section 88, any light or ventilation is obstructed, either wholly or in part, or any verandah or balcony is enclosed or altered, or any cockloft, cubicle, partition, bunk, bed or other facility for accommodation is erected or maintained, the court may, in addition to imposing any other penalty which may be prescribed, order the removal of such obstruction to light or ventilation or such enclosure or alteration to such verandah or balcony or such cockloft, cubicle, partition, bunk, bed or other facility, as the case may be, and, if such order is not complied with within the time specified therein, the Authority may execute, or cause to be executed, such work as may be necessary to satisfy the requirements of such order and may recover from the person to whom such order was directed any expenses thereby incurred, and no compensation shall be payable to any person in respect of any damage done in the carrying out of such work by or on behalf of the Authority.

Removal of obstructions to light, ventilation or dwelling space.

90. The Authority may make regulations in relation to boarding houses prescribing or providing for—

- (a) the classification of kinds or types of boarding houses;
- (b) the inspection of boarding houses;
- (c) the proper management and sanitary maintenance of boarding houses and the taking of bonds, with or without sureties, in respect thereof from persons keeping or managing the same;
- (d) the number of persons who may occupy or be received into any boarding house or any part of any boarding house, and the separation of the sexes therein;
- (e) the promotion of cleanliness and ventilation in boarding houses, and the periodical cleansing, painting or limewashing thereof;
- (f) the reporting of cases of communicable disease occurring in boarding houses and the taking of precautions in respect thereof;
- (g) the registration or licensing (including prohibition) of boarding houses, and fees or charges in connexion therewith.

Regulations in relation to boarding houses.

91. (1) Notwithstanding anything contained in section 126, the Authority or the Commissioner of Police, or any public officer or class of public officers authorized in writing in that behalf by either of them, or any health officer, may at any time, for the purpose of the

Power of entry to boarding houses.

execution of and without prejudice to any powers conferred by any other enactment, his public duties, enter and search any boarding house, or any premises or part of any premises in respect of which there is reason to believe that the same is being used as a boarding house, and may use such reasonable force as may be necessary to effect such entry or such search.

(2) Any person carrying out a search of any premises under the provisions of subsection (1), and any person authorized by him to assist, may—

- (a) detain any person found in such premises until the search thereof is completed; and
- (b) search the person or property of any person found in any such premises:

Provided that—

- (i) no female person shall be searched except by a female; and
- (ii) no person shall be searched in a public place if he objects to being so searched; and
- (c) seize, remove and detain any thing with respect to which the provisions of any regulation made under section 88 have been, or appear to have been, contravened, or which appears to be, or to contain, evidence of any such contravention.

Forfeiture of bonds.

92. Upon the failure of any condition of any bond taken pursuant to the provisions of any regulation made under section 90, the sum secured by such bond shall be deemed to be a debt due to the Crown.

PART VIII.

VENTILATION OF CERTAIN PREMISES.

Power of Authority to require provision of ventilating system in scheduled premises. Second Schedule.

93. (1) Save as provided in subsection (2) and section 101, where, in the opinion of the Authority, any scheduled premises do not have adequate natural ventilation, the Authority may, by notice in writing, require such premises to be provided with a ventilating system which will provide for each person who may be accommodated in such premises an amount of outside air not less than that specified in the second column of the Second Schedule in respect of the class of premises to which such premises belong.

(2) Where, in the opinion of the Authority, a ventilating system which will provide an amount of air less than that prescribed in subsection (1) will, in conjunction with such natural ventilation as is available in any scheduled premises, adequately ventilate such premises, the Authority may, by notice in writing, require such premises to be

provided with a ventilating system which will provide for each person who may be accommodated in such premises such amount of outside air as may be specified in such notice.

94. (1) Before any new ventilating system is installed in any scheduled premises, the licensee of the premises shall send to the Authority a certificate from the supplier of the ventilating system containing the following particulars in respect thereof—

- (a) the capacity of the fan in cubic feet per minute;
- (b) the outlet velocity of the fan in feet per minute;
- (c) the designed operating static pressure of the fan in inches of water;
- (d) the speed of the fan pulley in revolutions per minute; and
- (e) the nett area of the air intake and exhaust in square feet.

(2) Save with the permission in writing of the Authority, no alteration shall be made to any ventilating system in any scheduled premises.

(3) For the purposes of subsection (1), the word "suppliers" means the importers or manufacturers of the ventilating system or their authorized agent.

95. (1) Save as provided in subsection (2) and section 101, every ventilating system shall comply with the following provisions—

- (a) all moving parts thereof shall be securely fenced;
- (b) every part thereof shall be accessible for the purposes of inspection, and, in particular—
 - (i) the spindle of every fan shall be so sited that its guard may be removed and a tachometer applied thereto; and
 - (ii) every air intake and exhaust shall be accessible for the purposes of measurement;
- (c) no air intake for the ventilating system shall be sited in any place—
 - (i) which constitutes a fire hazard;
 - (ii) where waste or rubbish is likely to accumulate; or
 - (iii) where the air is for any reason impure or likely to become impure;
- (d) the opening of every air intake shall be fitted with a screen constructed of corrosion-resistant material having a mesh not greater than half an inch;
- (e) no exhaust from the ventilating system shall be sited in any place where it causes, or is likely to cause, annoyance or inconvenience to the public;

Certificate to be delivered to Authority in respect of new ventilating systems, and prohibition of alteration of ventilating system without permission.

Requirements with respect to ventilating systems.

(f) every duct shall—

(i) be wholly constructed of non-combustible material having a strength and durability not less than that of galvanized sheet-iron or steel;

(ii) be accessible for the purposes of cleaning throughout its entire length;

(iii) where its size is sufficient to allow any person to enter therein, be fitted with access openings so as to allow a person to enter the same for the purpose of cleaning; and

(iv) where it passes through any floor, be fitted with a damper, constructed of iron or steel not less than a quarter inch in thickness, which shall be operated by fusible links of a type approved by the Chief Officer, Fire Brigade, and designed to operate up to a temperature of 155°F., and be so constructed or protected as to resist the action of fire for a period not less than the period for which the floor through which it passes is designed to resist the action of fire;

(g) no duct shall serve more than one building;

(h) every filter shall be wholly constructed of non-combustible material, other than steel wool; and

(i) every electrostatic filter or precipitator shall be of a type approved by the Chief Officer, Fire Brigade.

(2) Where it thinks fit and subject to such conditions as it may specify, the Authority may exempt any ventilating system in respect of which application in writing in that behalf is made from compliance with all or any of the requirements of subsection (1).

96. (1) Every ventilating system provided pursuant to the requirements of a notice given under the provisions of subsection (1) or (2) of section 93 shall, at all times when the premises for which it is provided are open to the public, be kept in operation so as to provide, respectively, the amount of outside air required to be provided by the provisions of subsection (1) or the notice given under the provisions of subsection (2).

(2) Every ventilating system provided in any scheduled premises at the commencement of this Ordinance shall, at all times when the premises are open to the public, be kept fully in operation.

(3) Where the ventilation of any scheduled premises is derived wholly or partly from natural ventilation, the natural ventilation shall, at all times when the premises are open to the public, be kept free from obstruction.

Ventilating system to be kept in operation, etc.

97. (1) Every damper, filter and precipitator in any ventilating system shall be inspected at intervals not exceeding twelve months by a person authorized by the Authority for the purpose.

Annual inspection of dampers, filters and precipitators.

(2) After every inspection, there shall be sent to the Authority a certificate from such person specifying whether or not, in his opinion, the damper, filter or precipitator, or all of them, as the case may be, is in safe and efficient working order.

98. (1) Notwithstanding the provisions of any enactment under which such premises are licensed, the licensing authority may revoke the licence issued or granted by it in respect of any scheduled premises, either temporarily or permanently, in the following cases—

Power of licensing authority to revoke licence of scheduled premises in certain cases.

(a) in the event of any failure to comply with the requirements of a notice given in respect of such premises under the provisions of subsection (1) or (2) of section 93 within six months from the date thereof or within such further period as the Authority may allow;

(b) in the event of any contravention in respect of the ventilating system provided for such premises of any of the provisions of section 95 or 96;

(c) in the event of any failure to comply with any conditions imposed under the provisions of subsection (2) of section 95 or section 101;

(d) where the Authority receives a certificate under the provisions of subsection (2) of section 97 specifying that the dampers, filters and precipitators, or any of them, of the ventilating system provided for such premises are not in safe and efficient working order;

(e) where the Authority is satisfied that the dampers, filters and precipitators, or any of them, of the ventilating system provided for such premises have not been inspected in accordance with the provisions of subsection (1) of section 97;

(f) if, at any time, the Authority is of opinion that the ventilating system provided for such premises, or any part of such ventilating system, is not in safe and efficient working order.

(2) For the purposes of subsection (1), the expression "licensing authority" means the public officer or public body by whom or which any scheduled premises are, for the time being, licensed under the provisions of any enactment.

99. (1) Any licensee or owner of any scheduled premises who—

Offences.

(a) fails to comply with the requirements of a notice under subsection (1) or (2) of section 93 within six months from the date thereof or within such further period as the Authority may allow;

- (b) contravenes the provisions of subsection (2) of section 94;
- (c) fails to keep the ventilating system provided therefor in operation in accordance with the provisions of subsection (1) or (2) of section 96, as the case may be;
- (d) fails to keep the natural ventilation free from obstruction in accordance with the provisions of subsection (3) of section 96; or
- (e) fails to comply with any conditions imposed under the provisions of subsection (2) of section 95 or section 101,

shall be guilty of an offence.

(2) Any licensee of any scheduled premises who contravenes the provisions of subsection (1) of section 94 shall be guilty of an offence.

(3) For the purposes of subsection (1), the word "owner" means any person in control of the scheduled premises whether as tenant thereof or under any licence from a tenant thereof.

100. For the purposes of the provisions of this Part, any public officer authorized in writing in that behalf by the Authority and any officer of the Fire Brigade authorized in writing by the Chief Officer, Fire Brigade, may carry out such tests of the ventilating system in any scheduled premises as may be necessary to ascertain whether or not the same is in safe and efficient working order.

101. (1) Where, at the commencement of this Ordinance, any scheduled premises are provided with a ventilating system, the provisions of sections 93 and 95 shall not apply to such premises unless and until—

- (a) the number of persons who may be accommodated in such premises is increased;
- (b) the ventilating system is removed or is altered in any way; or
- (c) the Authority is of opinion that the ventilating system constitutes a danger to health or a fire hazard.

(2) Upon the application of sections 93 and 95 to any such premises, the Authority may, subject to such conditions as it may specify, grant such exemption from or such modifications of the provisions of this Part as it thinks fit.

102. The Governor in Council may by order add any class of premises to, or delete any class of premises from, the Second Schedule, and may in like manner amend that Schedule.

103. Nothing in this Part shall be taken or construed to the prejudice of the provisions of the Buildings Ordinance, 1955.

Power of authorized officers to carry out tests.

Application of Part VIII to premises provided with ventilating systems at commencement of Ordinance, etc.

Amendment of Second Schedule.

Saving in relation to Buildings Ordinance, 1955. (68 of 1955).

PART IX.

ADVERTISEMENTS, DECORATIONS AND SIGNS.

104. (1) Without prejudice to any other enactment relating to advertisements, decorations or signs, the Authority may make regulations restricting, regulating or prohibiting the exhibition of advertisements, decorations or signs of any kind whatsoever, and, in particular, may make regulations restricting, regulating or prohibiting the exhibition thereof in such places or in such manner or by such means as, in the opinion of the Authority, may affect injuriously or disfigure—

- (a) the amenities of any place or locality;
- (b) the natural beauty of a landscape;
- (c) the view from any highway, railway, tramway, ferry or from any public place or water;
- (d) the amenities of any village; or
- (e) the amenities of any historic or public building or monument or of any place frequented by the public solely or chiefly on account of its beauty or historic interest.

(2) Regulations made under this section may, in addition to any penalties prescribed, provide for the removal and disposal of any advertisement, decoration or sign exhibited in contravention of any regulation made under subsection (1) and for the recovery of any expenses incurred thereby.

(3) Regulations made under this section may be of general application or may be restricted to certain areas or to certain types or classes of advertisements, decorations or signs:

Provided that, where the application of any such regulation is restricted to certain areas only, such areas shall be distinctly marked and shown on plans signed by or on behalf of the Authority and deposited in the offices of the Authority, and such plans shall at all reasonable times thereafter be open for inspection by the public without charge.

105. (1) Where, in the opinion of the Building Authority, any hoarding, scaffolding or other structure erected solely for the purpose of exhibiting advertisements is dangerous, or is likely to become dangerous, by reason of construction, wind, rain, dilapidation, age or other cause, and where, in the opinion of the Chief Officer, Fire Brigade, any such hoarding, scaffolding or structure constitutes a fire hazard, the Building Authority or the Chief Officer, Fire Brigade, as the case may be, may serve upon the Authority a certificate to that effect, and the Authority shall thereupon cause a notice to be served upon the owner of such hoarding, scaffolding or structure, or upon his servant or agent, requiring him, within such time as may be specified

Regulations for control of advertisements.

Provisions as to dangerous advertisement hoardings.

in the notice, to remove such hoarding, scaffolding or structure or to do such work as may be specified in the notice to repair or otherwise render the same safe or to eliminate the fire hazard constituted thereby.

(2) If the person upon whom a notice is served under the provisions of subsection (1) fails to comply with any of the requirements thereof, within the time specified therein—

- (a) such person shall be guilty of an offence; and
- (b) the Authority may execute, or cause to be executed, any work necessary to satisfy the requirements of the notice, and may recover any expenses incurred thereby from such person.

(3) Where neither the owner of any such hoarding, scaffolding or structure nor his servant or agent is neither known nor can be found within the Colony, and where such hoarding, scaffolding or structure is, in the opinion of the Building Authority or the Chief Officer, Fire Brigade, as the case may be, in such a state that it ought immediately to be removed or rendered safe, the Authority may without serving a notice under the provisions of subsection (1) remove it or render it safe, as the case may be.

(4) Where any hoarding, scaffolding or structure is removed by the Authority under the provisions of subsection (3), the Authority may recover any expenses incurred thereby from the owner of such hoarding, scaffolding or structure or, where the owner thereof is unknown to, or cannot be readily found or ascertained by the Authority or is absent from the Colony, the Authority may sell the materials and, after deducting from the proceeds of such sale such expenses, shall pay the surplus, if any, into the Treasury there to be dealt with in accordance with the provisions of the Unclaimed Balances Ordinance.

(Cap. 122).

PART X.

PUBLIC PLEASURE GROUNDS.

Provision of public pleasure grounds.

106. (1) The Governor may, from time to time, by order set aside places for use as public pleasure grounds, and may by the same or any subsequent order specify the purpose for which such grounds or any part thereof shall be used.

Fourth Schedule.

(2) The places specified at the commencement of the Ordinance in the Fourth Schedule shall be deemed to have been set aside under the provisions of subsection (1) for use as public pleasure grounds.

(3) The Authority shall, as soon as practicable, prepare a plan of every public pleasure ground.

(4) Where the boundaries of any public pleasure ground are so varied, or such pleasure ground is otherwise so changed, as to render any plan deposited in accordance with the provisions of subsection (5)

no longer accurate, the Authority shall withdraw the plan so deposited and shall, as soon as practicable, prepare an amended plan or a new plan of such pleasure ground.

(5) Every plan prepared in accordance with the provisions of subsection (3) or (4) shall be deposited in the appropriate Land Office.

(6) The Governor may by order amend, or add to or delete from, the Fourth Schedule.

107. (1) The general management and control of public pleasure grounds shall be vested in the Authority, including the exclusive right to provide amenities of any kind, and the Authority may, subject to the provisions of subsection (2), from time to time, specify the purpose for which any such ground or any part of any such ground may be used and may demarcate playing fields and playing pitches for the conduct of organized games and sports, construct tennis courts and make provision for such other facilities for physical and other recreation as it may consider fit.

Management and control of public pleasure grounds.

(2) Where he considers it necessary or desirable, the Governor may require the Authority to refrain from using, or permitting the use of, any public pleasure ground or any part of any public pleasure ground for any purpose which may have been specified by it under the provisions of subsection (1).

108. (1) The Authority may, from time to time and for any purpose, temporarily close to the public the whole or any part of any public pleasure ground.

Temporary closure of public pleasure grounds, etc.

(2) The Authority may, on the application of any school, club or association or of any individual person, allocate to the same, either gratuitously or on payment of a fee and on such days or for such periods as may be specified, the exclusive use of—

- (a) any playing field or playing pitch demarcated under the provisions of section 107 for the conduct of organized games and sports;
- (b) any tennis court in any public pleasure ground, any facilities provided under the provisions of section 107 for physical or other recreation or any other part of any public pleasure ground, other than a playing field or playing pitch demarcated under the provisions of that section for the conduct of organized games and sports.

109. The Authority may in relation to public pleasure grounds, make regulations prescribing or providing for—

Regulations relating to public pleasure grounds.

- (a) proper management and control, including closure or partial closure;

- (b) preservation of good order and prevention of abuses and nuisances;
- (c) the control (including prohibition) of building, trading or advertising;
- (d) the control (including prohibition) of fishing at any beach;
- (e) the control (including prohibition) of the use of vessels, boats or other means of water transport, including water skis and models, at any beach;
- (f) the fees or charges payable in connexion with the use of any public pleasure ground or any part thereof or in connexion with the use of any facilities provided therein;
- (g) the seizure and disposal of any vehicle, vessel, animal or other article or thing in respect of which any regulation made under this section is contravened.

Public
pleasure
ground rules.

110. (1) The Director of Urban Services, or such other public officer as the Governor may authorize by notice published in the *Gazette*, may make rules for the better control, direction and information of persons resorting to public pleasure grounds:

Provided that such rules shall not be inconsistent with any of the provisions of this Ordinance or of any regulations made under section 109.

(2) Any person who fails to comply with any rule made under the provisions of subsection (1) shall be guilty of an offence.

Appointment
and powers
of keepers.

111. (1) The Authority may appoint keepers for public pleasure grounds.

(2) Where any person is found by a keeper of any public pleasure ground to be contravening the provisions of any regulation, rule or order relating to such public pleasure ground, such keeper may arrest such person and deliver him into the custody of a police officer or take him to the nearest police station, whereupon the provisions of sections 46 and 47 of the Police Force Ordinance or of section 47 of that Ordinance, as the case may be, shall apply.

(Cap. 232).

PART XI.

DISPOSAL OF THE DEAD.

General.

Restriction
upon the
keeping of
dead bodies
in domestic
premises.

112. (1) Any person who keeps, or causes or permits to be kept, for a longer period than forty eight hours the dead body of any person in premises used for the purpose of human habitation shall, unless such dead body is encoffined in a hermetically sealed coffin, be guilty of an offence.

(2) Any person who, without the permission in writing of the Authority, keeps, or causes or permits to be kept, for a longer period than seven days (inclusive of the period of forty eight hours referred to in subsection (1)) any encoffined dead body, notwithstanding that the coffin be hermetically sealed, in any premises used for the purpose of human habitation shall be guilty of an offence.

Cemeteries.

113. (1) The places specified in Parts I and III of the Fifth Schedule shall be places set apart for use as public cemeteries.

Public and
private
cemeteries.
Fifth
Schedule.

(2) The places specified in Parts II and IV of the Fifth Schedule shall be places set apart for use as private cemeteries.

(3) The Governor in Council may by order amend, or add any cemetery to or delete any cemetery from, the Fifth Schedule.

114. (1) The Authority shall, as soon as practicable, prepare a plan of every cemetery and mark the boundaries thereof in such manner as it may think fit.

Plans and
demarcation
of cemeteries.

(2) Where the boundaries of any cemetery are so varied, or any cemetery is otherwise so changed, as to render any plan deposited in accordance with the provisions of subsection (3) no longer accurate, the Authority shall withdraw the plan so deposited and shall, as soon as practicable, prepare an amended plan or a new plan of such cemetery and, where necessary, further mark the boundaries thereof in such manner as it may think fit.

(3) Every plan prepared in accordance with the provisions of subsection (1) or (2) shall be deposited in the appropriate Land Office.

115. (1) The general management and control of public cemeteries shall be vested in the Authority.

General
management
and closure
of public
cemeteries.

(2) The Authority may by notification in the *Gazette* declare any public cemetery, or any part of any public cemetery, to be closed.

(3) Any person who buries, or causes or permits to be buried, any human remains, or deposits, or causes or permits to be deposited, any urn containing any human remains, in any cemetery or any part of any cemetery which has been declared to be closed under the provisions of subsection (2) shall be guilty of an offence.

116. (1) Notwithstanding anything contained in any deed of appropriation, deed of grant or other instrument relating to any cemetery, the Authority may make regulations prescribing or providing for—

Regulations
relating to
cemeteries.

- (a) the marking or otherwise identifying of graves, vaults and urns, and the provision, custody, maintenance and inspection of registers of burials therein;

- (b) the control of the number of dead bodies which may be buried in any one grave or vault;
- (c) the interspace between graves and between vaults;
- (d) the manner of closing, turfing or covering of graves, the materials to be used therefor and the period within which any grave must be so closed, turfed or covered;
- (e) the re-opening of graves and vaults and the removal of human remains therefrom;
- (f) the prevention and abatement of nuisances in connexion with any cemetery, grave, vault, urn or the burial of any human remains;
- (g) the entry and inspection of cemeteries and vaults;
- (h) the proper management and control of cemeteries.

(2) In addition to the purposes specified in subsection (1), the Authority may in relation to any public cemetery make regulations prescribing or providing for—

- (a) the lay out and use of any such cemetery or any part thereof and matters ancillary thereto;
- (b) the exhumation of human remains from any grave and the disposal of the same in a decent manner;
- (c) the depth and size of graves and vaults and the size of any monument or enclosure over or round any grave, vault or urn;
- (d) the orderly and decent conduct of any burial, exhumation or removal of any human remains and the performance of any ceremony, rite, custom or religious practice connected therewith in any such cemetery or in any part of any such cemetery and the orderly and decent conduct of persons resorting to any such cemetery;
- (e) fees or charges payable in relation to the burial, exhumation and removal of any human remains, the setting up of any monument or enclosure over or round any grave, and construction of any vault or urn and matters connected therewith.

117. (1) The Director of Urban Services, or such other public officer as the Governor may authorize by notice published in the *Gazette*, may in relation to any public cemetery from time to time make rules for the better control, direction and information of persons resorting thereto:

Provided that such rules shall not be inconsistent with any of the provisions of this Ordinance or of any regulations made under section 116.

(2) Any person who fails to comply with any rule made under subsection (1) shall be guilty of an offence.

Public
cemetery
rules.

118. (1) Any person who, without the permission in writing of the Authority, buries any human remains, or deposits any urn or other receptacle containing any human remains, or scatters the ashes of any human remains after cremation, otherwise than in a cemetery, shall be guilty of an offence.

Prohibition of
unauthorized
burials and
exhumations.

(2) Save in accordance with the provisions of this Part, any person who, without the permission in writing of the Authority, exhumes any human remains or any part of any human remains or any article interred therewith, or removes any human remains, or any part of any human remains, or any article from any urn or other receptacle, or removes or carries away any urn or other receptacle containing any human remains from any place, shall be guilty of an offence.

(3) No permission under subsection (1) or (2) shall be granted to any person other than the legal personal representative or next of kin of the person whose remains are to be buried, deposited, exhumed or removed, as the case may be, or the duly authorized agent of such legal personal representative or next of kin, or failing any such legal personal representative or next of kin or any such agent thereof, a person who, in the opinion of the Authority, as a proper interest in the disposal of the human remains in respect of which such permission is granted:

Provided that the Authority may permit the removal of any human remains from one part of a private cemetery to another part of such private cemetery at the request of the management of such cemetery.

(4) Any human remains buried, or any urn or other receptacle containing any human remains deposited, otherwise than in accordance with the provisions of subsection (1) or of the provisions of section 119, outside a cemetery may be removed by the Authority and buried or deposited inside a cemetery or otherwise disposed of in such decent manner as the Authority may think fit:

Provided that—

- (a) where such remains have been buried, or such urn or other receptacle has been deposited, in the urban areas, the consent of the Secretary for Chinese Affairs shall be obtained before such remains are, or such urn or other receptacle is, removed; and
- (b) where such remains have been buried, or such urn or other receptacle has been deposited, in the New Territories, the consent of the District Commissioner, New Territories shall be obtained before such remains are, or such urn or other receptacle is, removed.

Power of Governor in Council to direct removal and disposal of human remains.

119. Notwithstanding anything contained in this Part, the Governor in Council may by order direct the removal of any human remains from any grave, urn or other receptacle or of any urn or other receptacle containing any human remains, whether situated within or without a cemetery, and may direct the disposal thereof in such decent manner as he may think fit:

Provided that no such order shall be made until one month's notice of intention to make such order has been published in the *Gazette*.

Removal of coffins, etc.

120. When any human remains are moved under the provisions of this Part, it shall be lawful to move also any coffin, urn or other receptacle in which such human remains are contained and any monument or enclosure over or surrounding the same.

Power of magistrate to order exhumation.

121. (1) Notwithstanding anything contained in this Part, a magistrate may order the exhumation of the body of any person, or the remains of the body of any person, for the purpose of inquiry into the cause of death of such person in accordance with the provisions of the Magistrates (Coroners Powers) Ordinance.

(Cap. 14).

(2) Where any body, or part of any body, has been exhumed under the provisions of subsection (1), the Authority shall provide for the reburial or other disposal of the same in such decent manner as may be appropriate.

Expense of reburial, etc. to be defrayed from public revenue where exhumation ordered.

122. Whenever, pursuant to any powers conferred by this Part, the Governor in Council, or the Authority or a magistrate, has caused any human remains to be exhumed or removed, all reasonable expenses in connexion with such exhumation or removal, and with the reburial or other disposal of such remains thereafter within the Colony, shall be defrayed out of the general revenue.

Mortuaries.

Regulations in relation to mortuaries.

123. (1) The Authority may make regulations in relation to mortuaries prescribing or providing for—

- (a) registration or licensing and inspection and control (including prohibition) of mortuaries;
- (b) the reception, treatment and custody of human remains;
- (c) the maintenance, inspection and custody of registers of human remains received into mortuaries;
- (d) the regulation and control of the transportation of human remains to or from any mortuary or to or from any other place;
- (e) fees and charges payable in connexion with the registration or licensing of mortuaries.

(2) Regulations made under subsection (1) may be of general application or limited to any class or type of mortuary or to any place, district or area.

124. (1) Whenever the human remains of any person have lain in any mortuary for forty eight hours after reception therein and no claim to possession thereof has been made within such period to the person having the management or control of the mortuary by any person having the right to effect the disposal of such human remains, and, where such right is abandoned, the right to dispose of such human remains shall become vested in the Authority, and the Authority may arrange for disposal thereof in any manner it may think fit.

Right of Authority to dispose of unclaimed dead bodies.

(2) Any person who knowingly disposes of the human remains, or any part of the human remains, of any person from any mortuary otherwise than in accordance with a claim made by a person having a right to make the same or in accordance with a direction, or with the consent, of the Authority shall be guilty of an offence:

Provided that nothing in this subsection shall make it an offence to transfer the human remains of a person into a mortuary belonging to the Government from a mortuary not so belonging.

PART XII.

MISCELLANEOUS.

125. (1) Where, under the provisions of this Ordinance, any public officer or public body (referred to in this section as the licensing authority) is empowered to require registration or to grant any licence or permit, such registration, licence or permit, as the case may be, shall, subject to the provisions of this Ordinance and any regulations made thereunder—

General provisions as to licences, etc.

- (a) be made or granted subject to such requirements, conditions or restrictions as the licensing authority may think fit to impose for the purpose of carrying out the objects of this Ordinance, and may, for the like purpose, include a declaration by the licensing authority waiving the application of any of the provisions of any regulation made under this Ordinance, other than a regulation relating to payment of fees;
- (b) be renewed, refused, suspended or cancelled at the sole discretion of the licensing authority for the purpose of carrying out the objects of this Ordinance:

Provided that—

(i) the renewal of any registration, licence or permit, upon application by the lawful holder on or before the date of expiry thereof and tender of the fee or charge (if any)

prescribed therefor, shall not be refused unless notice in writing of intention to refuse the same has been served by the licensing authority upon such holder not less than ninety days preceding the date of expiry of such registration, licence or permit, except where any of the requirements, conditions or restrictions to which such registration, licence or permit was subject has been contravened within the period of ninety days immediately preceding such date of expiry, in which case no such notice shall be required;

(ii) no registration, licence or permit shall be suspended or cancelled for any cause other than the contravention of any of the provisions of this Ordinance or of any requirement, condition or restriction to which such registration, licence or permit was subject;

(iii) where application for renewal of any registration, licence or permit is not made or any fee or charge prescribed in respect thereof is not paid on or before the date of expiry thereof, renewal of the same may be refused without notice.

(2) Save where the licensing authority thinks fit, no registration, licence or permit shall be made or granted in the name of more than one person:

Provided that nothing in this subsection shall be construed to prevent the making of any registration or the granting of any licence or permit in the name of a corporation.

(3) Subject to the provisions of any regulations made under this Ordinance, every registration, licence or permit shall be transferable.

(4) On any transfer of a registration, licence or permit under the provisions of subsection (3), the person to whom the transfer is made shall, within seven days after the transfer is effected, deliver to the licensing authority a notice, in such form (if any) as may be prescribed by the licensing authority signed by the transferor or by some person authorized in writing in that behalf by him and signed by the person to whom the transfer was made or by some person authorized in writing in that behalf by him.

(5) If any person fails to give notice of the transfer of any registration, licence or permit as required by subsection (4)—

- (a) such person shall be guilty of an offence; and
- (b) the licensing authority may, without notice, cancel such registration, licence or permit.

(6) Where any person who is registered, or who is the grantee of any licence or permit issued, under the provisions of this Ordinance absents himself from the Colony for a period exceeding thirty days without giving notice in writing to the licensing authority, or, in the

opinion of the licensing authority, is not, or has ceased to be, ordinarily resident in the Colony, the licensing authority may, without notice, cancel such registration, licence or permit, and, in the case of a corporation which is registered under the Companies Ordinance, the licensing authority may also cancel such registration, licence or permit if the corporation has ceased to be so registered. (Cap. 32).

(7) Where any person who is registered, or who is the grantee of any licence or permit issued, under the provisions of this Ordinance intends to absent himself from the Colony for a longer period than thirty days, the licensing authority may require him to appoint a delegate for such period not exceeding six months as the licensing authority may consider reasonable, and such delegate shall, during that period, be deemed for all purposes under this Ordinance to be the person in whose name such registration was made or to whom such licence or permit was granted, and failure to appoint such delegate if so required under this subsection shall be a ground for cancellation of such registration, licence or permit.

(8) Where any registration, licence or permit is cancelled or suspended, or any application for the grant or renewal thereof is refused, by the licensing authority, the licensing authority shall forthwith serve a notice in writing upon the holder thereof or applicant therefor, as the case may be, declaring its decision.

(9) (a) If any person is dissatisfied with any decision referred to in subsection (8), he may, within seven days after the service upon him of the notice declaring the same, apply in writing to the licensing authority for review, and the licensing authority may before determining the application—

- (i) cause such investigation to be made as may in the circumstances appear to be necessary; and
- (ii) if it thinks fit, appoint a place, time and day for hearing the application.

(b) The applicant may, if he so desires, be present at the hearing (if any) of an application under this subsection and be heard in its support either in person or by his representative:

Provided that, if he elects to be heard by his representative, he shall not himself be heard except by leave of the licensing authority.

- (c) On determining the application, the licensing authority may confirm, vary, suspend or cancel the decision in question, or may extend any time specified for compliance with the requirements of any notice issued, or order made, by it under any of the provisions of this Ordinance relevant to such decision.
- (d) Pending the determination of any application made under this subsection or any appeal under subsection (10), the licensing

authority may, in its discretion, suspend the operation of the decision in respect of which such application or appeal is made.

(10) If any person is dissatisfied with the determination of the licensing authority upon review under the provisions of subsection (9), he may, within fourteen days after notification by the licensing authority of such determination, appeal to the Governor in Council by way of petition, and the decision of the Governor in Council shall be final.

(11) No registration, licence or permit granted under the provisions of this Ordinance shall be taken to exempt or excuse any person from compliance with any of the provisions of any other enactment.

General powers of entry.

126. (1) Subject to the provisions of this section, any public officer authorized in writing by a public officer or public body (referred to in this section as the authorizing authority) shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises, vehicle, vessel or aircraft at any time between the hours of 7 a.m. and 7 p.m., and, in the case of any workplace or any premises or vessel used for business purposes, at any time during which work or business is carried on—

- (a) for the purpose of ascertaining whether there is, or has been, on or in connexion with the premises, vehicle, vessel or aircraft any contravention of the provisions of this Ordinance, being provisions which it is the duty of the authorizing authority to enforce;
- (b) for the purpose of ascertaining whether or not circumstances exist which would authorize or require the authorizing authority to take any action, or execute any work, under the provisions of this Ordinance, and for this purpose, such officer may take and carry away samples of any article or thing, including water, found there;
- (c) for the purpose of taking any action, or executing any work, authorized or required by the provisions of this Ordinance to be taken or executed by the authorizing authority;
- (d) for the purposes of carrying out any tests the carrying out of which is authorized under the provisions of this Ordinance;
- (e) generally, for the purpose of the performance by the authorizing authority of his or its functions under the provisions of this Ordinance:

Provided that admission to any premises or vessel, not being premises or a vessel used for business purposes or as a workplace, shall not be demanded as of right unless not less than two hours' notice in writing of the intended entry has been given to the occupier of such premises or the person in charge of such vessel, or, in the absence of such person, posted in some conspicuous place on such premises or vessel, as the case may be.

(2) If it is shown to the satisfaction of a magistrate or justice of the peace on sworn information in writing—

- (a) that admission to any premises or vessel has been refused or that refusal is apprehended, or that such premises are unoccupied or such vessel unattended, as the case may be, or that the occupier or attendant is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry, or that it is reasonable for the purposes of this Ordinance in the circumstances of the case that entry be effected between the hours of 7 p.m. and 7 a.m.; and
- (b) that there is reasonable ground for entry into the premises or vessel for any such purpose as aforesaid,

the magistrate or justice of the peace may by warrant in the form of Form D prescribed in the Seventh Schedule authorize any public officer authorized in that behalf by the public officer or public body for whose purposes such entry is necessary to effect entry, if need be by force:

Seventh Schedule.

Provided that such warrant shall not be issued unless the magistrate or justice of the peace is satisfied either that notice of the intention to apply for a warrant has been given to the occupier of the premises or to the person in charge of the vessel, as the case may be, or that the premises are unoccupied or the vessel unattended, or that the occupier or attendant is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry, or that it is reasonable for the purposes of this Ordinance in the circumstances of the case that entry be effected between the hours of 7 p.m. and 7 a.m.

(3) Any public officer entering any premises or vessel by virtue of the provisions of subsection (1) or of a warrant issued under subsection (2) may take with him such persons as may be necessary, and, on leaving any unoccupied premises or any unattended vessel which he has entered by virtue of such provisions or such warrant, shall leave such premises or vessel as effectually secured against trespassers as he found the same to be at the time of entry.

(4) Every warrant granted under the provisions of subsection (2) shall continue in force until the purpose for which the entry is necessary has been satisfied.

127. (1) The Authority, if satisfied of the existence of a nuisance to which this section applies, may cause a notice in the form of Form E specified in the Seventh Schedule (referred to in this section as a "nuisance notice") to be served on the person by reason of whose act, default or sufferance the nuisance arose or continues, or, if that person cannot be found, on the occupier or owner of the premises or vessel on which the nuisance exists, requiring him to abate the nuisance

Provisions for securing abatement of nuisances which may be dealt with summarily.
Seventh Schedule.

within the period specified in the notice, and to do such things as may be necessary for that purpose, and the notice may, if the Authority thinks fit, specify any works to be executed for the purpose aforesaid:

Provided that, where the nuisance arises from any want or defect in any premises or vessel of a structural character and where the premises or vessel are or is unoccupied, the nuisance notice shall be served on the owner thereof.

The Authority may also, by notice under the foregoing provisions of this subsection or by further notice, require the person on whom the notice is served to do what is necessary for preventing the recurrence of the nuisance to which the notice relates and, if the Authority thinks it desirable, specify any works to be executed for that purpose, and a notice containing such a requirement may, notwithstanding that the nuisance to which it relates may for the time being have been abated, be served if the Authority considers that the nuisance is likely to recur on the same premises or in the same vessel.

(2) Where the person causing a nuisance to which this section applies cannot be found and it is clear that the nuisance neither arose nor continues by reason of any act, default or sufferance on the part of the occupier or the owner of the premises or vessel on which it exists, the Authority may abate the nuisance and may do what is necessary to prevent a recurrence thereof.

(3) Where a nuisance notice is served on any person, then if either—

- (a) the nuisance to which the notice relates arose by reason of the wilful act or default of that person; or
- (b) that person fails to comply with any of the requirements of the notice within the period specified therein,

he shall (whether or not an order under the provisions of subsection (4) has been made in respect of him) be guilty of an offence.

(4) Where a nuisance notice is served on any person, then if—

- (a) that person fails to comply with any of the requirements of the notice within the period specified therein; or
- (b) the nuisance to which the order relates, although abated since the service of the notice, is, in the opinion of the Authority, likely to recur on the same premises or vessel,

the Authority may make a complaint to the court and the court hearing the complaint may make a summary order in the form of Form F prescribed in the Seventh Schedule (in this section referred to as a "nuisance order").

(5) A nuisance order may be an abatement order, prohibition order or a closing order or a combination of such orders.

An abatement order may require a person to comply with all or any of the requirements of a nuisance notice in connexion with which the order is made, or otherwise to abate the nuisance or to do what may be necessary to prevent the recurrence of the nuisance within the period specified in the order.

A prohibition order may prohibit the recurrence of a nuisance.

A closing order may prohibit the use of any premises or vessel for human habitation, but shall only be made if it is proved to the satisfaction of the court that, by reason of a nuisance, the premises or vessel are or is unfit for human habitation.

(6) An abatement order or a prohibition order shall, if the person in respect of whom the order is made so requires or the court considers it desirable, specify the works to be executed by the said person for the purpose of abating, or preventing the recurrence of, the nuisance to which the order relates.

A court, if satisfied that any premises or vessel in respect of which a closing order is in force have or has been rendered fit for human habitation, may declare that it is so satisfied and revoke the closing order.

(7) (a) Any person who fails without reasonable excuse to comply with, or knowingly contravenes, a nuisance order shall be guilty of an offence.

(b) Without prejudice to the provisions of paragraph (a), where a nuisance order has not been complied with, the Authority may abate the nuisance and may do whatever may be necessary in execution of the order, and may recover any expenses reasonably incurred thereby from the person against whom the order was made.

(8) The provisions of Part VI of the Magistrates Ordinance shall apply to proceedings under this section subject to the following provisions— (Cap. 227).

(a) in the event of an appeal against a nuisance order which is or includes a prohibition order or a closing order or requires the execution of structural works, no person shall, by reason of any contravention of, or failure to comply with, the order, be liable to any penalty until after the determination or abandonment of the appeal:

Provided that, if the appeal is dismissed or abandoned, the appellant shall be liable to the fine specified in the third column of the Tenth Schedule in respect of an offence under subsection (7) for every day during which he has contravened or failed to comply with such nuisance order, unless he satisfies the court before which proceedings are taken for the recovery of such fine that there was substantial ground for

the appeal and that the appeal was not brought merely for the purpose of delay, and, if the appeal is dismissed, the court hearing the appeal may itself impose such fine as if it were a court before which proceedings could be taken for the recovery of such fine;

- (b) in the event of an appeal against a nuisance order which requires the execution of structural work, no work shall, save as hereinafter mentioned, be done under the order until after the determination or abandonment of the appeal:

Provided that, if the court by which the order was made is of opinion that the continuance of the nuisance to which it relates will be injurious or dangerous to health and that the immediate abatement thereof will not cause any injury which cannot be compensated by damages, the court may, notwithstanding that the appeal is pending, authorize the Authority immediately to abate the nuisance, so, however, that—

(i) if the appeal is allowed, the Authority shall pay to the person against whom the order was made the amount of any damage sustained by him by reason of the abatement of the nuisance by the Authority; and

(ii) if the appeal is dismissed or abandoned, the Authority may recover from the said person the expenses incurred by it in abating the nuisance.

(9) Any matter or thing removed by the Authority in abating, or doing what is necessary to prevent the recurrence of, a nuisance to which this section applies may be sold by public auction, or, if the Authority thinks the circumstances of the case require it, may be otherwise sold, or may be disposed of without sale.

The money arising from the sale of any matter or thing under this subsection may be retained by the Authority and applied in payment of the expenses incurred by it in connexion with the nuisance and the surplus (if any) shall be paid, on demand, to the owner of the matter or thing.

Power to close premises used in contravention of provisions of Ordinance.

128. (1) Save as otherwise expressly provided, where, under the provisions of this Ordinance, the use of any premises or vessel requires to be registered, licensed or permitted, the court, on application being made by the public officer or public body by whom or by which the use of the same is required to be registered, licensed or permitted and on proof that such premises or vessel are or is used without registration, licence or permit or, being registered, licensed or permitted, are or is used in contravention of any suspension thereof or in contravention of any of the provisions of this Ordinance, shall make an order closing such premises or vessel, either wholly or in part, or prohibiting the use thereof for all or any purposes:

Provided that, where the premises or vessel are or is used for the purpose of human habitation, no such order shall be made so as to prevent such habitation by reason only of the user being without registration, licence or permit or in contravention of any of the requirements thereof or any suspension thereof.

(2) Any order made under the provisions of subsection (1) shall remain in force in respect of such premises or vessel until, on application by such public officer or public body or by any person having an interest in such premises or vessel, the court is satisfied that either the use of such premises or vessel has been registered, licensed or permitted or such suspension has been cancelled or the provisions of this Ordinance have been complied with, as the case may be, or that such premises or vessel will be used in future for some other purpose.

(3) Any person who contravenes any order of the court made under the provisions of subsection (1) shall be guilty of an offence.

129. Save as otherwise expressly provided by this or some other enactment, where it appears to any public officer or public body who or which is an Authority for the purposes of any of the provisions of this Ordinance expedient for carrying out the purposes of this Ordinance, such public officer or public body may in his or its discretion and at the request of any person, undertake on behalf of such person any work or render any service, and may recover the cost thereof from such person in the manner provided by section 130.

Authority may render services, etc. on request.

130. (1) In any case where under the provisions of this Ordinance any public officer or public body is entitled to recover the cost of any works done or any fee or any charge for any service rendered, such officer or body may certify the sum which is due and the names of the persons liable therefor, and may by such certificate apportion such sum between such persons:

Recovery of cost of works done or services rendered by public officers or public bodies.

Provided that, where the public body is the Urban Council, such certificate shall be signed by the Director of Urban Services or a public officer duly authorized by him in that behalf.

(2) In the case of any works done or services rendered, such sum may include—

(a) the cost of labour, transport or materials supplied by or at the request of such public officer or public body for the purpose of carrying out such works or rendering such services; and

(b) supervision and departmental charges.

(3) A copy of any such certificate shall be served upon each person named therein.

(4) Where the payment of any sum claimed is in default, such public officer or public body, and, where the public body is the Urban

Council, the Director of Urban Services, may in his or its discretion order that the following amounts shall be added to the sum claimed and recovered therewith—

- (a) in the case of default exceeding thirty days, five per cent of the amount in default;
- (b) in the case of default exceeding sixty days, ten per cent of the amount in default.

(5) The payment of such sum by any person shall be without prejudice to any right to recover the same, or any part thereof, from any person otherwise liable in respect of the matter in relation to which such certificate was issued.

(6) Any sum which any public officer or public body is entitled to recover under the provisions of this Ordinance may be recovered by such officer or body, and, where the public body is the Urban Council, by the Director of Urban Services, summarily as a civil debt due to the Crown or as a simple contract debt due to the Crown in any court of competent jurisdiction.

(7) Any summons or writ issued in connexion with the recovery of any such sum shall be taken to have been duly served if it appears, to the satisfaction of the court, that it was left at the defendant's last known address or place of business, or, if the same is unknown to the public officer or public body concerned, that it was delivered to an adult occupier of the premises or place in relation to which such recovery is sought or was posted thereon in a conspicuous place.

(8) A certificate purporting to be made in accordance with the provisions of subsection (1) and setting forth that the amount claimed is due and that the person named therein is liable for the payment thereof, and specifying the nature and particulars of the claim, shall be *prima facie* evidence of the facts stated therein and of the correctness of the signature thereto.

(9) Where any sum the recovery of which is claimed under the provisions of this section arose in respect of any building works within the meaning of the Buildings Ordinance, 1955, the public officer or public body concerned may, at any time before such sum has been wholly recovered, register in the Land Office against the title of any property in respect of which such sum arose a memorial of the certificate issued under the provisions of subsection (1), and in such event such sum shall be a charge upon the land recoverable in accordance with the provisions of subsection (6) from any person who from the Land Office register then or thereafter appears to be the owner thereof:

Provided that a charge shall not be deemed to arise solely by virtue of this subsection in respect of any person whose interest was registered before the registration of the memorial of such certificate.

(10) Upon the recovery of any sum under the provisions of this section, the public officer or public body concerned shall lodge in the Land Office an appropriate memorial of satisfaction against any memorial lodged there under the provisions of subsection (9).

(11) Where two or more sums are claimed from any person as being due under the provisions of this Ordinance, any writ, complaint, summons or warrant issued for the purposes of the Ordinance in respect of that person may contain in the body thereof, or in a schedule thereto, all or any of the sums so claimed.

131. (1) Without prejudice to any other provisions of this Ordinance, or to the provisions of any other enactment, relating to the prosecution of criminal offences, prosecutions for an offence under the sections of this Ordinance specified in the first column of the Sixth Schedule may be brought—

- (a) where the offence was committed in the urban areas or in the other cases specified in the second column of that Schedule, in the name of the public officer or public body specified in relation thereto in the said second column of that Schedule; and
- (b) save where otherwise provided in the third column of that Schedule, where the offence was committed in the New Territories, in the name of the public officer or public body specified in relation thereto in the said third column of that Schedule.

(2) Nothing in this section or in section 132 shall be deemed to derogate from the powers of the Attorney General in relation to the prosecution of criminal offences.

(3) Every complaint made or information laid in respect of an offence under any of the provisions of this Ordinance or the regulations made thereunder shall be made or laid in the manner prescribed by the Magistrates Ordinance.

(4) The Governor in Council may by order amend, add to or delete from, the Sixth Schedule.

132. Any public officer or public body in whose name proceedings for an offence under any of the provisions of this Ordinance or any regulations made thereunder may be brought may authorize in writing, either generally or in any particular case, any public officer to institute on behalf of such public officer or public body any such proceedings before any court or to conduct on behalf of such public officer or public body any such proceedings before any court, and any public officer so authorized may institute such proceedings and may conduct them before any court notwithstanding the provisions of the Legal Practitioners Ordinance.

Name in which certain proceedings may be brought.
Sixth Schedule.

(Cap. 227).

Sixth Schedule.

Institution and conduct of certain proceedings.

(Cap. 159).

Disposal of property coming into possession of certain public officers and public bodies. (Cap. 227).

133. Where, under any of the provisions of this Ordinance, any public officer or public body who or which is an Authority for the purposes of any of the provisions of this Ordinance comes into possession of any property, section 48 of the Magistrates Ordinance shall, unless the manner of disposal of the same is otherwise expressly provided, apply as if such public officer or public body were the police within the meaning of that section and such property were property which had come into the possession of the police in connexion with a criminal offence.

Services of notices.

134. Unless otherwise expressly provided, any order, notice, demand, certificate or other document required to be served under the provisions of this Ordinance may be served either—

- (a) by delivering it to the person on whom it is to be served;
- (b) by sending it by registered post addressed to the last known place of business or residence of the person to be served;
- (c) by leaving it with an adult occupier of the premises or place to which the notice relates or by posting it upon a conspicuous part of such premises or place:

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

Authentication and production in evidence of documents.

135. (1) Save where otherwise expressly provided, any order, notice, demand, certificate or other document made by any public officer or public body under the provisions of this Ordinance shall be signed by such public officer or by a public officer authorized in writing in that behalf by such public officer or public body:

Provided that, where the public body is the Urban Council, such order, notice, demand, certificate or other document shall be signed by the Secretary of the Council or an assistant secretary thereof.

(2) Any document purporting to be an order, notice, demand, certificate or other document made under the provisions of this Ordinance by a public officer or public body and signed in the manner provided in subsection (1) shall be received in evidence, and shall, unless the contrary is shown, be deemed to be such an order, notice, demand, certificate or other document without further proof.

Presumption as to employment of servants.

136. Any person who appears to be employed in or about any premises, or any part of any premises, in respect of which any licence or permit is granted under this Ordinance shall be deemed, until the contrary is shown, to be a servant of the person to whom such licence or permit was granted.

137. Where an offence under this Ordinance, or any regulations or order made under this Ordinance, which has been committed by a corporation is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the corporation, or of any person who was purporting to act in any such capacity, he, as well as the corporation, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by corporations.

138. A public officer shall not be personally liable in respect of any act done by him in the execution or purported execution of this Ordinance and within the scope of his employment, if he did that act in the honest belief that his duty under this Ordinance required or entitled him to do it:

Protection for public servants acting in good faith.

Provided that nothing in this section shall be construed as relieving the Crown from liability in respect of the acts of its servants.

139. Any person who wilfully obstructs, resists, or uses abusive language to, any person acting in the execution of his duties under this Ordinance, or under any order or warrant made or issued thereunder, shall, in any case for which no other provision is made by this Ordinance, be guilty of an offence.

Obstruction of officers in the exercise of their duty.

140. Where, under the provisions of this Ordinance, any person is required to be vaccinated, inoculated or otherwise immunized against disease, the onus of proving that such vaccination, inoculation or immunization has been performed shall rest upon the person required to be so vaccinated, inoculated or immunized, as the case may be.

Onus of proving vaccination or inoculation.

141. (1) Where proceedings under this Ordinance are competent against several persons in respect of the joint act or default of such persons, it shall be sufficient to proceed against one or more of them without proceeding against the others.

Proceedings against several persons.

(2) Where an offence consists of a failure to comply with any of the requirements of a notice served by any public officer or public body who or which is an Authority for the purposes of any of the provisions of this Ordinance and a similar notice was served upon several persons in respect of such matter—

- (a) it shall be sufficient to proceed against one or more of such persons without proceeding against the others; and
- (b) where more than one such person is proceeded against, the court may treat such persons for all purposes as though they were joint offenders.

142. Any public officer or public body may delegate any power, function, authority or discretion conferred upon him or it by the provisions of this Ordinance, other than a power to make regulations, to any public officer or class of public officers:

Delegation of powers.

(14 of 1955). Provided that, where the public body is the Urban Council, such delegation shall be subject to and in accordance with the provisions of the Urban Council Ordinance, 1955.

General powers relating to regulations.

143. Regulations made under this Ordinance may provide—

- (a) that contravention of any of the provisions of such regulations shall constitute an offence and may prescribe penalties therefor not exceeding a fine of two thousand dollars and imprisonment for six months, and, in the case of a continuing offence, a daily penalty of fifty dollars, and, in the case of an offence in respect of any premises, trade or business, for the closing of such premises or the discontinuance of such trade or business;
- (b) for the name in which proceedings for an offence against any of such regulations may be brought; and
- (c) for appeal by way of petition to the Governor or to the Governor in Council.

Regulations made by Urban Council to be subject to approval of Legislative Council.

144. All regulations made by the Urban Council shall be submitted to the Governor and shall be subject to the approval of the Legislative Council.

Fees, etc. to be paid to general revenue.

145. Any rents, fees or other charges whatsoever, including the proceeds of any sale, collected under the provisions of this Ordinance or any regulations made thereunder shall be paid to the general revenue.

Governor in Council empowered in any appeal to state case for opinion of Full Court on question of law.

146. (1) In any appeal to him under the provisions of this Ordinance, the Governor in Council may, at any time in his discretion, direct a case to be stated for the opinion of the Full Court on any question of law involved in such appeal. The terms of such case shall be agreed upon by the parties concerned, or, in the event of their failure to agree, shall be settled by the Full Court. The Full Court shall hear and determine the question of law arising on any case stated as aforesaid, and shall remit the matter to the Governor in Council who shall give effect by order to the finding of the court. The costs of such hearing shall be in the discretion of the court.

(2) Any party to the appeal shall be entitled to be heard by counsel on the hearing of any case so stated.

(3) The Clerk of Councils shall give the appellant seven days notice of the hearing of the appeal, and shall, at the same time, furnish the appellant with a copy of the evidence and documents submitted by the respondent for the consideration of the Governor in Council.

(4) The decision of the Governor in Council upon any appeal under the provisions of this Ordinance shall be final and may be enforced by the Supreme Court as if it had been an order of that court.

(5) Nothing contained in this Ordinance shall be construed to prevent any person from applying to the Supreme Court for a mandamus, injunction, prohibition or other order, should he elect so to do in lieu of appealing to the Governor in Council.

147. (1) Wherever under the provisions of this Ordinance the use of a form prescribed in the Seventh Schedule is required, there shall be used the appropriate form prescribed in that Schedule or a form to the like effect subject to such variation as circumstances may require.

Forms, Seventh Schedule.

(2) The Governor in Council may by order amend any form for the time being prescribed in the Seventh Schedule and may, in like manner, add any form to that Schedule or delete any form therefrom.

148. The enactments mentioned in the third column of the Eighth Schedule are repealed or amended to the extent specified in the fourth column of that Schedule.

Repeals and amendments, Eighth Schedule.

149. (1) Where an offence (being an offence for the continuance of which a penalty was provided) has been committed under any enactment repealed, revoked or cancelled and re-enacted, with or without amendment, by this Ordinance or by any regulations made thereunder, proceedings may be taken under this Ordinance or such regulations in respect of the continuance of the offence after the commencement of this Ordinance or such regulations in the same manner as if the offence had been committed under the corresponding provisions of this Ordinance or such regulations.

Transitional provisions with respect to offences and certain notices.

(2) Where an enactment repealed, revoked or cancelled by this Ordinance or by any regulations made thereunder relates to the giving of notices—

- (a) not less than a specified period before; or
- (b) within a specified period after,

the doing of some act or the happening of some event, and the commencement of this Ordinance or such regulations falls within the period applicable under that enactment to any particular act done or to any particular event, the repeal, revocation or cancellation and re-enactment shall be deemed to have taken effect in relation to that act or event, in the first mentioned case, at a date sufficiently early to enable the required notice to be given under the corresponding provisions of this Ordinance or such regulations, and, in the secondly mentioned case, immediately before the doing of the act or the happening of the event in question.

(3) Where, under any enactment repealed, revoked or cancelled and re-enacted, with or without amendment, by this Ordinance or any regulations made thereunder, any notice has been served relating to

the doing of some act or the happening of some event, such notice shall be deemed to have been served under the corresponding provisions of this Ordinance or such regulations.

Saving of certain regulations. (15 of 1935). (Cap. 52). (Cap. 140). (Cap. 157). (Cap. 97). Ninth Schedule.

150. (1) For the avoidance of doubt, it is hereby declared that, notwithstanding the repeal, under the provisions of section 148, of the Public Health (Sanitation) Ordinance, 1935, the Advertisements Regulation Ordinance, the Public Health (Food) Ordinance, the Hawkers Ordinance and of subsection (2) of section 4 of the New Territories Ordinance, the regulations made under these enactments which are specified in the third column of the Ninth Schedule shall, save in so far as they are inconsistent with any of the provisions of this Ordinance or any regulations made thereunder and subject to any amendment thereof made by the provisions of the said section 148, continue in operation until such time as they are replaced by regulations made under this Ordinance which are expressed to be in substitution for those regulations, and shall be deemed for all purposes to have been made or prescribed under the section of this Ordinance specified in relation thereto in the fourth column of that Schedule and to be liable to amendment thereby or thereunder.

(2) The Governor in Council may by regulation amend the Duplicate Permits and Licences (N.T.) Rules.

(Vol. IX, p. 63).

Penalties. Tenth Schedule.

151. Any person who is guilty of an offence under any of the provisions of this Ordinance specified in the first column of the Tenth Schedule shall be liable on summary conviction to the penalty specified in relation thereto in the second column of that Schedule, and, where the offence is a continuing offence, shall be liable, in addition, to the fine specified in relation thereto in the third column of that Schedule for each day during which it is proved to the satisfaction of the court that the offence has continued.

FIRST SCHEDULE.

[ss. 2 and 84.]

Scheduled offences.

Section 54(1).

Regulations made under section 55, 56, 80(1) or 83.

Section 139.

Sections 3(4) and 5 of the Summary Offences Ordinance (Chapter 228).

By-law 3 of the Public Cleansing and Prevention of Nuisances By-laws, 1960.

Rule 3 and rules 153 to 200 inclusive of the New Territories Rules (Vol. IX, p. 89).

SECOND SCHEDULE.

[ss. 2, 93 and 102.]

Scheduled premises.

<i>Class of premises.</i>	<i>No. of cubic feet per hour for each person who may be accommodated in the premises.</i>
Restaurants	600
Dancing establishments	600
Theatres	450
Cinemas	450

THIRD SCHEDULE.

[s. 3.]

Designated Authorities.

<i>Section.</i>	<i>Urban Areas.</i>	<i>New Territories (excluding New Kowloon).</i>
4	Director of Public Works	Director of Public Works
5	Director of Public Works	Director of Public Works
6(1)(e) and (2)	Director of Public Works	Director of Public Works
7(1)	Director of Public Works	Director of Public Works
9	Director of Public Works	Director of Public Works
10(1) and (2)	Director of Public Works	Director of Public Works
13(1), (2)(b), (3) and (4)	Urban Council	Director of Urban Services
14(1) and (2)(b)	Urban Council	Director of Urban Services
15(1)	Urban Council	Governor in Council
16	Urban Council	Director of Urban Services
17	Urban Council	Director of Urban Services
18	Urban Council	Director of Urban Services
19(1) and (2)	Urban Council	Director of Urban Services
20(1) and (2)	Urban Council	Director of Urban Services
21(2)	Urban Council	Director of Urban Services
22(2), (3), (4) and (5)	Urban Council	Director of Urban Services
23(1)	Urban Council	Director of Urban Services
24(1) and (2)(b)	Urban Council	Director of Urban Services
26(1)	Urban Council	Governor in Council

<i>Section.</i>	<i>Urban Areas.</i>	<i>New Territories (excluding New Kowloon).</i>
27(1), (2)(b) and (3)	Urban Council	Director of Urban Services
28	Urban Council	Governor in Council
29	Urban Council	Governor in Council
30(1), (2)(b) and (3)	Urban Council	Director of Urban Services
32(1), (2)(b) and (3)	Urban Council	Director of Urban Services
33(1), (2), (3)(b), (4) and (5)	Urban Council	Director of Urban Services
34(b)	Urban Council	Director of Urban Services
35	Urban Council	Governor in Council
36(1) and (2)	Urban Council	Director of Urban Services
37	Urban Council	Director of Urban Services
38	Urban Council	Director of Urban Services
40	Urban Council	Governor in Council
41	Urban Council	Governor in Council
42(1)	Urban Council	Governor in Council
44(1) and (2)	Urban Council	Director of Urban Services
46(1)	Urban Council	Director of Urban Services
47(1), (2), (3), (4) and (5)	Urban Council	Director of Urban Services
48	Urban Council	Governor
49	Urban Council	Governor in Council
56(1) and (5)	Urban Council	Governor in Council
58(1)	Urban Council	Governor
59(1), (2), (4), (5) and (7)	Urban Council and, in respect of drugs, Director of Medical and Health Services.	Director of Urban Services and, in respect of drugs, Director of Medical and Health Services.
62(1)	Urban Council and, in respect of drugs, Director of Medical and Health Services.	Director of Urban Services and, in respect of drugs, Director of Medical and Health Services.
69(1)	Urban Council and, in respect of drugs, Director of Medical and Health Services.	Director of Urban Services and, in respect of drugs, Director of Medical and Health Services.
70(3) and (4)	Urban Council and, in respect of drugs, Director of Medical and Health Services.	Director of Urban Services and, in respect of drugs, Director of Medical and Health Services.

<i>Section.</i>	<i>Urban Areas.</i>	<i>New Territories (excluding New Kowloon).</i>
75	Urban Council and, in respect of drugs, Director of Medical and Health Services.	Director of Urban Services and, in respect of drugs, Director of Medical and Health Services.
77(1)	Urban Council	Governor in Council
78(1), (2) and (3)	Urban Council	Director of Urban Services
80(1)	Urban Council in respect of public markets.	Governor in Council
80(2)	—	Governor in Council
82(1), (3) and (4)	Urban Council	Director of Urban Services
83(1) and (2)	Urban Council	Governor in Council
84(1)	Urban Council	Director of Urban Services
86(1), (2) and (3)	Urban Council	Director of Urban Services
88(1)	Urban Council	Governor in Council
89	Urban Council	Director of Urban Services
90	Urban Council	Governor in Council
91(1)	Urban Council	Director of Urban Services
93(1) and (2)	Urban Council	Director of Urban Services
94(1) and (2)	Urban Council	Director of Urban Services
95(2)	Urban Council	Director of Urban Services
97(1) and (2)	Urban Council	Director of Urban Services
98(1)(a), (d), (e) and (f)	Urban Council	Director of Urban Services
99(1)(a)	Urban Council	Director of Urban Services
100	Urban Council	Director of Urban Services
101(1)(c) and (2)	Urban Council	Director of Urban Services
104(1)	Urban Council	Governor in Council
104(3)	Urban Council	District Commissioner, New Territories
105(1), (2)(b), (3) and (4)	Urban Council	District Commissioner, New Territories
106(3) and (4)	Director of Public Works	District Commissioner, New Territories
107(1) and (2)	Urban Council	Director of Urban Services
108(1) and (2)(b)	Urban Council	Director of Urban Services
108(2)(a)	Director of Education	Director of Urban Services
109	Urban Council	Governor in Council
111(1)	Urban Council	Director of Urban Services
112(2)	Urban Council	Director of Urban Services

<i>Section.</i>	<i>Urban Areas.</i>	<i>New Territories (excluding New Kowloon).</i>
114(1) and (2)	Director of Public Works in respect of cemeteries specified in Parts I and II of Fifth Schedule.	District Commissioner, New Territories, in respect of cemeteries specified in Parts III and IV of Fifth Schedule.
115(1) and (2)	Urban Council in respect of cemeteries specified in Part I of Fifth Schedule.	Director of Urban Services in respect of cemeteries specified in Part III of Fifth Schedule.
116(1) and (2)	Urban Council in respect of cemeteries specified in Parts I and II of Fifth Schedule.	Governor in Council in respect of cemeteries specified in Parts III and IV of Fifth Schedule.
118(1) and (4)	Urban Council	Director of Urban Services
118(2)	Urban Council in respect of those cemeteries specified in Part I of Fifth Schedule which are situated in New Territories, as well as in urban areas.	Director of Urban Services, save in respect of those cemeteries specified in Part I of Fifth Schedule which are situated in New Territories.
121(2)	Urban Council in respect of those cemeteries specified in Part I of Fifth Schedule which are situated in New Territories, as well as in urban areas.	Director of Urban Services, save in respect of those cemeteries specified in Part I of Fifth Schedule which are situated in New Territories.
123(1)	Urban Council	Governor in Council
124(1) and (2)	Urban Council	Director of Urban Services
127(1), (2), (4), (7)(b), (8)(b) and (9)	Urban Council	Director of Urban Services

FOURTH SCHEDULE.

[ss. 2 and 106.]

Public Pleasure Grounds.

Public pleasure grounds (other than bathing beaches).

The Island of Hong Kong.

Albany Playground
 Blake Gardens
 Botanic Gardens
 Bowen Road Playground
 Cenotaph, the
 Gloucester Promenade (Stage I)
 Gough Hill Path Children's Playground
 Jardine's Corner Children's Playground, the Peak
 Kau Yue Fong Children's Playground
 King George V Memorial Park, Hong Kong
 Plantation Road Children's Playground, the Peak

Repulse Bay Gardens
 Southorn Playground
 Victoria Park
 Wan Chai Gap Rest Garden, the Peak
 Wong Nei Chung Recreation Grounds (Happy Valley)
 Wun Sha Street Children's Playground

Kowloon and New Kowloon.

Argyle Street Playground
 Chatham Road Children's Playground
 Chatham Road Rest Garden
 Cornwall Street Children's Playground
 Cox's Road Children's Playground
 Dorset Crescent Rest Garden
 Essex Crescent Rest Garden
 Fuk Wah Street Rest Garden
 Fuk Wing Street Rest Garden
 Gascoigne Road Rest Garden
 King George V Memorial Park, Kowloon
 King's Park Pool Ground (Area H only)
 Kun Yam Street Rest Garden
 Lai Chi Kok Beach Road Rest Garden
 Li Cheng Uk Resettlement Playground
 Li Cheng Uk Tomb and Garden
 Maple Street Playground
 MacPherson Playground
 Middle Road Children's Playground
 Nan Chang Street Rest Garden
 Peace Avenue Playground
 Poplar Street Children's Playground
 Prince Edward Road Rest Garden
 Rest Garden—Junction of Gascoigne Road and Nathan Road
 Rest Garden—Junction of Tai Po Road and Castle Peak Road
 Rutland Quadrant Children's Playground
 Sai Yee Street Children's Playground
 Shek Kip Mei Resettlement Playground
 Sung Wong Toi Garden
 Tai Hang Tung Resettlement Playground
 Willow Street Playground
 Yen Chow Street Playground
 Yim Po Fong Street Rest Garden

*Bathing beaches.**Urban areas.*

Big Wave Bay
 Chung Hom Wan (West Bay)
 Deep Water Bay
 Hairpin

Lai Chi Kok Bay
 Middle Bay
 Repulse Bay
 Shek O
 South Bay
 St. Stephen's
 Turtle Cove
 Tai Tam Bay (Stanley)

New Territories.

Southern District.

Campers Beach
 Clearwater Bay, Clearwater Bay Road
 Kwun Yam (Afternoon) Beach, Cheung Chau
 Silvermine Bay, Lantau
 Silverstrand, Clearwater Bay Road
 Trio (Hebehaven)
 Tung Wan Beach, Cheung Chau

Tsuen Wan District.

Anglers' Beach, 13 milestone, Castle Peak Road
 Approach Beach, 10½ milestone, Castle Peak Road
 Casam Beach, 11½ milestone, Castle Peak Road
 Dragon Beach, 13½ milestone, Castle Peak Road
 Gemini Beaches, 12 milestone, Castle Peak Road
 Hoi Mei Wan, 11½ milestone, Castle Peak Road
 Lido Beach, 11½ milestone, Castle Peak Road
 Tai Lam Beach
 Ting Kau Beach, 11 milestone, Castle Peak Road

Yuen Long District.

Cafeteria Beach, 18½ milestone, Castle Peak Road
 Castle Peak Beach, 19 milestone, Castle Peak Road
 Kadoorie Beach, 18½ milestone, Castle Peak Road

FIFTH SCHEDULE.

[ss. 2 and 113.]

Cemeteries.

PART I.

Public cemeteries.

<i>Name of Cemetery.</i>	<i>Location.</i>
Ap Lei Chau Urn Cemetery	Aberdeen
Colonial Cemetery	Happy Valley
Garden of Remembrance	Cape Collinson

<i>Name of Cemetery.</i>	<i>Location.</i>
Kai Lung Wan Cemetery, East	Pok Fu Lam
Kai Lung Wan Cemetery, West	Pok Fu Lam
Kai Lung Wan East Urn Cemetery	Pok Fu Lam
Mount Caroline Cemetery	So Kon Po
New Colonial Cemetery	Cape Collinson
New Kowloon Cemetery No. 8 (Diamond Hill Urn Cemetery)	Kowloon
Prison Cemetery	Stanley
Sandy Ridge Cemetery	Lo Wu, New Territories
Sandy Ridge Urn Cemetery	Lo Wu, New Territories
Wo Hop Shek Cemetery	Fanling, New Territories

PART II.

Private cemeteries.

Carmelite Cemetery	Stanley
Chinese Permanent Cemetery	Aberdeen
Chiu Yuen Cemetery	Mount Davis
Christian Chinese Cemetery	Pok Fu Lam Road
French Mission Cemetery	Pok Fu Lam
Hindu Cemetery	Happy Valley
Jewish Cemetery	Happy Valley
Muslim Cemetery	Happy Valley
New Kowloon Cemetery No. 1 (Christian Chinese Cemetery)	Grampian Road, Kowloon
New Kowloon Cemetery No. 2 (Little Sisters of the Poor Cemetery)	Clear Water Bay Road, Kowloon
New Kowloon Inland Lot No. 2662 Cemetery (Roman Catholic Cemetery)	Castle Peak Road, Kowloon
Roman Catholic Cemetery	Happy Valley
Sai Wan War Cemetery	Cape Collinson Road
Stanley Military Cemetery	Stanley
Zoroastrian Cemetery	Happy Valley

PART III.

Public cemeteries.

Cheung Chau Cemetery	Cheung Chau, New Territories
Tai O Cemetery	Lantau, New Territories

PART IV.

Private cemeteries.

<i>Name of Cemetery.</i>	<i>Location.</i>
Castle Peak Christian Cemetery	New Territories
Cheung Chau Christian Cemetery	Cheung Chau, New Territories
Cheung Chau Catholic Cemetery	Cheung Chau, New Territories
Chuen Yuen Tong Cemetery	Tsuen Wan, New Territories
Sai Kung Catholic Cemetery	Sai Kung, New Territories
Sung Him Tong Sung Chan Wui Kei Tuk Kau Fan Cheung	New Territories
Tao Fong Shan Christian Cemetery	New Territories
Tsuen Wan Chinese Cemetery	Tsuen Wan, New Territories

SIXTH SCHEDULE.

[s. 131.]

Name in which proceedings for offences may be brought.

<i>Section.</i>	<i>Urban Areas.</i>	<i>New Territories.</i>
6(1)(a), (b), (c), (d) or (e)	Director of Public Works	Director of Public Works
7(2)	Director of Public Works	Director of Public Works
9(a) or (b)	Director of Public Works	Director of Public Works
10(3)	Director of Public Works	Director of Public Works
13(2)(a)	Urban Council	Director of Urban Services
13(5)	Urban Council	Director of Urban Services
14(2)(a)	Urban Council	Director of Urban Services
17	Urban Council	Director of Urban Services
21(2)	Urban Council	Director of Urban Services
22(1)(a)	Urban Council	Director of Urban Services
24(2)(a)	Urban Council	Director of Urban Services
25(a) or (b)	Urban Council	Director of Urban Services
27(2)(a)	Urban Council or Director of Medical and Health Services	Director of Urban Services or Director of Medical and Health Services
27(3)	Urban Council or Director of Medical and Health Services	Director of Urban Services or Director of Medical and Health Services
30(2)(a)	Urban Council	Director of Urban Services
31	Urban Council	Director of Urban Services
32(2)(a)	Urban Council	Director of Urban Services
33(3)(a)	Urban Council	Director of Urban Services
34(a) or (b)	Urban Council	Director of Urban Services

*Section.**Urban Areas.**New Territories.*

36(2)	Urban Council	Director of Urban Services
43(2)	Urban Council	Director of Urban Services
47(2)(a)	Urban Council	Director of Urban Services
47(5)	Urban Council	Director of Urban Services
50(4)	Urban Council where the offence was committed in respect of food. Director of Medical and Health Services where the offence was committed in respect of drugs.	Director of Urban Services where the offence was committed in respect of food. Director of Medical and Health Services where the offence was committed in respect of drugs.
51(5)	Urban Council	Director of Urban Services
52(1)	Urban Council where the offence was committed in respect of food. Director of Medical and Health Services where the offence was committed in respect of drugs.	Director of Urban Services where the offence was committed in respect of food. Director of Medical and Health Services where the offence was committed in respect of drugs.
54(1) or (2)	Urban Council where the offence was committed in respect of food. Director of Medical and Health Services where the offence was committed in respect of drugs.	Director of Urban Services where the offence was committed in respect of food. Director of Medical and Health Services where the offence was committed in respect of drugs.
59(3)	Urban Council where the offence was committed in respect of food. Director of Medical and Health Services where the offence was committed in respect of drugs.	Director of Urban Services where the offence was committed in respect of food. Director of Medical and Health Services where the offence was committed in respect of drugs.
61(1) or (2)	Urban Council where the offence was committed in respect of food. Director of Medical and Health Services where the offence was committed in respect of drugs.	Director of Urban Services where the offence was committed in respect of food. Director of Medical and Health Services where the offence was committed in respect of drugs.
62(4)	Urban Council where the demand or requisition re- lated to food. Director of Medical and Health Services where the demand or requisition re- lated to drugs.	Director of Urban Services where the demand or requisition related to food. Director of Medical and Health Services where the demand or requisition related to drugs.
63(9)	Urban Council where the certificate relates to food. Director of Medical and Health Services where the certificate relates to drugs.	Director of Urban Services where the certificate relates to food. Director of Medical and Health Services where the certificate relates to drugs.

Section.	Urban Areas.	New Territories.
68(3)	Urban Council or Director of Medical and Health Services	Director of Urban Services or Director of Medical and Health Services
69(2)	Urban Council where the direction was given by a public officer authorized by the Council and where the notification was given in relation to food. Director of Medical and Health Services where the direction was given by a public officer authorized by him and where the notification was given in relation to drugs.	Director of Urban Services where the direction was given by a public officer authorized by him and where the notification was given in relation to food. Director of Medical and Health Services where the direction was given by a public officer authorized by him and where the notification was given in relation to drugs.
72(1) or (2)	Urban Council where the offence was committed in respect of food. Director of Medical and Health Services where the offence was committed in respect of drugs.	Director of Urban Services where the offence was committed in respect of food. Director of Medical and Health Services where the offence was committed in respect of drugs.
79(3)	Urban Council	—
81(2)	Urban Council	Director of Urban Services
99(1)(a), (b), (c), (d) or (e)	Urban Council	Director of Urban Services
99(2)	Urban Council	Director of Urban Services
105(2)(a)	Urban Council	Director of Urban Services
110(2)	Urban Council	Director of Urban Services
112(1) or (2)	Urban Council	Director of Urban Services
115(3)	Urban Council where the offence was committed in any cemetery specified in Part I of Fourth Schedule, as well as in urban areas.	Director of Urban Services, save where the offence was committed in any cemetery specified in Part I of Fourth Schedule which is situated in New Territories.
117(2)	Urban Council in respect of cemeteries specified in Part I of Fourth Schedule.	Director of Urban Services in respect of cemeteries specified in Part III of Fourth Schedule.
118(1)	Urban Council	Director of Urban Services
118(2)	Urban Council where the offence was committed in any cemetery specified in Part I of Fourth Schedule, as well as in urban areas.	Director of Urban Services, save where the offence was committed in any cemetery specified in Part I of Fourth Schedule which is situated in New Territories.
124(2)	Urban Council	Director of Urban Services
127(3)(a) or (b)	Urban Council	Director of Urban Services
127(7)(a)	Urban Council	Director of Urban Services

SEVENTH SCHEDULE.

FORMS.

FORM A.

[ss. 64(1) & 65(1).]

PUBLIC HEALTH AND URBAN SERVICES ORDINANCE, 1960.

Certificate of analysis.

To

I, the undersigned, being a public analyst for the purposes of the Public Health and Urban Services Ordinance, 1960, do hereby certify that I received on the day of 19 from a sealed packet marked said to contain a sample of that I found the seals intact and have analysed the contents of the said packet and declare the result of my analysis to be as follows.

I am of opinion that the same is a genuine sample of

or

I am of opinion that the said sample contained the parts as under or the foreign ingredients as under

Observations.

.....
.....

As witness my hand this day of, 19

Signature

Government Chemist.
(or as case may be).

Note—All percentages given in definitions or standards prescribed are, unless otherwise specified, percentages by weight.

FORM B.

[s. 85.]

PUBLIC HEALTH AND URBAN SERVICES ORDINANCE, 1960.

(section 85).

TAKE NOTICE that you, of (here insert residence (if any)), having been arrested by me on suspicion of being guilty of an offence under (here insert provisions alleged to have been contravened), are hereby required to attend at (here specify place) on the day of 19 at o'clock in the noon for the purpose of being dealt with in the manner provided by subsections (2), (3) and (4) of section 85 of the Public Health and Urban Services Ordinance, 1960.

AND FURTHER TAKE NOTICE that, if you fail without reasonable cause to the satisfaction of a court to attend at the place, and on the day and at the time, specified in this notice, you will be liable to a fine of five hundred dollars and to imprisonment for two months.

This notice was issued by
 (here insert name and description of issuing officer)
 at (here insert place and time of
 issue) on the day of, 19

.....
Signature of issuing officer.

FORM C. [s. 85(5).]
 PUBLIC HEALTH AND URBAN SERVICES ORDINANCE, 1960.
 (section 85(5)).
Warrant for arrest.

HONG KONG.

IN THE MAGISTRATE'S COURT AT

To

Application having been made this day to me, a magistrate of the said Colony, for the issue of a warrant under section 85(5) of the Public Health and Urban Services Ordinance, 1960, for the arrest of on the ground that the said

**(a)* failed to attend at the place, and on the day and at the time, specified in a notice served upon him under the provisions of section 85(1) of the said Ordinance,

**(b)* failed to appear before the court in accordance with the provisions of section 85(4) of the said Ordinance,

and oath (or declaration) having been made before me substantiating the matter in respect of which such application was made: These are, therefore, to command you, in Her Majesty's name, forthwith to apprehend the said

Dated this day of, 19

[L.S.]

(Signed)
Magistrate.

* Delete whichever is inapplicable.

FORM D. [s. 126(2).]
 PUBLIC HEALTH AND URBAN SERVICES ORDINANCE, 1960.
 (section 126(2)).
Warrant to effect entry into premises.

WHEREAS application has been made by A.B. to me, C.D., a magistrate/justice of the peace of the Colony of Hong Kong, to authorize the said A.B. to enter certain premises (here insert description of premises), and whereas I, C.D., am satisfied by information on oath that there is reasonable ground for entry to such premises and that (here insert ground on which warrant is issued).

Now, therefore, I, the said C.D., do hereby authorize the said A.B. to enter the said premises, if need be by force, with such assistants as he may require, and there execute his duties under the said Ordinance.

Dated this day of, 19

[L.S.]

(Signed)
Magistrate/Justice of the Peace.

FORM E. [s. 127(1).]
 PUBLIC HEALTH AND URBAN SERVICES ORDINANCE, 1960.
 (section 127(1)).
Nuisance notice.

To (person by reason of whose act, default or sufferance the nuisance arose or exists, or owner or occupier of the premises at which the nuisance exists, as the case may be).

1. Take notice that under the provisions of the Public Health and Urban Services Ordinance, 1960, the (specify the Authority), being satisfied of the existence at (describe premises where nuisance exists) of a nuisance, being (describe the nuisance), do hereby require you, within (specify the time) from the service of this notice, to abate the nuisance, and for that purpose to (specify any works to be executed) [and the said (Authority) do hereby require you within the said period to do what is necessary for preventing the recurrence of the nuisance and for this purpose to (specify any works to be executed)].

Where the nuisance has been abated but is likely to recur, say being satisfied that at (describe premises where nuisances existed) there existed recently, namely, on or about the (specify the date), the following nuisance, namely, (describe the nuisance), and that although the said nuisance has since the last mentioned day been abated, the nuisance is likely to recur at the said premises, do hereby require you, within (specify the time) from the service of this notice, to do what is necessary for preventing the recurrence of the nuisance, and for that purpose to (specify any works to be executed).

2. If you make default in complying with the requirements of this notice (or if the said nuisance, though abated, is likely to recur) application will be made to a Magistrate's Court for a summons to be issued requiring your attendance before such court to answer a complaint which will be made for the purpose of enforcing the abatement of the nuisance and/or prohibiting the recurrence thereof, or both, and for recovering the costs and penalties that may be incurred thereby.

Dated this day of, 19.....

Signature



PUBLIC HEALTH AND URBAN SERVICES ORDINANCE, 1960.

(section 127(4)).

Nuisance Order.

To A.B., of
 (or to the owner or occupier of) (describe premises) situated (insert such description of the situation as may be sufficient to identify the premises), WHEREAS the said A.B. (or the owner or occupier, namely of the said premises within the meaning of the Public Health and Urban Services Ordinance, 1960 has this day appeared before me (or us, describing the court) to answer the matter of a complaint made by &c. that at &c. (follow the words of complaint in summons) (or in case the party charged do not appear, say WHEREAS it has been now proved to my (or our) satisfaction that a summons has been duly served according to the Public Health and Urban Services Ordinance, 1960, requiring the said A.B. (or the owner or occupier of the said premises) to appear this day before me (or us) to answer the matter of a complaint made by &c. that at &c.):

(Any of the following orders may be made or a combination of any of them, as the case seems to require).

Abatement order.

Now on proof here had before me (or us) that the nuisance so complained of does exist at the said premises (add, where the order is made on the person causing the nuisance, and that the nuisance is caused by the act, default or suffering of A.B.), I (or we), in pursuance of the Public Health and Urban Services Ordinance, 1960, do order the said A.B. (or the said owner or occupier) within (specify the time) from the service of this order according to the said Ordinance to (here specify the nuisance to be abated).

Prohibition Order No. 1.

And I (or we) being satisfied that, notwithstanding that the said nuisance may be temporarily abated under this order, the nuisance is likely to recur, do therefore prohibit the said A.B. (or the said owner or occupier) from allowing the recurrence of the said or like nuisance (and for that purpose I or we direct the said A.B. or the said owner or occupier [here specify any works to be executed]).

Prohibition Order No. 2.

Now, on proof here had before me (or us) that at or recently before the time of making the said complaint, to wit, on the nuisance so complained of did exist at the said premises, but that the nuisance has since been abated (add where the order is made on the person causing the nuisance, and that the nuisance was caused by the act, default or suffering of A.B.), yet, notwithstanding the abatement, I (or we) being satisfied that it is likely that the same or the like nuisance will recur at the said premises, do therefore prohibit (continue as in Prohibition Order No. 1).

Closing order.

Now, on proof here had before me (or us) that the nuisance is such as to render the dwelling-house (describe the house) situated at (insert such a description of the situation as may be sufficient to identify the dwelling-house) unfit in my (or our) judgment for human habitation, I (or we) in pursuance of the Public Health and Urban Services Ordinance, 1960, do hereby prohibit the use of the said dwelling-house for human habitation.

Dated this day of, 19.....

[L.S.]

(Signed)
Magistrate/Justice of the Peace.*Enactments repealed or amended.*

<i>Reference.</i>	<i>Short title or citation.</i>	<i>Extent of repeal or amendment.</i>
1. 23 of 1917.	Boarding-house Ordinance.	The Ordinance is repealed.
2. 15 of 1935.	Public Health (Sanitation) Ordinance, 1935.	(a) The Ordinance is repealed except sections 3, 50, 69, 70 and 81 which shall, subject, in the case of section 3, to the provisions of paragraph (b) hereof, remain in force until replaced, with or without amendment, or repealed by regulations made under this Ordinance. (b) Section 3 is repealed and replaced by the following— "Interpretation. 3. In this Ordinance save where the context otherwise requires— "Council" means the Urban Council; "offensive trade" means any trade, business, process or manufacture declared under the provisions of section 48 of the Public Health and Urban Services Ordinance, 1960, to be an offensive trade."
3. Cap. 52.	Advertisements Regulation Ordinance.	The Ordinance is repealed.
4. Cap. 97.	New Territories Ordinance.	Subsection (2) of section 4 is repealed.
5. Cap. 132.	Adulterated Food and Drugs Ordinance.	The Ordinance is repealed.
6. Cap. 140.	Public Health (Food) Ordinance.	The Ordinance is repealed.
7. Cap. 157.	Hawkers Ordinance.	The Ordinance is repealed.
8. Cap. 169.	Prevention of Cruelty to Animals Ordinance.	1. Section 2 is amended— (a) by the deletion of the definition of the words "food officer"; and (b) by the insertion, after the definition of the word "animal", of the following new definitions— "health inspector" has the meaning assigned by

Reference.	Short title or citation.	Extent of repeal or amendment.
		section 2 of the Public Health and Urban Services Ordinance, 1960; "health officer" has the meaning assigned by section 2 of the Public Health and Urban Services Ordinance, 1960;".
		2. Section 4 is amended—
		(a) in subsection (1)—
		(i) by the deletion of the words "food officer" and the substitution therefor of the following— "health officer or health inspector"; and
		(ii) by the insertion, after the words "such officer", of the following— "or inspector";
		(b) in subsection (2), by the insertion, after the words "such officer", of the following— "or inspector";
		(c) in subsection (3), by the insertion, after the words "such officer", of the following— "or inspector"; and
		(d) in subsection (4), by the insertion, after the words "such officer" in each case when they appear, of the following— "or inspector".
		3. Section 6 is amended—
		(a) by the deletion of the words "food officer" and the substitution therefor of the following— "health officer or health inspector"; and
		(b) by the insertion, after the words "such officer", of the following— "or inspector".
9. Cap. 173.	Pleasure Grounds and Bathing Places Ordinance.	The Ordinance is repealed.
10. Cap. 227.	Magistrates Ordinance.	Section 99 is repealed.
11. Fraser Vol. II, p. 637.	Rules under the heading "Keeping of cattle, swine, sheep and goats".	The rules are revoked.

Reference.	Short title or citation.	Extent of repeal or amendment.
12. Fraser Vol. III, p. 840.	Rules made under the Asiatic Emigration Ordinance, 1915 and the Boarding-house Ordinance, 1917.	The Rules are revoked.
13. Schedule A to Public Health (Sanitation) Ordinance, 1935.	By-laws under the heading "Cattle, Swine, etc." Conservancy By-laws. Offensive Trades By-laws. Domestic Cleanliness and Prevention of Disease By-laws. By-laws under the heading "Mosquito Prevention". Scavenging By-laws, 1935.	The By-laws are cancelled. The By-laws are cancelled. By-laws 15, 16, 17, 18, and 19 are cancelled. The By-laws are cancelled. By-law 2 is cancelled. The By-laws are cancelled.
14. Second Schedule to repealed Pleasure Grounds and Bathing Places Regulation Ordinance, 1936.	Regulations relating to pleasure grounds and bathing places.	The Regulations are revoked.
15. Vol. IX, p. 81.	Nuisances Control (N.T.) Regulations.	The Regulations are revoked.
16. Vol. IX, p. 82.	Offensive Trades (N.T.) Rules.	Rule 3 is revoked.
17. Vol. IX, p. 86.	Conservancy (N.T.) Rules.	Rules 4 and 5 are revoked.
18. Vol. IX, p. 89.	New Territories Rules.	1. Rule 2 is amended by—
		(a) the deletion therefrom of the definitions of the words "food", "hawker" and "market";
		(b) the deletion therefrom of the definition of the words "health officer" and the substitution therefor of the following— "health officer" has the meaning assigned to it by section 2 of the Public Health and Urban Services Ordinance, 1960 and also means a veterinary officer;";

Reference.	Short title or citation.	Extent of repeal or amendment.
		(c) the deletion of the definition of the words "market area" and the substitution thereof of the following— " "market area" means the area which has been declared by the Governor under subsection (2) of section 79 of the Public Health and Urban Services Ordinance, 1960, to be the area served by any market;" and
		(d) the deletion, from the definition of the words "sale" and "sell", of the following— "includes barter, and also".
		2. Paragraph (2) of rule 3 is amended by the deletion therefrom of the word "declared".
		3. Rules 8, 11, 14, 15, 16, 17, 18 and 19 are revoked.
		4. Rules 31, 47, 68 and 119 are amended by the deletion therefrom of the words "and shall not absent himself for more than one calendar month without previous notification in writing to the District Commissioner".
		5. Rules 71 and 148 are revoked.
		6. Paragraph (2) of rule 200(k) is revoked.
19. Vol. X, p. 5.	Adulterated Food and Drugs Regulations.	The Regulations are revoked.
20. Vol. X, p. 11.	Preservatives in Food Regulations.	The Regulations are revoked.
21. Vol. X, p. 118.	Milk Shops and Pasteurization Plants By-laws.	The By-laws are cancelled.
22. Vol. X, p. 126.	Reconstituted Milk and Cream By-laws.	The By-laws are cancelled.
23. Vol. X, p. 129.	Food Factories By-laws.	The By-laws are cancelled.
24. Vol. X, p. 140.	Food Shops By-laws.	The By-laws are cancelled.
25. Vol. X, p. 147.	Markets By-laws.	The By-laws are cancelled.
26. Vol. X, p. 157.	Restaurants and Food Stalls By-laws	The By-laws are cancelled.

Reference.	Short title or citation.	Extent of repeal or amendment.
27. Vol. X, p. 174.	Disease Prevention (Food and Drinks) By-laws.	The By-laws are cancelled.
28. Vol. X, p. 177.	Roast Meat Shops By-laws.	The By-laws are cancelled.
29. Vol. X, p. 179.	Salted or Dried Fish By-laws.	The By-laws are cancelled.
30. Vol. X, p. 208.	Hawkers By-laws.	(1) The By-laws are cancelled: Provided that, in relation to any person who is, at the commencement of this Ordinance, a licensed Stallholder hawker, the provisions of the said By-laws shall, so far as the same are applicable, continue in operation until such date as may be appointed by the Chairman of the Urban Council by notification in the <i>Gazette</i> as the date on which the same shall cease to continue in operation. (2) The Chairman of the Council may, under the proviso to paragraph (1), appoint the same date for the whole of the urban areas or different dates for different parts thereof.
31. Vol. X, p. 289.	Places of Public Entertainment Regulations.	The Regulations are amended by the addition, thereto, after regulation 122, of the following new regulation— "Application of regulations 106, 108, 109, 112, 113, 116, 117, 118, 119 and 120 to theatres and cinemas. 122A. On the commencement of the Public Health and Urban Services Ordinance, 1960, the provisions of regulations 106, 108, 109, 112, 113, 116, 117, 118, 119 and 120 shall cease to apply to a theatre or a cinema".
32. G.N.A. 86/52.	Slaughter-houses (N.T.) Rules, 1952.	Rule 2 is amended by the deletion therefrom of the definition of the words "health officer".
33. G.N.A. 100/52.	Labourers' Lines (N.T.) Rules, 1953.	1. Rule 2 is amended by the deletion therefrom of the definitions of the words "health officer" and "lines". 2. Rule 8 is amended by the deletion therefrom of the following— "for the purposes of paragraph (i) of subsection (1) of section 4 of the Public Health (Sanitation) Ordinance, 1935".

<i>Reference.</i>	<i>Short title or citation.</i>	<i>Extent of repeal or amendment.</i>
34. G.N.A. 181/53.	Emergency [Public Health (Sanitation) Ordinance] (Amendment) Regulations, 1953.	The Regulations are revoked.
35. G.N.A. 54/54.	Cemeteries (N.T.) Rules, 1954.	The Rules are revoked.
36. G.N.A. 55/54.	Cheung Chau (Urn) Cemetery (Establishment) Rules, 1954.	The Rules are revoked.
37. G.N.A. 149/54.	Chinese Recreation Ground Fund Regulations, 1954.	The Regulations are revoked.
38. G.N.A. 150/54.	Yaumati Public Square Fund Regulations, 1954.	The Regulations are revoked.
39. G.N.A. 59/55.	Markets and Market Areas (N.T.) Rules, 1955.	The Rules are revoked.
40. G.N.A. 35/57.	Wo Hop Shek Cemetery (Establishment) Rules, 1957.	The Rules are revoked.

NINTH SCHEDULE.

[s. 150(1)]

Regulations continued in operation.

<i>Reference.</i>	<i>Citation.</i>	<i>Section of Ordinance under which deemed to have been made or prescribed.</i>
1. Schedule A to Public Health (Sanitation) Ordinance, 1935.	Cemeteries By-laws.	Section 116.
	Offensive Trades By-laws.	Section 49.
	By-laws under the heading "Latrine Accommodation."	Section 29.
	By-laws under the heading "Latrines (Public)."	Section 35.
	Laundries By-laws.	Section 40.
	By-laws under the heading "Mosquito Prevention."	Section 28.
	By-laws under the heading "Private Mortuaries."	Section 123.
	Swimming Pools By-laws.	Section 42.
	Public Bath-House By-laws, 1951.	Section 35.
	2. Vol. VIII, p. 313.	Advertisement By-laws.

<i>Reference.</i>	<i>Citation.</i>	<i>Section of Ordinance under which deemed to have been made or prescribed.</i>
3. Vol. IX, p. 63.	Duplicate Permits and Licences (N.T.) Rules.	—
4. Vol. IX, p. 82.	Offensive Trades (N.T.) Rules.	Section 49.
5. Vol. IX, p. 86.	Conservancy (N.T.) Rules.	Section 15.
6. Vol. IX, p. 89.	New Territories Rules	Section 56, save for the rules under the headings "GENERAL RULES FOR ALL MARKETS.", "SPECIAL RULES FOR GOVERNMENT MARKETS.", "SPECIAL RULES FOR PRIVATE MARKETS." and "RULES FOR HAWKERS.". Rules under the headings "GENERAL RULES FOR ALL MARKETS.", "SPECIAL RULES FOR GOVERNMENT MARKETS." and "SPECIAL RULES FOR PRIVATE MARKETS." and rules 2, 3, 4, 5, 6, 7, 9, 10, 11, 21 and 201 so far as the same are applicable for the purposes of, or in connexion with, the rules under the aforesaid headings, section 80. Rules under the heading "RULES FOR HAWKERS." and rules 2, 3, 4, 5, 6, 7, 9, 10, 11, 21 and 201 so far as the same are applicable for the purposes of, or in connexion with, the rules under the aforesaid heading, section 83.
7. Vol. X, p. 181.	Slaughter-houses By-laws.	Section 77.
8. G.N.A. 86/52.	Slaughter-houses (N.T.) Rules, 1952.	Section 77.
9. G.N.A. 100/53.	Labourers' Lines (N.T.) Rules, 1953.	Section 41.
10. G.N.A. 79/57.	Victoria Park Swimming Pool By-laws, 1957.	Section 42.

TENTH SCHEDULE.

[s. 151.]

Penalties.

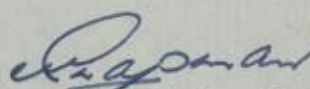
<i>Section.</i>	<i>Penalty.</i>	<i>Daily penalty.</i>
6(1)(a), (b) or (c)	\$ 500 fine	—
6(1)(d) or (e)	\$1,000 fine	—
7(2)	\$ 500 fine	—

Section.	Penalty.	Daily penalty.
9(a) or (b)	\$ 200 fine	—
10(3)	\$ 200 fine	—
13(2)(a)	\$1,000 fine	\$ 20 fine
13(5)	\$ 200 fine	\$ 5 fine
14(2)(a)	\$ 500 fine	\$ 10 fine
17	\$1,000 fine	—
21(2)	\$1,000 fine	\$ 20 fine
22(1)(a)	\$ 500 fine	\$ 10 fine
24(2)(a)	\$ 500 fine	\$ 10 fine
25(a)	\$ 200 fine	—
25(b)	\$ 500 fine	—
27(2)(a)	\$1,000 fine	\$ 20 fine
27(3)	\$ 200 fine	—
30(2)(a)	\$1,000 fine	\$ 20 fine
31	\$ 200 fine	—
32(2)(a)	\$1,000 fine	\$ 20 fine
33(3)(a)	\$1,000 fine	\$ 20 fine
34(a) or (b)	\$ 200 fine	—
36(2)	\$1,000 fine	\$ 20 fine
43(2)	\$ 20 fine	—
47(2)(a)	\$1,000 fine	\$ 20 fine
47(5)	\$ 200 fine	—
50(4)	\$2,000 fine and 3 months imprisonment	—
51(5)	\$2,000 fine and 3 months imprisonment	—
52(1) or (2)	\$2,000 fine and 3 months imprisonment	—
54(1) or (2)	\$2,000 fine and 3 months imprisonment	—
58(4) or (5)	\$2,000 fine and 3 months imprisonment	—
59(3)	\$2,000 fine and 3 months imprisonment	—
61(1) or (2)	\$2,000 fine and 3 months imprisonment	—
62(4)	\$1,000 fine	—
63(9)	\$1,000 fine	—
68(3)	\$ 200 fine	—
69(2)	\$2,000 fine and 3 months imprisonment	—
72(1) or (2)	\$2,000 fine and 3 months imprisonment	—
79(3)	\$2,000 fine and 3 months imprisonment	—

Section.	Penalty.	Daily penalty.
81(2)	\$ 20 fine	—
99(1)(a)	\$2,000 fine and 3 months imprisonment	\$100 fine
99(1)(b), (c), (d) or (e) or (2)	\$2,000 fine and 3 months imprisonment	—
105(2)(a)	\$1,000 fine	\$ 20 fine
110(2)	\$ 20 fine	—
112(1) or (2)	\$ 200 fine	\$ 5 fine
115(3)	\$1,000 fine	—
117(2)	\$ 20 fine	—
118(1) or (2)	\$1,000 fine and 6 months imprisonment	—
124(2)	\$1,000 fine	—
125(5)	\$ 500 fine	—
127(3)(a) or (b)	\$1,000 fine	\$ 20 fine
127(7)(a)	\$2,000 fine	\$ 50 fine
128(3)	\$2,000 fine	\$ 50 fine
139	\$ 500 fine	—

Passed the Legislative Council of Hong Kong, this 13th day of July, 1960.

(Secretariat GR8/3281/54)


Deputy Clerk of Councils.

HONG KONG

No. 31 OF 1960.



I assent.

Governor.

14th July, 1960.

An Ordinance to provide for the establishment, maintenance, and discipline and powers of a force to be known as the Hawker Control Force, and for matters connected with the purposes aforesaid.

[]

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

PART I.

Preliminary.

1. This Ordinance may be cited as the Hawker Control Force Ordinance, 1960, and shall come into operation on the day appointed for the commencement of the Public Health and Urban Services Ordinance, 1960.

Short title
and com-
mencement.

Inter-
pretation.

2. In this Ordinance, save where the context otherwise requires—
- “Commandant” means the Commandant of the Force and also means any person for the time being acting as Commandant;
- “constable” means a member of the Force holding any rank below the rank of corporal;
- “Director” means the Director of Urban Services and any Assistant Director of Urban Services;
- “Force” means the Hawker Control Force established by section 3;
- “hawker” has the meaning assigned to it by section 2 of the Public Health and Urban Services Ordinance, 1960;
- “inspector” means an inspector of the Force of whatever grade or rank;
- “non-commissioned officer” means a member of the Force holding any rank below the rank of inspector and above the rank of constable;
- “Police Force” means the Hong Kong Police Force;
- “regular gazetted police officer” means an officer of the Police Force holding any rank between the rank of assistant commissioner and the rank of assistant superintendent both inclusive;
- “scheduled offence” means an offence under any of the enactments specified in the First Schedule.

First
Schedule.

PART II.

*Establishment of Force and its regulation and control.*Establish-
ment and
composition
of Force.

3. There is hereby established a force which shall be known as the Hawker Control Force and which shall consist of such officers and other ranks as shall by annual vote or otherwise be from time to time provided for by the Governor and the Legislative Council.

Payment and
maintenance
of Force.

4. Provision for the payment and maintenance of the Force shall be by charges on the general revenue of the Colony to such amounts as may from time to time by annual vote or otherwise be voted by the Legislative Council.

Force to be
part of the
Urban
Services
Department.

5. The Force shall be a part of the Urban Services Department and shall be subject, in matters of policy and as to the scope of its duties, to the directions of the Director.

6. There shall be a Commandant of the Force who shall be a regular gazetted police officer appointed by the Commissioner of Police. Commandant of Force.

7. (1) The inspectors shall be such officers of the Police Force as the Commissioner of Police may, from time to time, appoint. Appointment, promotion, etc. of members.

(2) Non-commissioned officers may be appointed or promoted by the Commandant.

(3) Constables may be recruited or promoted by the Commandant.

8. Every constable and every person who is appointed to be a non-commissioned officer, other than a police officer who is so appointed on secondment from the Police Force, without having previously been a constable shall, before entering on the duties of his office, take before a magistrate or a justice of the peace an oath or declaration in the form prescribed in the Second Schedule. Oath of office.

Second
Schedule.

9. A warrant card shall be issued to every member of the Force and shall be evidence of his membership thereof. Warrant cards.

10. Every member of the Force shall obey all lawful orders of his superior officers whether the same are given verbally or in writing, and shall also obey all orders made or issued by the Commandant under the provisions of section 12. Duty of members to obey orders.

11. (1) Any non-commissioned officer, other than a non-commissioned officer who is appointed on secondment from the Police Force, or constable who is found guilty by the Commandant of any of the following, namely— Powers of Commandant in relation to certain disciplinary offences.

- (a) absence from duty without leave or good cause;
- (b) sleeping on duty;
- (c) conduct to the prejudice of good order and discipline;
- (d) cowardice in the performance of duty;
- (e) disobedience of any orders issued or made by the Commandant under the provisions of section 12;
- (f) insubordination;
- (g) being unfit for duty by reason of intoxication;
- (h) neglect of duty or orders;

- (i) malingering;
- (j) in the course of duty, making a statement which is false in a material particular;
- (k) unlawful or unnecessary exercise of authority resulting in loss or injury to any person or to the Government;
- (l) wilfully or negligently damaging or destroying or negligently losing any Government property;
- (m) conduct calculated to bring the public service into disrepute,

shall be liable to be punished by the Commandant with any one or more of the following punishments—

- (i) reduction in rank;
- (ii) caution, warning, reprimand or severe reprimand;
- (iii) forfeiture of not more than one month's pay, save that, in the case of absence without leave or good cause for more than one month, pay may be forfeited for a period of not more than the period of such absence from duty;
- (iv) forfeiture of any good conduct allowance;
- (v) compulsory performance of extra duties or drills.

(2) Any non-commissioned officer or constable aggrieved by any finding of or punishment imposed by the Commandant under the provisions of subsection (1) may, within fourteen days from the date thereof, appeal to the Director against such finding or punishment.

(3) Upon any such appeal, the Director may confirm, reverse or vary such finding or punishment:

Provided that he shall not impose any punishment other than a punishment which the Commandant is authorized to impose under the provisions of subsection (1).

(4) In the event of any such appeal, the punishment against the imposition of which, or imposed on the finding against which, the appeal is made shall be suspended pending the determination of the appeal.

12. (1) The Commandant may, from time to time, make orders which shall be known as "Force standing orders", prescribing or providing for—

- (a) discipline and training;

Power of Commandant to make standing orders and issue routine orders.

- (b) classifications and promotions;
- (c) instructions and examinations;
- (d) inspections, drills, exercises and parades;
- (e) the manner in which the duties of the Force shall be carried out;
- (f) the manner and form of the making of reports and other records;
- (g) the performance of any act which may be necessary for the proper carrying out of the duties of the Force;
- (h) such other matters as may, in his opinion, be necessary for preventing abuse or neglect of duty and for rendering the Force efficient in the discharge of its duties.

(2) The Commandant may issue orders of a routine nature, which shall be known as "Force routine orders", for the control, direction and information of the Force and for special tasks of a routine nature.

(3) No Force standing order shall be inconsistent with any of the provisions of this Ordinance, and no Force routine order shall be inconsistent with any of the provisions of this Ordinance or of any Force standing order.

13. Save with the consent of the Director, no member of the Force shall be a member of a trade union.

Members of Force prohibited from being members of trade union without consent.

14. For the purposes of this Ordinance, every member of the Force shall be deemed to be always on duty when required to act as such and shall perform the duties imposed upon, and exercise the powers granted to, him under this Ordinance or any other law at any and every place in the Colony where he may be doing duty.

Members of Force on duty.

15. Every member of the Force who leaves the Force, whether in consequence of his resignation or dismissal or otherwise, shall on leaving the same deliver up his uniform and warrant card and any other Government property which may be in his possession.

Duty of member to deliver up uniform, etc. on leaving Force.

Commandant to have powers of magistrate for certain purposes.

16. In all matters in which by the provisions of this Ordinance jurisdiction is given to the Commandant to inflict punishments, the powers of a magistrate may be exercised by the Commandant so far as is necessary to enable him to exercise such jurisdiction.

PART III.

Powers of members of Force.

Power to stop person for inquiry.

17. Any member of the Force may stop for the purpose of inquiry any person whom he may reasonably suspect of being guilty of any scheduled offence or of an offence under section 23, 25 or 29.

Power to arrest person without warrant in certain cases.

18. (1) Any member of the Force may arrest without warrant any person whom he may reasonably suspect of being guilty of any scheduled offence or of an offence under section 23, 25 or 29.

(2) If any person forcibly resists the endeavour of any member of the Force to arrest him or attempts to evade the arrest, such member may use all means necessary to effect the arrest.

(3) If any member of the Force who is in pursuit of any person to be arrested has reason to believe that such person has entered into or is in any place, the person residing in or in charge of such place shall on demand of such member allow him free ingress thereto and afford all reasonable facilities for search therein for such person.

(4) Save as provided in section 19, any person who is arrested by any member of the Force shall forthwith be taken to the nearest police station or given into the custody of a police officer, whereupon the provisions of section 47 of the Police Force Ordinance or of sections 46 and 47 of that Ordinance, as the case may be, shall apply.

(Cap. 232).

Procedure in lieu of taking certain arrested persons to police station, etc. Third Schedule.

19. (1) (a) Where he is satisfied as to the identity, name and place of residence (if any) of such person, any member of the Force who has arrested any person under the provisions of subsection (1) of section 18 in respect of a scheduled offence may, in lieu of proceeding in the manner provided by subsection (4) of that section, serve on such person a notice in the form prescribed in the Third Schedule specifying the offence in respect of which he has been arrested and requiring him to attend at the place, and on the day and at the time, specified in the notice for the purpose of being dealt with in the manner provided in subsections (2), (3) and (4).

(b) Whenever any member of the Force serves such a notice on any person, such member shall, at the same time, prepare a duplicate copy of such notice, which shall be produced to the court if the court so requires.

(c) For the purpose of satisfying himself as to the identity of any person whom he has arrested, any member of the Force may require the person to furnish him with such evidence thereof as he may consider necessary.

(2) When any person attends at the place specified in such a notice in accordance with such notice, the case shall be inquired into by a police officer appointed in that behalf by the Commissioner of Police or shall be inquired into by the Commandant or by a member of the Force authorized in that behalf by the Commandant, who shall, if he considers it appropriate, charge such person with the offence or offences specified in such notice or with such other scheduled offence or offences as he considers proper or with both the offence or offences specified in such notice and such other scheduled offence or offences as he considers proper.

(3) If such officer or the Commandant or such member of the Force does not consider it appropriate to charge such person with any such offence, he shall notify such person accordingly and shall discharge him forthwith.

(4) A person who has been charged pursuant to the provisions of subsection (2) shall thereupon be released and shall appear before the appropriate magistrate's court on the same day.

(5) (a) If a person upon whom a notice has been served under the provisions of subsection (1) fails to attend at the place, and on the day and at the time, specified therein and if a person who has been charged and released in accordance with the provisions of subsection (4) fails to attend before the appropriate court, the court may, on application by any police officer or by or on behalf of the Commandant and on oath being made before it substantiating the matter of the application to its satisfaction, issue a warrant for the arrest of such person.

(b) Any such warrant—

(i) shall be in the form prescribed in the Fourth Schedule and shall be under the hand and seal of the magistrate by whom it was issued; Fourth Schedule.

(ii) may be directed to any member of the Force by name or generally to all members of the Force;

(iii) shall state the ground upon which it was issued; and

(iv) shall name or otherwise describe the person in respect of whom it was issued.

(c) Any such warrant shall remain in force until it is executed.

(d) Any such warrant may be executed by arresting the person in respect of whom it was issued at any place within the Colony,