

HONG KONG.

No. 1 of 1941.

I assent.



[Signature]
Officer Administering the Government.

17th January, 1941.

An Ordinance to amend the Holidays Ordinance, 1912.

[17th January, 1941.]

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

1. This Ordinance may be cited as the Holidays Amendment Ordinance, 1941. Short title.

2. Section 2 of the Holidays Ordinance, 1912, is amended by the repeal of paragraph (b) thereof and by the substitution therefor of the following paragraph:— Substitution for Ordinance No. 5 of 1912, s. 2 (b).

(b) "School holiday" means a day which shall be kept by all Government schools, military schools and schools registered under the Education Ordinance, 1913. Ordinance No. 26 of 1913.

3. Section 3 of the Holidays Ordinance, 1912, is amended by the repeal of paragraph (12) thereof and by the substitution therefor of the following paragraph:— Substitution for Ordinance No. 5 of 1912, s. 3 (12).

(12) Chinese Mid-Autumn Festival Day, or if that day should be a Sunday then the following day;.

4. Section 4 of the Holidays Ordinance, 1912, is amended in the first line thereof and also in the marginal note thereto by the substitution of the words "School holiday" for the words "public holiday". Amendment of Ordinance No. 5 of 1912, s. 4.

5. Section 5 of the Holidays Ordinance, 1912, is amended by the substitution of the words and figure "section 3" for the words and figures "sections 3 and 4" in the second line thereof. Amendment of Ordinance No. 5 of 1912, s. 5.





6. Section 7 of the Holidays Ordinance, 1912, is amended:—

Amendments
of Ordinance
No. 5 of
1912, s. 7.

(i) by the repeal of the words "or as a public" in the third line thereof; and

(ii) by the repeal of the words and figure "or in section 4" in the fourth line thereof.

7. Section 8 of the Holidays Ordinance, 1912, is amended by the repeal of the words "or public" in the fifth and sixth lines thereof.

Amendment
of Ordinance
No. 5 of
1912, s. 8.

Passed the Legislative Council of Hong Kong, this 16th day of January, 1941.

Chambers

Deputy Clerk of Councils.

HONG KONG.

No. 2 of 1941.

I assent.



E. Johnston

Officer Administering the Government.

21st February, 1941.

An Ordinance to amend the Places of Public Entertainment Regulation Ordinance, 1919.

[21st February, 1941.]

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

1. This Ordinance may be cited as the Places of Public Entertainment Regulation Amendment Ordinance, 1941.

Short title.

2. The Places of Public Entertainment Regulation Ordinance, 1919, is amended by the insertion of the following new section after section 5 thereof:—

New section 5A inserted in Ordinance No. 22 of 1919.

5A.—(1) No person shall sell, or offer or exhibit or have in his possession for sale, or solicit the purchase of, any ticket or voucher authorizing or purporting to authorize admission to any place of public entertainment licensed under this Ordinance or any place with respect to which duty on payments for admission is payable under the Entertainments Tax Ordinance, 1930—

Restrictions on the unauthorized sale of tickets.

Ordinance No. 28 of 1930.

(a) in any public thoroughfare, or in the entrance hall of, or approaches to, any such place as aforesaid, except at a box-office, booth, turnstile or counter appointed by the proprietor or manager of such place or by the organizer of the entertainment, exhibition, performance, amusement, game or sport held therein, or

(b) at a price exceeding the amount fixed by such proprietor, manager or organizer to be charged therefor, inclusive of the duty, if any, payable.

(2) Every person who contravenes the provisions of this section shall upon summary conviction be liable to a fine not exceeding two hundred and fifty dollars.

Passed the Legislative Council of Hong Kong, this 20th day of February, 1941.

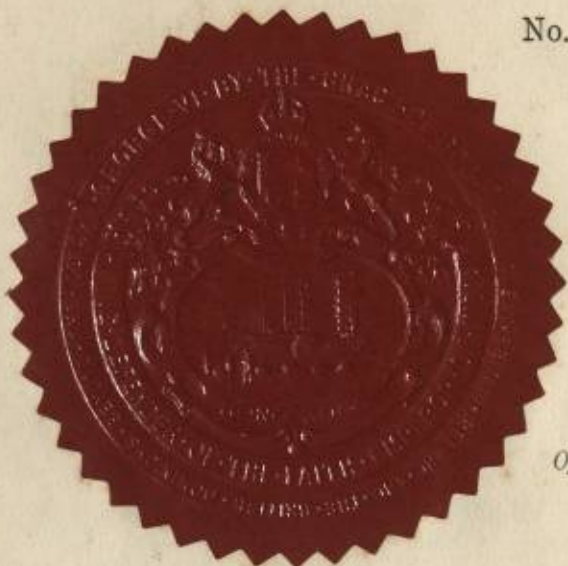
John Ambrose

Deputy Clerk of Councils.

HONG KONG.

No. 3 of 1941.

I assent.



E. M. M. M.

Officer Administering the Government.

21st February, 1941.

An Ordinance to amend the Entertainments Tax Ordinance,
1930.

[21st February, 1941.]

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

1. This Ordinance may be cited as the Entertainments Tax Amendment Ordinance, 1941. Short title.

2. Section 5 (1) (a) of the Entertainments Tax Ordinance, 1930, is amended by the substitution of the words "four cents" for the words "twenty cents". Amendment of Ordinance No. 28 of 1930, s. 5 (1) (a).

Passed the Legislative Council of Hong Kong, this
20th day of February, 1941.

J. M. M. M.

Deputy Clerk of Councils.



HONG KONG.

No. 4 OF 1941.

I assent.

E. Johnston

Officer Administering the Government.

7th March, 1941.

An Ordinance to apply a sum not exceeding Fifty-two million four hundred and eighty-three thousand two hundred and ninety-four Dollars to the Public Service of the financial year beginning on the 1st April, 1941, and ending on the 31st March, 1942, and also to apply an additional sum not exceeding Eight hundred and thirty-two thousand Dollars to the Waterworks Renewals and Improvements Fund for the service of that Fund in the said financial year.

WHEREAS the expenditure required for the service of the Colony for the financial year beginning on the 1st April, 1941, and ending on the 31st March, 1942 has, apart from Charges on account of Public Debt and Defence Contribution, been estimated at the sum of Fifty-two million four hundred and eighty-three thousand two hundred and ninety-four Dollars to be met from the general revenues of the Colony, and an additional sum of Eight hundred and thirty-two thousand Dollars to be met from the Waterworks Renewals and Improvements Fund:

[7th March, 1941.]

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

1. This Ordinance may be cited as the Appropriation Short title.
for 1941-1942 Ordinance, 1941.

2. A sum not exceeding Fifty-two million four hundred and eighty-three thousand two hundred and ninety-four Dollars shall be and the same is hereby charged upon the revenue and other funds of the Colony for the service of the said financial year, and the said sum so charged may be expended as hereinafter specified, that is to say—

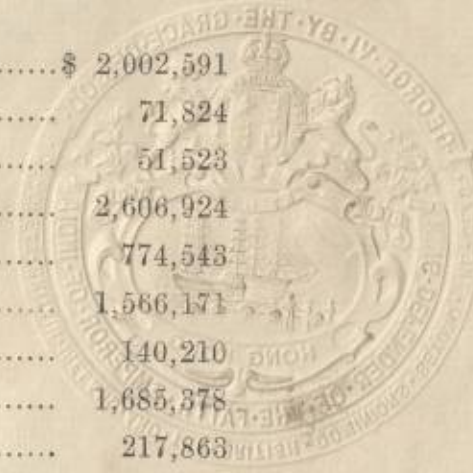
Appropriation from general revenues.

EXPENDITURE

His Excellency the Governor	\$ 182,747
Colonial Secretary's Office and Legislature.	308,275
Audit Department	111,135
Botanical and Forestry	184,901
Agriculture	119,286
Charitable Services	619,648
Volunteer Defence Corps	150,000
Naval Volunteer Force	40,000
Air Raid Precautions	286,599

Carried forward.....\$ 2,002,591

Brought forward.....	\$ 2,002,591
District Office, North	71,824
District Office, South	51,523
Education Department	2,606,924
Fire Brigade	774,543
Harbour Department	1,586,171
Air Services	140,210
Imports and Exports Office	1,685,378
Supreme Court	217,863
Magistracy, Hong Kong	77,247
Magistracy, Kowloon	64,420
Kowloon-Canton Railway	917,341
Legal Departments	263,168
Medical Department	4,726,389
Miscellaneous Services	1,902,390
Pensions	2,845,000
Police Force	4,205,845
Post Office	912,203
Wireless	486,215
Broadcasting	97,955
Prisons Department	1,096,322
Public Works Department	1,973,654
Waterworks	300,060
Public Works (Recurrent)	1,859,500
Waterworks (Recurrent)	1,039,115
Royal Observatory	121,364
Sanitary Department	1,437,425
Secretariat for Chinese Affairs	138,509
Labour Office	62,171
Stores Department	1,983,026
Treasury, etc.	333,801
Public Works (Extraordinary)	3,829,594
Fisheries Research Station	190,054
War Expenditure	12,300,274
Immigration Department	203,225
 Total.....	 \$52,483,294



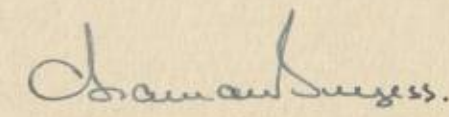
3. An additional sum not exceeding Eight hundred and thirty-two thousand Dollars shall be and the same is hereby charged upon the Waterworks Renewals and Improvements Fund for the service of the said financial year, and the said sum so charged may be expended as hereinafter specified, that is to say—

Additional Appropriation from Waterworks Renewals and Improvements Fund.

EXPENDITURE.

Pokfulam District Supply	\$ 7,000
Reconstruction of Waterworks Depôt and Replacement of Plant, Kowloon	45,000
Replacement of Plant, Waterworks Workshop, Hong Kong	45,000
Bowen Road Conduit Reconstruction	200,000
Remove and re-erect Bowen Road Rapid Gravity Filters at Eastern	65,000
Reconstruction of Bowen Road Service Reservoir	215,000
Reconstruction of Albany Service Reservoir	145,000
Overseers' Quarters at Eastern	45,000
Reconstruction of Kowloon Tong Service Reservoir	10,000
Reconstruction of West Point Service Reservoir	10,000
Replacement of Meters	45,000
 Total.....	 \$ 832,000

Passed the Legislative Council of Hong Kong, this 6th day of March, 1941.


 Deputy Clerk of Councils.

HONG KONG.

No. 5 of 1941.

I assent.



Edwin

Officer Administering the Government.

7th March, 1941.

An Ordinance to amend the Medical Registration Ordinance, 1935.

[7th March, 1941.]

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

1. This Ordinance may be cited as the Medical Registration Amendment Ordinance, 1941. Short title

2. Section 11 of the Medical Registration Ordinance, 1935, is amended by the insertion of the words "and possesses an adequate knowledge of the English language, both spoken and written" after the words "is of good character" at the end of the proviso thereto. Amendment of Ordinance No. 41 of 1935, s. 11.

3. Section 13 of the Medical Registration Ordinance, 1935, is amended— Amendments of Ordinance No. 41 of 1935, s. 13.

(a) by the repeal of sub-section (1) thereof and by the substitution therefor of the following sub-section:—

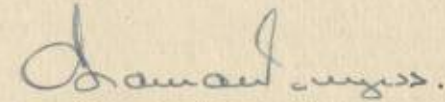
(1) If any registered practitioner is convicted of any offence or after due inquiry is judged by the Medical Board to have been guilty of infamous conduct in any professional respect, the Medical Board shall have power to make any such order as to removing from or striking off the register the name of the registered practitioner convicted of such offence or judged guilty of such conduct as aforesaid, as to suspending him from practice, as to censure, as to the payment of costs by any party attending the inquiry, and otherwise in relation to the case as the Medical Board may think fit. Power of Medical Board to strike off the register, suspend, censure, etc.

(b) by the addition of the following sub-sections after sub-section (6) at the end thereof:—

(7) The Medical Board may, if it thinks fit, at any time direct that the name of a registered practitioner whose name has been removed from or struck off the register be replaced thereon.

(8) The notice of any decision and any order or direction made by the Medical Board as aforesaid shall be signed by the Secretary of the Medical Board and may be filed with the Registrar of the Supreme Court and when so filed shall be enforceable in the same manner as a judgment or order of the Supreme Court to the like effect.

Passed the Legislative Council of Hong Kong, this
6th day of March, 1941.


Deputy Clerk of Councils.



HONG KONG.

No. 6 of 1941.

I assent.



Officer Administering the Government.

7th March, 1941.

An Ordinance to amend the Hong Kong Corps of Air Raid Wardens Ordinance, 1940.

[7th March, 1941.]

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

1. This Ordinance may be cited as the Hong Kong Corps of Air Raid Wardens Amendment Ordinance, 1941. Short title.

2. Paragraphs (c), (d) and (e) of section 2 of the Hong Kong Corps of Air Raid Wardens Ordinance, 1940, are repealed and the following paragraphs are substituted therefor respectively:— Substitution for paragraphs (c), (d) and (e) of Ordinance No. 6 of 1940, s. 2.

(c) "officers" means the Chief Air Raid Warden of Hong Kong and the Chief Air Raid Warden of Kowloon, New Kowloon, and the New Territories, the Deputy Chief Air Raid Wardens, the Head Wardens, the Divisional Wardens and the Deputy Divisional Wardens, the District Wardens and the Deputy District Wardens.

(d) "subordinate officers" means all Group Wardens and Senior Wardens who are duly registered as such in the Corps Records.

(e) "members" includes officers, subordinate officers, Air Raid Wardens, Warden Telephonists, House Wardens, and Honorary Air Raid Wardens.

3. Sub-section (1) of section 10 of the Hong Kong Corps of Air Raid Wardens Ordinance, 1940, is repealed and the following sub-section is substituted therefor:— Substitution for sub-section (1) of Ordinance No. 6 of 1940, s. 10.

(1) If any member of the corps wilfully makes away with, sells, pawns, or wilfully damages, destroys or negligently loses or unlawfully refuses or neglects to produce or deliver

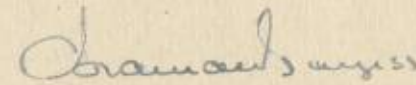
up any Corps equipment issued to him, he shall pay to the Director of Air Raid Precautions on demand such sum in respect of the value thereof as may be demanded and failing such payment the value thereof shall be recoverable from him summarily before a Magistrate by the Director of Air Raid Precautions or his representative.

4. Sub-section (3) of Section 18 of the Hong Kong Corps of Air Raid Wardens Ordinance is amended by the addition of the following two paragraphs at the end thereof:—

- (f) inefficiency;
- (g) conduct prejudicial to the interests of the Corps.

Additional paragraphs (f) and (g) added to sub-section (3) of Ordinance, No. 6 of 1940.

Passed the Legislative Council of Hong Kong, this 6th day of March, 1941.



Deputy Clerk of Councils.



W.R.D.



HONG KONG.

No. 7 of 1941.

I assent.

J. Ashworth

Governor.

28th March, 1941.

An Ordinance to amend further the Estate Duty Ordinance, 1932, as amended by the Estate Duty Amendment Ordinance, 1936.

[28th March, 1941.]

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

1. This Ordinance may be cited as the Estate Duty Amendment Ordinance, 1941. Short title.

2. The definition of "Applicable Schedule" in section 3 of the Estate Duty Ordinance, 1932, as enacted by section 2 of the Estate Duty Amendment Ordinance, 1936, is repealed, and the following definition is substituted therefor:— Substitution for definition of "Applicable Schedule" in Ordinance No. 3 of 1932, s. 3 as enacted by Ordinance No. 26 of 1936, s. 2.

"Applicable Schedule" in the case of persons dying before the 27th day of February, 1931, means the Second Schedule, and in the case of persons dying thereafter but before the 1st day of July, 1936, means the First Schedule, and in the case of persons dying thereafter but before the 1st day of April, 1941, means the Third Schedule, and in the case of persons dying on or after the 1st day of April, 1941, means the Fourth Schedule to this Ordinance.

3. The following is added to the Estate Duty Ordinance, 1932, as the Fourth Schedule thereto:— New Fourth Schedule to Ordinance No. 3 of 1932.

FOURTH SCHEDULE. [ss. 3, 4, 10, 12, 13, 18, 19, & 22.]

WHERE THE PRINCIPAL VALUE OF THE ESTATE		ESTATE DUTY SHALL BE PAYABLE AT THE RATE PER CENT OF
\$	\$	
Exceeds 500 and does not exceed	5,000	1
" 5,000 " " " "	10,000	2
" 10,000 " " " "	25,000	3
" 25,000 " " " "	50,000	4
" 50,000 " " " "	100,000	5
" 100,000 " " " "	200,000	6
" 200,000 " " " "	300,000	7
" 300,000 " " " "	350,000	8
" 350,000 " " " "	400,000	9
" 400,000 " " " "	450,000	10

Fourth Schedule,—Continued.



WHERE THE PRINCIPAL VALUE OF THE ESTATE				ESTATE DUTY SHALL BE PAY- ABLE AT THE RATE PER CENT OF
	\$		\$	
Exceeds	450,000	and does not exceed	500,000	11
"	500,000	" " " "	550,000	12
"	550,000	" " " "	600,000	13
"	600,000	" " " "	650,000	14
"	650,000	" " " "	700,000	15
"	700,000	" " " "	750,000	16
"	750,000	" " " "	800,000	17
"	800,000	" " " "	900,000	18
"	900,000	" " " "	1,000,000	19
"	1,000,000	" " " "	1,250,000	20
"	1,250,000	" " " "	1,500,000	21
"	1,500,000	" " " "	1,750,000	22
"	1,750,000	" " " "	2,000,000	23
"	2,000,000	" " " "	2,500,000	24
"	2,500,000	" " " "	3,000,000	25
"	3,000,000	" " " "	3,500,000	26
"	3,500,000	" " " "	4,000,000	27
"	4,000,000	" " " "	4,500,000	29
"	4,500,000	" " " "	5,000,000	31
"	5,000,000	" " " "	7,000,000	34
"	7,000,000	" " " "	10,000,000	37
"	10,000,000	" " " "	15,000,000	40
"	15,000,000	" " " "	20,000,000	43
"	20,000,000	" " " "	25,000,000	46
"	25,000,000	" " " "	30,000,000	49
"	30,000,000		52

Passed the Legislative Council of Hong Kong, this 27th day of March, 1941.

Megarry
Clerk of Councils.

HONG KONG.

No. 8 of 1941.

I assent.



J. G. [Signature]

Governor.

9th May, 1941.

An Ordinance to amend the Miscellaneous Licences Ordinance, 1933.

[9th May, 1941.]

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

1. This Ordinance may be cited as the Miscellaneous Licences Amendment Ordinance, 1941. Short title.

2. Section 2 of the Miscellaneous Licences Ordinance, 1933, is amended by the addition of the following paragraph at the end thereof— Amendment of Ordinance No. 25 of 1933, s. 2.

(g) "Timber store" means any building, yard or other place used for the storage of timber other than timber in baulk.

For the purposes of this paragraph timber in baulk shall not include China fir poles.

3. Section 12 of the Miscellaneous Licences Ordinance, 1933, is repealed and the following section is substituted therefor— New section 12 for Ordinance No. 25 of 1933.

12. The provisions of this Ordinance shall be in addition to and not in derogation of the provisions of any other enactment relating to or affecting any place, trade, business or occupation with respect to which this Ordinance applies. Savings.

4. The First Schedule to the Miscellaneous Licences Ordinance, 1933, is amended by the addition at the end thereof of the words— Amendment of Ordinance No. 25 of 1933, 1st Schedule.

"Timber Store".

5. The Table in Part I of the Second Schedule of the Miscellaneous Licences Ordinance, 1933, is amended by the insertion therein, immediately after that portion of the said Table which refers to Public Dance Halls, of the following— Amendment of Ordinance No. 25 of 1933, 2nd Schedule Part I.

Timber Store. Annual \$10 Chief Officer, Fire Brigade.



6. The Second Schedule to the Miscellaneous Licences Ordinance, 1933, is amended by the addition at the end thereof of the following regulations:—

Amendment of Ordinance No. 25 of 1933, 2nd Schedule.

PART IX. TIMBER STORES.

1. The form of a timber store licence shall be that in Form No. 8 in the Appendix to these Regulations.

2. Every person holding a licence under this Part shall observe the following conditions, and such special conditions as the licensing authority may in his discretion impose, which shall be endorsed on the licence:

(1) Every timber store shall be constructed and maintained in good and substantial repair and clean condition to the satisfaction of the licensing authority.

(2) No naked lights, fires, chatties nor any cooking shall be permitted in any timber store.

(3) No person, except watchmen only not exceeding two in number, shall dwell in any timber store.

(4) The keeper of any timber store shall instal such fire appliances as the Chief Officer, Fire Brigade, may require and maintain them in efficient condition.

(5) Every person holding a licence under this Part shall at all reasonable times permit any police officer not under the rank of sub-inspector and any person authorized in writing by the licensing authority to enter and inspect the licensed premises and the entries in any records kept in connexion therewith.

7. The Appendix to the Second Schedule to the Miscellaneous Licences Ordinance, 1933, is amended by the addition of the following form at the end thereof—

New Form No. 8 for Appendix to 2nd Schedule of Ordinance No. 25 of 1933.

FORM NO. 8.

Timber Store Licence.

..... of
is hereby licensed to keep a timber store at
..... until the day of,
19..... inclusive, subject to the conditions and for the further
periods endorsed hereon.

Dated this day of, 194....

Licensing Authority.

Fee \$10.

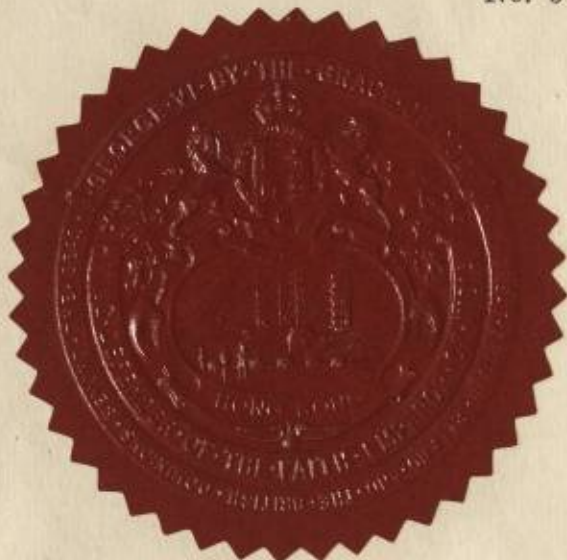
Passed the Legislative Council of Hong Kong, this
8th day of May, 1941.

Deputy Clerk of Councils.
Deputy Clerk of Councils.

HONG KONG.

No. 9 of 1941.

I assent.



[Handwritten signature]
Governor.

23rd May, 1941.

An Ordinance to amend the Post Office Ordinance, 1926.

[23rd May, 1941.]

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

1. This Ordinance may be cited as the Post Office Amendment Ordinance, 1941. Short title.

2. The Post Office Ordinance, 1926, is amended by the addition of the following sub-section to section 38 thereof:—

(6) In the case of a conviction involving a fine the court or magistrate inflicting such fine may direct, on the application of the Postmaster General or other officer conducting the prosecution, that any part not exceeding one half thereof shall be paid to any person who has given such information as has led to the conviction of the offender or offenders, or, if there are more than one such person, may direct such part to be divided amongst them in such proportion as the court or magistrate may direct.

New sub-section (6) added to section 38 of Ordinance No. 7 of 1926.

Passed the Legislative Council of Hong Kong, this 22nd day of May, 1941.

[Handwritten signature]

Deputy Clerk of Councils.

HONG KONG.

No. 10 of 1941.

I assent.



[Handwritten signature]
Governor.

30th May, 1941.

An Ordinance to provide for the issue by the Financial Secretary of one-cent legal tender currency notes.

[30th May, 1941.]

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

1. This Ordinance may be cited as the One-cent Currency Notes Ordinance, 1941. Short title.

2. It shall be lawful for the Financial Secretary to issue and re-issue one-cent currency notes in the Colony, which shall be legal tender for the payment of any amount not exceeding one dollar. Power for Financial Secretary to issue and re-issue one-cent limited legal tender currency notes.

3.—(1) The Financial Secretary shall establish a One-cent Note Security Fund into which he shall pay all moneys he receives for such currency notes. The Fund shall be held on deposit at one or more banks in the Colony and shall be available for withdrawal from circulation of such portion of the issue of the said currency notes as the Financial Secretary may from time to time deem it desirable to withdraw: provided that a portion of the Fund may lie temporarily invested at the discretion of the Financial Secretary. Note Security Fund.

(2) All expenses incurred in the printing and delivery of currency notes and such other expenses as the Governor may deem necessary in connexion with the issue of such notes shall be charged to the general revenues of the Colony.

(3) Interest or dividends received on any moneys deposited or invested on behalf of the One-cent Note Security Fund shall be paid into the general revenues of the Colony.

Passed the Legislative Council of Hong Kong, this 29th day of May, 1941.

[Handwritten signature]
Deputy Clerk of Councils.

HONG KONG.

No. 11 of 1941.

I assent.



J. Andrewes

Governor.

30th May, 1941.

An Ordinance to amend the Prevention of Eviction Consolidation and Amendment Ordinance, 1939.

[30th May, 1941.]

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

1. This Ordinance may be cited as the Prevention of Eviction Amendment Ordinance, 1941. Short title.

2. Section 9 of the Prevention of Eviction Consolidation and Amendment Ordinance, 1939, as amended by section 5 of the Prevention of Eviction Amendment Ordinance, 1940, is amended by the substitution of the figures "1942" for the figures "1941". Amendment of Ordinance No. 44 of 1939, s. 9 as amended by Ordinance No. 14 of 1940, s. 5.

Passed the Legislative Council of Hong Kong, this 29th day of May, 1941.

J. Andrewes

Deputy Clerk of Councils.

HONG KONG.

No. 12 OF 1941.

I assent.



P. A. D. Matthews
Governor.

20th June, 1941.

An Ordinance to amend the Buildings Ordinance, 1935.

[20th June, 1941.]

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

1. This Ordinance may be cited as the Buildings Amendment Ordinance, 1941. Short title.

2. Sub-section (1) of section 116 is amended by the addition to the end thereof of the following:— Amendment of Ordinance No. 18 of 1935, s. 116.

In issuing such permits the Building Authority shall have regard and shall be deemed heretofore to have had regard to the nature of the building and its fitness for occupation or use as a domestic or as a non-domestic building and shall accordingly issue, and shall be deemed heretofore to have had power to issue, permits appropriate to such occupation or use. And no person shall wilfully use or knowingly permit to be used any building with respect to which a non-domestic permit has been issued as a domestic building.

3. Section 127 (1) is amended by the addition of the following proviso to the end thereof— Amendment of Ordinance No. 18 of 1935, s. 127 (1).

Provided that the competent authority to deal with nuisances under section 116 shall be the Chairman of the Urban Council or any person deputed by him on that behalf.

Passed the Legislative Council of Hong Kong, this 19th day of June, 1941.

Samuel Ho

Deputy Clerk of Councils.



HONG KONG.

No. 13 of 1941.

I assent.

J. G. G. G. G.
Governor.

27th June, 1941.

An Ordinance to amend and consolidate the War Revenue Ordinances of 1940.

[27th June, 1941.]

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

CHAPTER I.

PRELIMINARY.

1. This Ordinance may be cited as the War Revenue Ordinance, 1941. Short title.

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

“active partner”, in relation to a partnership, means a partner who takes an active part in the control, management, or conduct of the trade or business of such partnership;

“agent”, in relation to a non-resident person or to a partnership in which any partner is a non-resident person, includes—

(a) the agent, attorney, factor, receiver, or manager in the Colony of such person or partnership, and

(b) any person in the Colony through whom such person or partnership is in receipt of any profits or income arising in or derived from the Colony;

“Assistant Commissioner” means an Assistant Commissioner of War Taxation appointed under this Ordinance;

“authorized representative” means an individual authorized in writing by any person to act on his behalf for the purposes of this Ordinance who is—

(a) in any case—

(i) an accountant approved by the Commissioner,

(ii) a solicitor, or counsel instructed by a solicitor,

(iii) an employee regularly employed by the person concerned, or

(iv) any other person approved by the Commissioner;

(b) in the case of an individual, a relative;

(c) in the case of a company, a director or the secretary;

(d) in the case of a partnership, a partner;

(e) in the case of a body of persons, a member;

“bill of sale” means a bill of sale registrable under the Bills of Sale Ordinance, 1886;

“British Empire” means the United Kingdom of Great Britain and Northern Ireland, the Dominions, India, Burma, the territories administered by His Majesty’s Governments in the Dominions under Mandate or otherwise, the British Colonies and protected States and the Mandated Territories of Tanganyika, the Cameroons under British Mandate and Togoland under British Mandate;

“business” includes agricultural undertaking and poultry and pig rearing;

“Commissioner” includes the Commissioner of War Taxation appointed under this Ordinance, and the Deputy Commissioner, and an Assistant Commissioner specially authorized by the Commissioner either generally or for some specific purpose to act on behalf of the Commissioner;

“corporation” means any company which is either incorporated or registered under any enactment or charter in force in the Colony or elsewhere;

“debenture” means a debenture as defined in section 348 (1) of the Companies Ordinance, 1932;

“Deputy Commissioner” means the Deputy Commissioner of War Taxation appointed under this Ordinance;

“Examiner” means an Examiner appointed under this Ordinance;

“executor” means any executor, administrator, or other person administering the estate of a deceased person, and includes a trustee acting under a trust created by the last will of the author of the trust;

“incapacitated person” means any minor, lunatic, idiot, or person of unsound mind;

“income arising in or derived from the Colony” for the purposes of Chapter III, shall, without in any way limiting the meaning of the term, include all income derived from services rendered in the Colony;

“mortgage” means a mortgage as defined in section 3 (19) of the Stamp Ordinance, 1921;

“Ordinance” includes any Ordinance amending or substituted for the Ordinance referred to, and any rules, regulations, or by-laws under any of such Ordinances;

“owner,” in relation to land and/or improvements thereon, includes a person who holds such land and/or improvements subject to a ground rent or other annual charge;

“person” includes a company, partnership, or body of persons;

“precedent partner” means the partner who, of the active partners resident in the Colony—

(a) is first named in the agreement of partnership; or

(b) if there is no agreement, is specified by name or initials singly or with precedence to the other partners in the usual name of the partnership; or

(c) is first named in any statutory statement of the names of the partners;

“prescribed” means prescribed by or in pursuance of this Ordinance;

“profits” means the net profits for any period calculated in accordance with the provisions of Chapter IV of this Ordinance;

Ordinance No. 39 of 1932.

Ordinance No. 8 of 1921.



“profits arising in or derived from the Colony” for the purposes of Chapter IV shall, without in any way limiting the meaning of the term, include all profits from business transacted in the Colony, whether directly or through an agent;

“receiver” includes any receiver or liquidator, and any assignee, trustee, or other person having the possession or control of the property of any person by reason of insolvency or bankruptcy;

“tax” means any tax imposed by this Ordinance;

“trade” includes every trade and manufacture, and every adventure and concern in the nature of trade;

“trustee” includes any trustee, guardian, curator, manager, or other person having the direction, control, or management of any property on behalf of any person, but does not include an executor;

“United Kingdom” means the United Kingdom of Great Britain and Northern Ireland;

“Written-down value” means the residue of the cost to the owner thereof of any asset after deducting a sum representing the total depreciation which has occurred in such asset since the date of purchase by him;

“year of assessment” means the period of twelve months commencing on the first day of April, nineteen hundred and forty, and each subsequent period of twelve months commencing on the first day of April;

“year preceding a year of assessment” means the period of twelve months ending on the thirty-first day of March immediately prior to such year of assessment;

3.—(1) (a) There shall be a Board of War Taxation composed of the Financial Secretary and four other members appointed by the Governor, of whom not more than one shall be an official in the employment of the Government. A member so appointed shall hold office until he shall resign or be removed from office by the Governor.

Board of War Taxation.

(b) Three members of the Board of War Taxation shall form a quorum for the transaction of business and when the Financial Secretary is present he shall be the Chairman.

(c) All matters coming before the Board of War Taxation shall be decided by a majority of votes, and in the case of an equality of votes the Chairman or presiding member shall have a second or a casting vote.

(2) For the purposes of this Ordinance, the Governor may appoint a Commissioner, a Deputy Commissioner, Assistant Commissioners, and Examiners.

(3) An Assistant Commissioner exercising or performing any power, duty, or function of the Commissioner under this Ordinance shall be deemed for all purposes to be authorized to exercise or perform the same until the contrary is proved.

(4) All powers conferred upon an Examiner by this Ordinance may be exercised by an Assistant Commissioner.

4.—(1) Except in the performance of his duties under this Ordinance, every person who has been appointed under or who is or has been employed in carrying out or in assisting any person to carry out the provisions of this Ordinance shall

Official secretary.

preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Ordinance, and shall not communicate any such matter to any person other than the person to whom such matter relates or his authorized representative, nor suffer or permit any person to have access to any records in the possession, custody or control of the Commissioner.

(2) Every person appointed under or employed in carrying out the provisions of this Ordinance, shall before acting under this Ordinance take and subscribe before a Justice of the Peace an oath of secrecy in the prescribed form.

(3) No person appointed under or employed in carrying out the provisions of this Ordinance shall be required to produce in any court any return, document, or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Ordinance, except as may be necessary for the purpose of carrying into effect the provisions of this Ordinance.

(4) Notwithstanding anything contained in this section, the Commissioner or any officer of the War Taxation Department authorized by the Commissioner in that behalf may communicate any matter which comes to his knowledge, including a copy of any return, accounts or other document submitted to him in connexion with this Ordinance,—

(a) to the Assessor, to the Collector of Stamp Revenue, or to the Estate Duty Commissioner, or

(b) to the Income Tax Authority of any part of His Majesty's dominions or of any place under His Majesty's protection or suzerainty to such an extent as the Commissioner may deem necessary to enable the correct relief to be given from income tax in that part or place in respect of the payment of tax under this Ordinance.

(5) Notwithstanding anything contained in this section, the Commissioner may permit the Auditor or any officer of the Department of the Auditor duly authorized by him in that behalf to have such access to any records or documents as may be necessary for the performance of his official duties. The Auditor or any other authorized by him under this subsection shall be deemed to be a person employed in carrying out the provisions of this Ordinance for the purpose of subsection (2).

CHAPTER II.

PROPERTY TAX.

5. Property tax shall be charged on and borne by the owner of any land and/or buildings wherever situate in the Colony at the rate of seven per cent. per annum on the rateable value of such land and/or buildings as assessed for rating purposes under the Rating Ordinance, 1901: Provided that where no assessment has been made under that Ordinance, the rateable value shall be determined by the Assessor: and provided also that in the case of the New Territories other than New Kowloon the rateable value for the purpose of

Imposition of Property Tax.

Ordinance No. 6 of 1901.

property tax shall be taken at one-fourteenth of the value of the buildings as assessed under that Ordinance: Provided further that where the owner of the land is not the owner of the buildings thereon a separate assessment shall be made for the land and for the buildings.

6. Property tax shall be payable in the first place by the person, whether owner, agent or occupier, who pays the assessed rates in respect of the land and/or buildings taxed. Where such payment is made by any person other than the owner of the property then the amount so paid by way of property tax shall be a debt due from the owner and recoverable as such from any rent or other moneys due to him. Where such payment is made by any person other than the owner of the land and buildings then the amount so paid by way of Property Tax shall be a debt due from the person assessed under section 5.

Property Tax by whom payable.

7. A proportionate refund of property tax may be made whenever any land and/or buildings is proved to the satisfaction of the Commissioner to have been unoccupied during one or more entire months of any year of assessment.

Refund in case of unoccupied property.

CHAPTER III.

SALARIES TAX.

8. Salaries tax shall be charged at the rates provided for in section 14 and subject to the allowances provided for in section 13 on all income arising in or derived from the Colony in respect of—

Imposition of Salaries Tax.

(a) any office or employment of profit; and

(b) any pension or annuity payable in respect of any such office or employment:

Provided that the following shall be exempt—

(i) the official emoluments of the Governor;

(ii) the official emoluments of consuls, vice-consuls and persons employed on the staff of any consulate, who are subjects or citizens of the State which they represent;

(iii) the income of any individual whose total income from the sources referred to in this Section does not exceed three thousand six hundred dollars;

(iv) any gratuity received on termination of employment or any sum received by way of commutation of pension or annuity or any sum withdrawn from a provident fund;

(v) any income exempted by order of the Governor in Council under Section 74;

(vi) the income of any individual who is not resident or is only temporarily resident in the Colony:

Provided in any case that—

(a) a person who stays in the Colony for a period or a number of periods amounting to more than one hundred and eighty days during a year of assessment shall be liable for that year of assessment, and

(b) a person whose stay in the Colony amounts in the aggregate to more than three hundred days during two consecutive years of assessment shall be liable for each such year of assessment.

Definition of income from employment.

9.—(1) Income from any office or employment includes—

(i) any wages, salary, leave pay, fee, pension, commission, bonus, gratuity, or perquisite, whether derived from the employer or others, except the value of any holiday warrant, passage, or other form of free conveyance granted by an employer to an employee, or any allowance for the purchase of any such conveyance in so far as it is expended for such purpose;

(ii) the rental value of any place of residence provided rent-free by the employer;

(iii) where a place of residence is provided by an employer at a rent less than the rental value, the excess of the rental value over such rent.

(2) The rental value of any place of residence shall be the rateable value arrived at in accordance with section 5: Provided that for the purposes of sub-section 1 (ii) and (iii), any excess of rental value over one-sixth of the income described in sub-section (1) (i) shall be disregarded.

Aggregation of married persons' incomes and collection thereof.

10. The income as defined in section 9 of a married woman who is not living apart from her husband under the decree of a competent court or a duly executed deed of separation shall, for the purposes of this Chapter, be deemed to be the income of her husband and shall be chargeable accordingly: Provided that such part of the total amount of the tax charged to the husband as appears to the Commissioner to be charged in respect of the income of the wife may, if necessary, be collected from the wife, notwithstanding that no assessment has been made upon her, and the provisions of this Ordinance as to collection and recovery of tax shall apply accordingly.

Ascertainment of assessable income.

11.—(1) Save as provided in this section, the assessable income chargeable to Salaries Tax for any year of assessment shall be the income of the recipient as defined in Section 9 for the year preceding the year of assessment.

(2) Where a person commences to receive income chargeable to Salaries Tax on a day within a year of assessment, his assessable income for that year of assessment shall be his income from such day to the end of the year of assessment.

(3) Where a person has commenced to receive income chargeable to Salaries Tax on a day within the year preceding the year of assessment, his assessable income for that year of assessment shall be his income for one year from such day.

(4) Where a person ceases to receive income chargeable to Salaries Tax his assessable income for the year of assessment in which the cessation occurs shall be his income for the period beginning on the first day of April in that year and ending on the date of cessation.

12.—(1) Where any person liable to Salaries Tax pays Income Tax in the United Kingdom or any other part of the British Empire on income assessable under this Chapter, there shall be deducted from his assessable income a sum equal to the amount of the income on which such Income Tax has been or will be charged during the year of assessment, and such person shall be deemed to be liable to Salaries Tax only for such proportion of the year of assessment as his net assessable income bears to his income before the deduction has been made.

Relief where income tax is payable elsewhere.

(2) Where any person liable to Salaries Tax pays Income Tax in a country other than the United Kingdom or a part of the British Empire, there shall be deducted from his assessable income a sum equal to the amount of Income Tax which has been or will be paid during the year of assessment.

13.—(1) There shall be deducted from the assessable income liable to salaries tax of any individual before arriving at the net chargeable income—

Allowances.

(a) an allowance of three thousand dollars;

(b) an allowance of three thousand dollars, if, at any time during the year preceding the year of assessment, he had a wife;

(c) an allowance of two thousand dollars, if he had living at any time during the year preceding the year of assessment an unmarried child who was under the age of twenty-two years, and where he had more than one such child an allowance of one thousand dollars for the second child, and seven hundred and fifty dollars each for the third and fourth child:

Provided that—

(i) no such allowance shall be made in respect of a child whose income from any source for the year preceding the year of assessment exceeded two thousand dollars;

(ii) no such allowance shall be made in respect of a child who carried on or exercised during the year preceding the year of assessment a trade, business, profession, vocation, or employment;

(iii) no allowances shall be made in respect of any number of children exceeding four.

(2) For the purposes of this section—

(a) "wife" means the lawful wife of any person married to him by a Christian marriage or its civil equivalent, or in the case of a Chinese or any other Asiatic the principal spouse.

(b) "child" of an individual includes a child by his wife or by a former wife and a step-child. It includes also an adopted child and, in the case of Asiatics, a child by his concubine if such child is recognized by him and his family as a member of his family.

(3) An individual who is liable to tax under this Chapter for a part only of a year of assessment shall be entitled for that year to the same proportion only of the allowances under this section and of the exemption under paragraph (iii) of the proviso to section 8 as the number of days during which he is liable bears to the number of days in that year of assessment.

Proportionate allowances.

Proof of claims.

(4) Every individual who claims an allowance under this Section shall make his claim on the prescribed form. Such allowance shall be granted if the claim contains such particulars and is supported by such proof as the Commissioner may require.

Rates of Salaries Tax

14.—(1) Salaries tax shall be charged for each year of assessment upon the net chargeable income for that year calculated as provided by sections 9 to 13 at the following rates:—

- (a) upon the first five thousand dollars at six per cent.
- (b) upon the remainder at fourteen per cent.:

Provided that where an individual is liable to tax under this Chapter for a part only of any year of assessment, the said sum of five thousand dollars shall be reduced in the proportion which the number of days during which he is so liable bears to the number of days in that year of assessment.

(2) Notwithstanding the provisions of sub-section (1) the tax payable for any year of assessment by an individual who is liable to tax throughout such year shall not be more than the amount by which his assessable income for that year exceeds three thousand six hundred dollars:

Provided that where an individual is liable to tax under this Chapter for a part only of any year of assessment the tax payable shall not be more than the amount by which his assessable income exceeds \$3,600 reduced in the proportion which the number of days during which he is so liable bears to the number of days in that year of assessment.

CHAPTER IV.

PROFITS TAX.

Imposition of Corporation Profits Tax.

15. Corporation Profits Tax shall, subject to the provisions of this Ordinance, be charged on every corporation carrying on trade or business in the Colony at the rate of fourteen per cent. in respect of the profits arising in or derived from the Colony from such trade or business.

Imposition of Business Profits Tax.

16. Business Profits Tax shall, subject to the provisions of this Ordinance, be charged at the rates specified in this section on every person other than a corporation carrying on trade, profession or business in the Colony in respect of the profits arising in or derived from the Colony from such trade, profession or business:—

Upon the first fifty thousand dollars—seven per cent.

Upon the remainder—fourteen per cent.

Provided that:—

(i) where the profits assessable under this section from a trade, profession or business do not exceed the sum of five thousand dollars, no tax shall be chargeable in respect thereof;

(ii) the Profits Tax payable by any person or partnership other than a corporation in respect of the profits from any trade, profession or business shall not be more than the amount by which the profits from such trade, profession or business exceed the sum of five thousand dollars;

(iii) for the purpose of assessing the profits of a trade, profession or business, a husband and wife who are not living apart from each other under the decree of a competent court or a duly executed deed of separation shall be deemed to be one person.

17. The profits of any person shall be exempt from Hong Kong Profits Tax if the whole income of such person is liable to Income Tax in the United Kingdom or in any other part of the British Empire. Exemption of profits liable to Empire Income Tax.

18. There shall be deducted, for the purpose of ascertaining profits under this Chapter, all outgoings and expenses incurred in the production thereof including— Deductions allowed in ascertaining profits.

(a) a reasonable allowance for the depreciation by wear and tear of assets arising out of their use by the owner thereof in a trade, profession or business carried on by him, such allowance being calculated at the rates prescribed by the Board of War Taxation, provided that the Commissioner may in his discretion allow a higher rate.

(b) where any asset in respect of which depreciation is allowable has been sold or discarded without the said trade, profession or business ceasing, the loss attributable to the excess of the written-down value over the sum, if any, realized or likely to be realized by the sale thereof.

Provided that—

(i) any corresponding profit shall be treated as a receipt of the trade, profession or business, and

(ii) where such asset was only partly used or employed in such trade, profession or business the deduction or addition under this sub-section shall be proportionately reduced;

(c) any sum expended for the repair (but not renewal) of assets in respect of which depreciation is allowable:

Provided that any person may claim as regards his assets, in respect of which depreciation is allowable, that the cost of renewal be deducted in place of the depreciation and loss mentioned in paragraphs (a) and (b) of this sub-section, and his claim shall be allowed on such conditions as the Commissioner may prescribe;

(d) such sum as the Commissioner in his discretion considers reasonable for bad debts incurred in any trade, profession or business, which have become bad during the period of which the profits are being ascertained, and for doubtful debts to the extent that they are estimated to have become bad during the said period, notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said period:

Provided that all sums recovered during the said period on account of amounts previously written off or allowed in respect of bad or doubtful debts shall for the purposes of this Ordinance be treated as receipts of the trade, profession or business for that period;

(e) interest paid or payable for the purpose of producing the profits;

(f) where a person provides passages and/or leave pay for members of his staff proceeding on leave, and places annually to reserve in his accounts a sum to meet his commitments in respect thereof, he may claim that such sum be allowed as a deduction, and his claim shall be allowed on such conditions as the Commissioner may prescribe.

Deductions not allowed.

19.—(1) For the purpose of ascertaining profits no deduction shall be allowed in respect of—

(a) domestic or private expenses, including the cost of travelling between residence and place of business;

(b) any disbursements or expenses not being money expended for the purpose of producing the profits;

(c) any expenditure of a capital nature or any loss of capital;

(d) the cost of any improvements;

(e) any sum recoverable under an insurance or contract of indemnity;

(f) rent of, or expenses in connexion with, any premises or part of premises not occupied or used for the purpose of producing the profits;

(g) any tax paid or payable under this Chapter.

(2) In computing the profits or losses of a partnership, nothing shall be deducted for salaries or other remuneration of partners or for interest on partners' capital or loans.

Basis for computing profits.

20.—(1) Save as provided in this section, the assessable profits liable to Profits Tax of any trade, profession or business for any year of assessment shall be the full amount of its profits arising in or derived from the Colony during the year preceding the year of assessment.

(2) Where the Commissioner is satisfied that the accounts of a trade, profession or business carried on or exercised in the Colony are usually made up to some day other than the thirty-first day of March, he may direct that the profits from that source be computed on the amount of the profits of the year ending on that day in the year preceding the year of assessment. Where, however, the profits of any trade, profession or business have been computed by reference to an account made up to a certain day, and no account is made up to the corresponding day in the year following, the profits from that source both of the year of assessment in which such failure occurs and of the two years of assessment following shall be computed on such basis as the Commissioner in his discretion thinks fit.

(3) Where a person commences to carry on a trade, profession or business in the Colony on a day within a year of assessment, the profits arising therefrom for the period from such date to the end of the year of assessment shall be the assessable profits for such year of assessment.

(4) Where a person has commenced to carry on a trade, profession or business on a day within the year preceding a year of assessment, the assessable profits for that year of assessment shall be the profits for one year from such day.

(5) Where a person ceases to carry on a trade, profession or business, the assessable profits therefrom as regards the year of assessment in which the cessation occurs shall be the amount of the profits of the period beginning on the first day of April in that year and ending on the date of cessation.

(6) Notwithstanding the provisions of section 55 a claim made under this section to an adjustment of any assessment by reference to the profits for any period other than the year preceding the year of assessment shall be entertained if it is made within the period of twelve months next succeeding the year of assessment. A claim so made shall be regarded as an appeal for the purposes of Chapter VIII.

(7) Where in the case of any trade, profession or business it is necessary in order to arrive at the profits or losses of any year of assessment or other period to divide and apportion to specific periods the profits and losses for any period for which accounts have been made up, or to aggregate any such profits or losses or any apportioned parts thereof, it shall be lawful to make such a division and apportionment or aggregation, and any apportionment under this section shall be made in proportion to the number of days in the respective period.

21.—(1) For the purposes of this section—

Liability of certain non-resident persons.

(a) a person is closely connected with another person where the Commissioner in his discretion considers that such persons are substantially identical or that the ultimate controlling interest of each is owned or deemed under this section to be owned by the same person or persons;

(b) the controlling interest of a company shall be deemed to be owned by the beneficial owners of its shares, whether held directly or through nominees, and shares in one company held by or on behalf of another company shall be deemed to be held by the shareholders of the last-mentioned company.

(2) Where a non-resident person carried on business with a resident person with whom he is closely connected and the course of such business is so arranged that it produces to the resident person either no profits or less than the ordinary profits which might be expected to arise, the business done by the non-resident person in pursuance of his connexion with the resident person shall be deemed to be carried on in the Colony, and such non-resident person shall be assessable and chargeable with tax in respect of his profits from such business in the name of the resident person as if the resident person were his agent, and all the provisions of this Ordinance shall apply accordingly.

22. Where the Commissioner in his discretion considers that the true amount of the profits of a non-resident person in respect of a trade, profession or business carried on in the Colony cannot be readily ascertained, such profits may be computed on a fair percentage of the turnover of that trade or business in the Colony:

Profits of certain businesses to be computed on a percentage of the turnover.

Provided that the amount of such percentage shall be subject to appeal in accordance with the provisions of Chapter VIII.

23.—(1) Where a trade, profession or business is carried on by two or more persons jointly, the tax in respect thereof shall be computed and stated jointly in one sum and a joint assessment shall be made in the partnership name.

Assessment of partnerships.

(2) The precedent partner shall make and deliver a statement of the profits or losses of such trade, profession or business, on behalf of the partnership, ascertained in accordance with the provisions of this Chapter relating to the ascertainment of profits.

Where no active partner is resident in the Colony the return shall be furnished by the manager or agent of the partnership in the Colony.

(3) If after the 31st day of March, 1940, a change occurs in a partnership of persons carrying on any trade, profession or business, by reason of retirement or death, or the dissolution of the partnership as to one or more of the partners, or the admission of a new partner, in such circumstances that one or more of the persons who until that time were engaged in the trade, profession or business continue to be engaged therein, or a person who until that time was engaged in any trade, profession or business on his own account continues to be engaged in it, but as a partner in a partnership, the tax payable by the person or persons who carry on the trade, profession or business after that time shall, notwithstanding the change be computed according to the profits or gains of the trade, profession or business in accordance with section 20 as if no such change had occurred: Provided that on application made in writing by all the persons engaged in the trade, profession or business both immediately before and immediately after the change, and signed by all of them or, in the case of a deceased person, by his legal representative, and received by the Examiner within twelve months after the change took place, the Examiner may compute the profits for any year of assessment as if the trade, profession or business had been discontinued at the date of the change and a new trade, profession or business had been then set up and commenced.

(4) Tax upon the partnership shall be recoverable by all means provided in this Ordinance out of the assets of the partnership, or from any partner, or from the Manager or Agent of the partnership in the Colony, and in the case of an assessment made in accordance with sub-section (3) notwithstanding a change in the partnership shall be recoverable if necessary from any person who quitted the partnership at the change or from the estate of any such person deceased.

(5) Tax may be assessed on the profits of a partnership notwithstanding the cessation or dissolution of such partnership and shall be recoverable from the former partners and from the assets of the partnership at the time of its cessation.

Persons assessable on behalf of a non-resident person.

24.—(1) A non-resident person shall be assessable either directly or in the name of his agent in respect of all his profits arising in or derived from the Colony of any trade, profession or business carried on in the Colony whether such agent has the receipt of the profits or not, and the tax so assessed whether directly or in the name of the agent shall be recoverable by all means provided in this Ordinance out of the assets of the non-resident person or from the agent. Where there are more agents than one they may be assessed jointly or severally in respect of the profits of the non-resident person and shall be jointly and severally liable for tax thereon.

(2) Every person chargeable with tax as agent, or from whom tax is recoverable in respect of the profits of another

person, may retain out of any assets coming into his possession or control on behalf of such other person or in his capacity as agent so much thereof as shall be sufficient to produce the amount of such tax, and he shall be and is hereby indemnified against any person whomsoever in respect of his retention of such assets.

(3) Where a person chargeable with tax or from whom tax is recoverable in respect of the profits of another person has paid such tax, and no assets of such other person come into his possession or control out of which he could retain the tax so paid, such tax shall be a debt due to him from such other person.

25.—(1) The profits of a company, whether mutual or proprietary, from the business of life insurance shall be the investment income of the Life Insurance Fund less the management expenses (including commission) attributable to that business:

Ascertainment of profits of insurance companies.

Provided that where such a company transacts life insurance business both in the Colony, whether directly or through an agent, and elsewhere, the profits from business in the Colony shall be deemed to be the same proportion of the total investment income of the Life Insurance Fund of the company as the premiums from life insurance business in the Colony bear to the total life insurance premiums received by it, subject to a deduction of agency expenses in the Colony (including commission) and a fair proportion of the expenses of the head office of the company, due account being taken in each case by set-off against such expenses of any income or profits other than life insurance premium or investment income.

(2) The profits of a company, whether mutual or proprietary, from the business of insurance (other than life insurance) shall be ascertained by taking the gross premiums from insurance business in the Colony (less any premiums returned to the insured and premiums paid on re-insurance) and deducting therefrom a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the period of which the profits are being ascertained, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of such period, and from the net amount so arrived at deducting the actual losses (less the amount recovered in respect thereof under re-insurance), the agency expenses in the Colony, and a fair proportion of the expenses of the head office of the company, due account being taken in each case by set-off against such expenses of any income or profits other than premiums.

(3) Where the Commissioner is satisfied that by reason of the limited extent of the business transacted in the Colony by a non-resident insurance company it would be unreasonable to require the company to furnish the particulars necessary for the application of sub-sections (1) and (2), he may, notwithstanding the provisions of those sub-sections, permit the profits of the company to be ascertained by reference to the proportion of the total profits and income of the company corresponding to the proportion which its premiums from insurance business in the Colony bear to its total premiums, or on any other basis which appears to him to be equitable.

(4) For the purposes of this section "investment income of the Life Insurance Fund" means, in the case of a company whose sole business is life insurance, the whole of its income from investments, and, in the case of any other company, such part of its income from investments as appears fairly attributable to its life insurance business.

Ascertainment of profits of shipowners, aircraft owners, and charterers.

26.—(1) Where a person carries on a business of shipowner or aircraft owner or charterer and any ship or aircraft owned or chartered by such person calls at a port in the Colony the full amount of the profits arising from the carriage of passengers, mails, livestock and goods shipped in the Colony shall be deemed to arise in the Colony: Provided that this section shall not apply to goods which are brought to the Colony solely for transshipment.

(2) The following provisions shall apply to the determination of such profits:—

(a) the profits arising in Hong Kong from shipping or air transport business for any accounting period shall be the sum bearing the same ratio to the sums receivable in respect of carriage of passengers, mails, livestock and goods shipped in the Colony as the total profits for the said period shown by that person's accounts bear to the total sums receivable by him in respect of the carriage of passengers, mails, livestock and goods: Provided that where the said total profits have been computed on a basis which differs materially from that prescribed in this Chapter for the ascertainment of profits, the ratio of profits shall be adjusted so as to correspond as nearly as may be to the ratio which would have been arrived at if the profits had been computed in accordance with the provisions of this Chapter relating to the ascertainment of profits;

(b) where the provisions of paragraph 2 (a) of this section cannot for any reason be satisfactorily applied, the profits arising in the Colony may be computed on a fair percentage of the full sum receivable on account of the carriage of passengers, mails, livestock and goods shipped in the Colony: Provided that where any person has been assessed for any year of assessment by reference to such percentage, he shall be entitled to claim at any time within one year of the end of such year of assessment that his liability to tax for that year be recomputed on the basis provided by paragraph 2 (a) of this section;

(c) where the Commissioner decides that the call of a ship or aircraft belonging to a particular shipowner or charterer at a port of the Colony is casual and that further calls by that ship or aircraft or others in the same ownership are improbable, he may in his discretion exempt the profits of such ship or aircraft from the provisions of this section, and thereupon such profits shall be treated as if they do not arise in the Colony, and not liable to taxation.

(3) The master of any ship or aircraft owned or chartered by a person whose profits are calculated under the provisions of this section shall (though not to the exclusion of any other agent) be deemed the agent of such person for all the purposes of the Ordinance.

Ascertainment of income of clubs, trade associations, etc.

27.—(1) Where a body of persons, whether corporate or unincorporate, carries on a club or similar institution and receives from its members not less than half of its gross receipts on revenue account (including entrance fees and

subscriptions), it shall not be deemed to carry on a business; but where less than half of its gross receipts are received from members, the whole of the income from transactions both with members and others (including entrance fees and subscriptions) shall be deemed to be receipts from a business, and the body of persons shall be chargeable in respect of the profits therefrom.

(2) Where a body of persons, whether corporate or unincorporate, carries on a trade association in such circumstances that more than half its receipts by way of entrance fees and subscriptions are from persons who claim or would be entitled to claim that such sums were allowable deductions for the purposes of section 18, such body of persons shall be deemed to carry on a business, and the whole of its income from transactions both with members and others (including entrance fees and subscriptions) shall be deemed to be receipts from a business, and the body of persons shall be chargeable in respect of the profits therefrom.

(3) In this section, "members", in relation to a body of persons, means those persons who are entitled to vote at a general meeting of the body at which effective control is exercised over its affairs.

28. There shall be deducted from any profits tax payable under this Chapter in respect of any trade, profession or business any property tax payable under Chapter II of this Ordinance, in respect of any land and/or buildings, by such trade, profession or business.

Deduction of Property Tax from Profits Tax.

29.—(1) For the purposes of assessment the dividends of a corporation, which is subject to tax under this Chapter, shall not be included in the profits of any other person for the purposes of taxation under this Ordinance.

Certain dividends excluded from assessment of profits.

(2) For the purposes of assessment no part of the profit or loss of a trade, profession or business, which is subject to tax under this Chapter, shall be included in the profits of any other trade, profession or business for the purposes of taxation under this Ordinance.

CHAPTER V.

INTEREST TAX.

30. Interest Tax shall be charged at the rate of fourteen per cent. on the full amount of any sum falling due after the thirty-first day of March, 1941, being interest arising in or accruing in the Colony on any debenture, mortgage, bill of sale, loan, deposit or advance, and

Imposition of Interest Tax.

(a) paid or payable under any mortgage, debenture or bill of sale registered with any public authority or public officer;

(b) paid or payable by any person carrying on trade, profession or business in the Colony and allowable as a deduction in ascertaining the profits of such trade, profession or business in accordance with section 18:

Provided that there shall be exempt from Interest Tax :

(a) any interest paid or payable by or to a banker approved by the Board of War Taxation;

(b) any interest paid or payable to a Corporation carrying on trade or business in the Colony;

(c) any interest liable to Income Tax in the United Kingdom or any other part of the British Empire.

Deduction of tax by person paying interest.

31. Where any person in the Colony pays or credits to any other person any sum falling due after the thirty-first day of March, 1941, being interest chargeable with tax under section 30, he shall, notwithstanding any agreement to the contrary whether made before or after the passing of this Ordinance deduct fourteen per centum from such sum, and every such deduction shall be a debt due from such person to the Government of Hong Kong and shall be recoverable forthwith as such or may be assessed and charged upon such person in addition to any tax otherwise payable by him under this Ordinance. Where any such person fails to make a deduction which he is required to make under this section he shall nevertheless be deemed to have made the deduction.

Certificate of deduction, etc. by person paying interest.

32. Any person who deducts Interest Tax in accordance with the provisions of section 31 shall, at the request of the recipient, issue to him a Certificate in the prescribed form showing—

- (i) the gross amount of the payment;
- (ii) the amount of tax deducted;
- (iii) the net amount paid or credited;
- (iv) the period of accrual.

Set off and refund of deduction.

33.—(1) Where the profits of any person which are liable to tax under the provisions of sections 15 and 16 include any sum from which a deduction has been made in accordance with section 31, he shall be entitled, on production of a Certificate issued in accordance with section 32, to a set off against the tax payable by him under the provisions of Chapter IV of the amount of the deduction shown on such Certificate: Provided that if the amount of the deduction should exceed the amount of Profits Tax, the excess shall be refunded in accordance with section 64.

(2) Where for any year of assessment a person is assessed to Profits Tax under the provisions of section 20 (5), the Commissioner may in addition to the relief due under paragraph (1) of this section grant such further relief as he may decide to be reasonable.

(3) The aggregate relief granted under this section in respect of any sum deducted by way of Interest Tax shall in no circumstances exceed the amount of such deduction.

Recovery of deduction.

34. Any person who has been deemed to have made a deduction from interest payable to another person under the provisions of section 31, may retain out of any assets of such other person coming into his possession or control, so much thereof as shall be sufficient to produce the amount of such deduction, and he shall be and is hereby indemnified against any person whomsoever in respect of his retention of such assets; and where no assets of such other persons

come into his possession or control out of which he could retain the amount deducted, the amount of such deduction shall be a debt due to him from such other person.

35. Where, in the opinion of the Commissioner, the provisions of section 31 relating to the deduction of Interest Tax have failed or are likely to fail to secure payment of any sum being tax upon interest charged by section 30, it shall be lawful for him to recover any such sum by way of direct assessment upon the recipient of such interest or upon his agent.

Recovery of tax by direct assessment

CHAPTER VI.

RETURNS, ETC.

36.—(1) An Examiner may give notice in writing to any person requiring him within a reasonable time stated in such notice to furnish a return of any sum assessable to Property Tax, Salaries Tax, Profits Tax or Interest Tax under Chapters II, III, IV and V of this Ordinance, containing such particulars and in such form as may be prescribed.

Returns and information to be furnished.

(2) Every person chargeable with tax for any year of assessment who has not been required within a period of three months after the commencement of such year of assessment to make a return of any income assessable to such tax for that year as provided in sub-section (1) shall within fourteen days after the expiration of such period give notice to the Commissioner that he is so chargeable.

(3) An Examiner may give notice in writing to any person when and as often as he thinks necessary requiring him within a reasonable time stated in such notice to furnish fuller or further returns respecting any matter of which a return is required or prescribed by this Ordinance.

(4) For the purpose of obtaining full information in respect of any person's income which is assessable to tax under this Ordinance—

(a) an Examiner may give notice in writing to such person requiring him within a reasonable time stated in such notice to produce for examination any deeds, plans, instruments, books, accounts, trade lists, stock lists, or documents which the Examiner may deem necessary;

(b) an Assistant Commissioner may give notice in writing to such person or to any other person whom he may deem able to furnish information in respect of such income, requiring him to attend at a time and place to be named by the Assistant Commissioner for the purpose of being examined respecting such income or any transactions or matters affecting the same.

(5) A return, statement, or form purporting to be furnished under this Ordinance by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement, or form shall be deemed to be cognizant of all matters therein.

(6) Any person discontinuing a business, profession or employment or the ownership of property shall give to the Commissioner notice of such discontinuance within fifteen days thereof.

Information to be furnished by officials and employers.

37.—(1) The Commissioner may give notice in writing to any officer in the employment of the Government or of any public body requiring him within a reasonable time stated in such notice to furnish any particulars which he may require for the purposes of this Ordinance which may be in the possession of such officer :

Provided that no such officer shall by virtue of this section be obliged to disclose any particulars as to which he is under any express statutory obligation to observe secrecy.

(2) Every person who is an employer shall, when required to do so by notice in writing given by an Examiner, furnish within a reasonable time stated in such notice a return containing the names and places of residence and the full amount of the remuneration, whether in cash or otherwise, for the period specified in the notice, of—

(a) all persons employed by him in receipt of remuneration in excess of a minimum figure to be fixed by the Examiner; and

(b) any other person employed by him named by the Examiner.

(3) Any director of a company, or person engaged in the management of a company, shall be deemed to be a person employed by the company.

Who may act for incapacitated or non-resident person.

38. An act or thing required by or under this Ordinance to be done by any person shall, if such person is an incapacitated or non-resident person, be deemed to be required to be done by the trustee of such incapacitated person or by the agent of such non-resident person, as the case may be.

Liability of Executor of deceased taxpayer.

39. The executor of a deceased person shall be chargeable with the tax for all periods prior to the date of such person's death with which the said person would be chargeable if he were alive, and shall be liable to do all such acts, matters or things as the deceased person if he were alive would be liable to do under this Ordinance :

Provided that—

(i) no proceedings shall be instituted against the executor under the provisions of Chapter XI of this Ordinance in respect of any act or default of the deceased person;

(ii) no assessment or additional assessment in respect of a period prior to the date of such person's death shall be made after the expiry of two years from such date of death; and

(iii) the liability of an executor under this section shall be limited to the sum of—

(a) the deceased person's estate in his possession or control at the date when notice is given to him that liability to tax will arise under this section, and

(b) any part of the estate which may have passed to a beneficiary within twelve months after the death of the deceased person.

40. Where two or more persons act in the capacity of trustees of a trust or executors of a deceased person's estate, they may be charged jointly or severally with the tax with which they are chargeable in that capacity, and shall be jointly and severally liable for payment of the same. Joint and several liability of trustees and executors.

41.—(1) Wherever two or more persons in partnership act in the capacity of trustees or executors, or as agents, or are employers, or are persons in receipt of profits or act in any other capacity whatever, either on behalf of themselves or of any other person, the precedent partner of such partnership shall be answerable for doing all such acts, matters, and things as would be required to be done under the provisions of this Ordinance by an individual acting in such capacity: Precedent partner to act on behalf of a partnership.

Provided that any person to whom a notice has been given under the provisions of this Ordinance as precedent partner of a partnership shall be deemed to be the precedent partner thereof unless he proves that he is not a partner in such partnership, or that some other person resident in the Colony is the precedent partner thereof.

(2) Where two or more persons who are not in partnership act jointly in any capacity mentioned in sub-section (1), they shall be jointly and severally answerable for doing all such acts, matters, and things as would be required to be done under the provisions of this Ordinance by an individual acting in such capacity.

42. The secretary, manager, or other principal officer of every company or body of persons corporate or unincorporate shall be answerable for doing all such acts, matters, or things as are required to be done under the provisions of this Ordinance by such company or body of persons: Principal officer to act on behalf of a company or body of persons.

Provided that any person to whom a notice has been given under the provisions of this Ordinance on behalf of a company or body of persons shall be deemed to be the principal officer thereof unless he proves that he has no connexion with the company or body of persons, or that some other person resident in the Colony is the principal officer thereof.

43.—(1) Every notice to be given by the Commissioner, an Assistant Commissioner, or an Examiner under this Ordinance shall bear the name of the Commissioner or Assistant Commissioner or Examiner, as the case may be, and every such notice shall be valid if the name of the Commissioner, Assistant Commissioner, or Examiner is duly printed or signed thereon. Signature and service of notices.

(2) Every notice given by virtue of this Ordinance may be served on a person either personally or by being delivered at, or sent by post to, his last known place of abode or any place at which he is, or was during the year to which the notice relates, carrying on business :

Provided that a notice of assessment under section 48 shall be served personally or by being sent by registered post to any such place as aforesaid.

(3) Any notice sent by post shall be deemed to have been served on the day succeeding the day on which it would have been received in the ordinary course by post.

(4) In proving service by post it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(5) Every name printed or signed on any notice or signed on any certificate given or issued for the purposes of this Ordinance which purports to be the name of the person authorized to give or issue the same shall be judicially noticed.

CHAPTER VII.

ASSESSMENTS.

Examiner to make assessments

44.—(1) Every person who is in the opinion of an Examiner chargeable with tax under this Ordinance shall be assessed by him as soon as may be after the expiration of the time limited by the notice requiring him to furnish a return under section 36 (1) :

Provided that the Examiner may assess any person at any time if he is of opinion that such person is about to leave the Colony; or that for any other reason it is expedient to do so.

(2) Where a person has furnished a return of income liable to assessment the Examiner may either—

(a) accept the return and make an assessment accordingly; or

(b) if he does not accept the return, estimate the amount of the assessable income of such person and assess him accordingly :

Provided that if the Examiner accepts the return as substantially correct, but considers it necessary to make further inquiries on any matter, he may make immediately a provisional assessment in the amount of the return which until amended shall be a valid assessment for all purposes.

(3) Where a person has not furnished a return and the Examiner is of the opinion that such person is chargeable with tax, he may estimate the amount of the assessable income of such person and assess him accordingly, but such assessment shall not affect the liability of such person to a penalty by reason of his failure or neglect to deliver a return.

(4) In the case of profits from a trade or business, if accounts of such trade or business have not been kept in a form satisfactory to the Examiner, he may assess the profits or income of such trade or business on the basis of the usual rate of net profit on the turnover of such trade or business; and the Board of War Taxation may prescribe the amounts of such usual rates of profits in particular classes of trade or business.

45. Where it appears to an Examiner that a provisional assessment made under sub-section (2) of section 44 should be increased or that for any year of assessment any person chargeable with tax has not been assessed or has been assessed at less than the proper amount, the Examiner may, within the year of assessment or within three years after the expiration thereof, assess such person at the amount or additional amount at which according to his judgment such person ought to have been assessed, and the provisions of this Ordinance as to notice of assessment, appeal and other proceedings shall apply to such assessment or additional assessment and to the tax charged thereunder :

Additional assessments.

Provided that, where the non-assessment or under assessment of any person for any year of assessment is due to fraud or wilful evasion, such assessment or additional assessment may be made at any time within six years after the expiration of that year of assessment.

46. Where an Examiner is of opinion that any transaction which reduces or would reduce the amount of tax payable by any person is artificial or fictitious or that any disposition is not in fact given effect to, he may disregard any such transaction or disposition and the person concerned shall be assessable accordingly.

Certain transactions and dispositions to be disregarded.

47.—(1) An Assistant Commissioner shall give a notice of assessment to each person who has been assessed stating the amount assessed and the amount of tax charged.

Notice to be issued by Assistant Commissioner.

(2) Where the assessment is a provisional assessment made under section 44 (2) the person assessed shall be notified accordingly; and he shall further be notified in due course if such provisional assessment is confirmed, provided that the confirmation of a provisional assessment shall not preclude the making of an additional assessment subsequently under section 45.

(3) Where by reason of an amendment of the law it is necessary to vary the amount of tax charged in any notice of assessment the Assistant Commissioner may give such notification as may be necessary to the person assessed in that notice of assessment; and any notification so given shall, as regards any particulars of the assessment contained in the notification which have not been included in the notice of assessment, have effect as if the notification were a notice of assessment.

48.—(1) No notice, assessment, certificate, or other proceeding purporting to be in accordance with the provisions of this Ordinance shall be quashed, or deemed to be void

Validity of assessments, etc.

or voidable, for want of form, or be affected by reason of a mistake, defect, or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Ordinance, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) Without prejudice to the generality of sub-section (1) an assessment shall not be impeached or affected—

(a) by reason of a mistake therein as to the name or surname of the person chargeable, the amount of income assessed, or the amount of tax charged; or

(b) by reason of any variance between the assessment and the notice thereof:

Provided that a notice of such assessment is duly served on the person intended to be charged and contains in substance and effect the particulars mentioned in paragraph (a) of this sub-section.

CHAPTER VIII.

APPEALS.

Appeals to the Commissioner.

49.—(1) Any person aggrieved by the amount of an assessment made under this Ordinance may within twenty-one days from the date of the notice of such assessment appeal to the Commissioner by notice of objection in writing to review and revise such assessment. Any person so appealing (hereinafter referred to as the appellant) shall state precisely in his notice the grounds of his objection and the notice shall not be valid unless it contains such grounds and is made within the period above mentioned:

Provided that the Commissioner, upon being satisfied that owing to absence from the Colony, sickness, or other reasonable cause the appellant was prevented from giving notice of objection within such period, shall grant an extension thereof:

Provided further that, where the assessment appealed against has been made in the absence of a return of income by the appellant, no notice of objection shall be valid unless and until such return has been duly made.

(2) On receipt of a valid notice of objection under sub-section (1), the Commissioner may cause further inquiry to be made by an Examiner, and if in the course of such inquiry an agreement is reached as to the amount at which the appellant is liable to be assessed, any necessary adjustment of the assessment shall be made.

(3) Where no agreement is reached between the appellant and the Examiner in the manner provided in sub-section (2), the Commissioner shall, subject to the provisions of section 52 fix a time and place for the hearing of the appeal.

Procedure on appeals to the Commissioner.

(4) Every appellant shall attend before the Commissioner at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appeal in person or by an authorized representative. The Commissioner may, if he thinks fit, from time to time adjourn the hearing of an appeal for such time and place as he may fix for the purpose. In any case in which an authorized representative attends on behalf of the appellant, the Commissioner may adjourn the hearing of the appeal and may, if he considers that the personal attendance of the appellant is necessary for the determination of the appeal, require that the appellant shall attend in person at the time and place fixed for the adjourned hearing of the appeal. If the appellant or his authorized representative fails to attend at the time and place fixed for the hearing or any adjourned hearing of the appeal, or if the appellant fails to attend in person when required so to attend by the Commissioner, the Commissioner may dismiss the appeal:

Provided that if the appellant shall within a reasonable time after the dismissal of an appeal satisfy the Commissioner that he or his representative was prevented from due attendance at the hearing or at any adjourned hearing of such appeal by absence from the Colony, sickness, or other unavoidable cause, the Commissioner may vacate the order of dismissal and fix a time and place for hearing of the appeal.

(5) The Commissioner shall have power to summon any person whom he may consider able to give evidence respecting the appeal to attend before him at the hearing and may examine such person on oath or otherwise. Any person so attending may be allowed by the Commissioner any reasonable expenses necessarily incurred by such person in so attending.

(6) In disposing of an appeal the Commissioner may confirm, reduce, increase, or annul the assessment, and shall record his determination in writing and announce it orally.

(7) Where the Commissioner authorizes an Assistant Commissioner to hear appeals, such authority shall not empower such Assistant Commissioner to hear an appeal against an assessment which he has himself signed and allowed or against a penalty which he has himself imposed.

Appeals to the Board of Review.

50.—(1) For the purpose of hearing appeals in the manner hereinafter provided, there shall be a panel for a Board of Review consisting of not more than twenty members who shall be appointed from time to time by the Governor. The members of the panel shall hold office for a term of three years but shall be eligible for reappointment.

Constitution of the Board of Review.

(2) There shall be a Clerk to the Board of Review (hereinafter referred to as the Board) who shall be appointed by the Governor.

(3) There shall be a Legal Adviser to the Board who shall be appointed by the Board.

(4) Three or more members of the panel, one of whom shall be nominated as chairman, shall be nominated by the Colonial Secretary and summoned by the Clerk to attend meetings of the Board at which appeals are to be heard. At any such a meeting a quorum shall consist of three members. All matters coming before the Board shall be decided by a

majority of votes and in the case of an equality of votes the chairman shall have a second or casting vote.

(5) At the request of the Colonial Secretary, the Clerk to the Board shall summon a meeting of the Board consisting of all the members of the panel available in the Colony. At such a meeting a quorum shall consist of five members.

(6) The remuneration (if any) of the members of the Board, the Clerk, and the Legal Adviser shall be fixed by the Governor.

Right of appeal to the Board of Review.

51.—(1) Any appellant, or the authorized representative of any appellant, who is dissatisfied with the determination by the Commissioner of an appeal under section 49 may declare his dissatisfaction with that determination. Such declaration shall be made orally immediately after the announcement by the Commissioner of his determination or shall be communicated in writing to the Commissioner within one week from the date of such announcement.

(2) Where the appellant has declared or communicated his dissatisfaction in accordance with sub-section (1), the Commissioner shall, within one month of the determination of the appeal, transmit in writing to the appellant or his authorized representative his determination and reasons therefor.

(3) Within one month of the transmission of such written determination and reasons by the Commissioner, the appellant may give notice of appeal to the Board. Such notice shall not be entertained unless it is given in writing to the Clerk to the Board and is accompanied by a copy of the Commissioner's written determination, together with a statement of the grounds of appeal therefrom.

(4) Save with the consent of the Board and on such terms as the Board may determine the appellant may not at the hearing by the Board rely on any grounds of appeal other than the grounds stated in accordance with sub-section (3), and may not adduce any evidence other than evidence adduced at the hearing of the appeal before the Commissioner.

Commissioner may refer appeals to the Board of Review.

52. Notwithstanding the provisions of section 49 where the Commissioner is of opinion that no useful purpose would be served by his hearing an appeal, he may refer it to the Board of Review, and the Board shall hear and determine such appeal and the provisions of section 53 shall apply accordingly.

Hearing and disposal of appeals to the Board of Review.

53.—(1) As soon as may be after the receipt of a notice of appeal, the Clerk to the Board shall fix a time and place for the hearing of the appeal, and shall give fourteen clear days' notice thereof both to the appellant and to the Commissioner.

(2) Every appellant shall attend at the meeting of the Board at which the appeal is heard in person or by an authorized representative:

Provided always that the Board may postpone the hearing of the appeal for such time as it thinks necessary for the attendance of the appellant.

(3) The Examiner who made the assessment appealed against or some other person authorized by the Commissioner

shall attend such meeting of the Board in support of the assessment.

(4) The onus of proving that the assessment as determined by the Commissioner on appeal, or as referred by him under section 52, as the case may be, is excessive shall be on the appellant.

(5) All appeals shall be heard in camera.

(6) The Board shall have power to summon to attend at the hearing any person whom it may consider able to give evidence respecting the appeal and may examine him as a witness either on oath or otherwise. Any person so attending may be allowed by the Board any reasonable expenses necessarily incurred by him in so attending.

(7) At the hearing of the appeal the Board may, subject to the provisions of section 51 (4), admit or reject any evidence adduced, whether oral or documentary, and the provisions of the Evidence Ordinance, 1889, relating to the admissibility of evidence shall not apply.

Ordinance No. 2 of 1889.

(8) After hearing the appeal, the Board shall confirm, reduce, increase, or annul the assessment as determined by the Commissioner on appeal, or as referred by him under section 52, as the case may be, or may remit the case to the Commissioner with the opinion of the Board thereon. Where a case is so remitted by the Board, the Commissioner shall revise the assessment as the opinion of the Board may require.

(9) Where under sub-section (8) the Board does not reduce or annul such assessment, the Board may order the appellant to pay as costs of the Board a sum not exceeding one hundred dollars, which shall be added to the tax charged and recovered therewith.

Appeals to the Supreme Court.

54.—(1) The decision of the Board shall be final:

Appeals to the Supreme Court.

Provided that either the appellant or the Commissioner may make an application requiring the Board to state a case on a question of law for the opinion of the Supreme Court. Such application shall not be entertained unless it is made in writing and delivered to the Clerk to the Board, together with a fee of fifty dollars, within one month of the date of the Board's decision. If the decision of the Board shall be notified to the Commissioner or to the appellant in writing, the date of the decision, for the purposes of determining the period within which either of such persons may require a case to be stated, shall be the date of the communication by which the decision is notified to him:

And provided also that the appellant or the Commissioner may appeal to the Supreme Court on a question of fact with the leave of such Court.

(2) The stated case shall set forth the facts and the decision of the Board, and the party requiring it shall transmit the case, when stated and signed, to the Supreme Court within fourteen days after receiving the same.

(3) At or before the time when he transmits the stated case to the Supreme Court, the party requiring it shall send to the other party notice in writing of the fact that the case

has been stated on his application and shall supply him with a copy of the stated case.

(4) Any Judge of the Supreme Court may cause a stated case to be sent back for amendment and thereupon the case shall be amended accordingly.

(5) Any Judge of the Supreme Court shall hear and determine any question of law arising on the stated case and may in accordance with the decision of the court upon such question confirm, reduce, increase, or annul the assessment determined by the Board, or may remit the case to the Board with the opinion of the court thereon. Where a case is so remitted by the court, the Board shall revise the assessment as the opinion of the court may require.

(6) In any proceedings before the Supreme Court under this section, the court may make such order in regard to costs in the Supreme Court and in regard to the sum paid under sub-section (1) as to the court may seem fit.

(7) Appeals from decisions of the Supreme Court under this section shall be governed by the provisions of the Supreme Court Ordinance, 1873, the Code of Civil Procedure, the Full Court Ordinance, 1933, and the Orders and Rules governing appeals to the Privy Council.

General.

Assessments or amended assessments to be final.

55. Where no valid objection or appeal has been lodged within the time limited by this Chapter against an assessment as regards the amount of the assessable income assessed thereby, or where the amount of the assessable income has been agreed to under section 49 (2), or where the amount of such assessable income has been determined on objection or appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Ordinance as regards the amount of such assessable income:

Provided that nothing in this Chapter shall prevent an Examiner from making an assessment or additional assessment for any year of assessment which does not involve re-opening any matter which has been determined on appeal for the year.

CHAPTER IX.

PAYMENT AND RECOVERY OF TAX.

Provisions regarding payment of tax.

56.—(1) The tax charged by any assessment shall be paid in the manner directed in the notice of assessment on or before a date specified in such notice. Any tax not so paid shall be deemed to be in default, and the person by whom such tax is payable or, where any tax is payable by more than one person or by a partnership, then each of such persons and each partner in the partnership, shall be deemed to be a defaulter, for the purposes of this Ordinance.

(2) Tax shall be paid notwithstanding any notice of objection or appeal, unless the Commissioner orders that payment of tax or any part thereof be held over pending the result of such objection or appeal.

(3) Where the Commissioner is of opinion either that the tax or any part thereof held over under sub-section (2) is likely to become irrecoverable, or that the appellant is unreasonably delaying the prosecution of his appeal, he may cancel any order made under that sub-section and make such fresh order as the case may appear to him to require.

(4) Where, upon the final determination of an appeal under Chapter VIII, or upon any order made by the Commissioner, any tax which has been held over under sub-section (2) becomes payable or the tax charged by the original assessment is increased, the Commissioner shall give to the appellant a notice in writing fixing a date on or before which any tax or balance of tax shall be paid. Any tax not so paid shall be deemed to be in default.

(5) Where any tax is in default, the Commissioner may in his discretion order that a sum or sums not exceeding five per centum in all of the amount in default shall be added to the tax and recovered therewith.

(6) Notwithstanding anything contained in the previous sub-sections of this section the Commissioner may agree to accept payment of Salaries Tax by instalments not exceeding four in number.

57. In the succeeding sections of this Chapter, "tax" includes any sum or sums added under section 56 (5) by reason of default, together with any fines, penalties, fees, or costs incurred. Tax to include fines, etc.

58.—(1) Save as provided in sub-section (2), tax in default shall be a first charge upon all the assets of the defaulter: Tax to be a first charge.

Provided that—

(i) such charge shall not extend to or affect any assets sold by the defaulter to a *bonâ fide* purchaser for value prior to the seizure of the same in accordance with the provisions of section 59;

(ii) as regards immovable property, the tax shall not rank in priority to any lease or encumbrance created *bonâ fide* for value and registered prior to the date of such seizure; and

(iii) as regards movable property, where tax for more than one year of assessment is in default, the tax for one year only, to be selected by the Commissioner, shall rank in priority to any lien or encumbrance created *bonâ fide* for value prior to the date of default.

(2) A receiver shall pay out of the assets under his control the tax charged or chargeable for one complete year of assessment prior to the date of the insolvency, bankruptcy, or liquidation, to be selected by the Commissioner, as a first charge on such assets and any other tax charged or chargeable for periods prior to such date shall be an unsecured debt:

Provided that where the receiver proves to the satisfaction of the Commissioner that any tax to which this sub-section applies is excessive, the Commissioner may, notwithstanding the provisions of section 55, review the assessment in respect of which the tax is charged and make such adjustment as he may in his discretion think reasonable.

Recovery of tax by seizure and sale.

59.—(1) The Commissioner may appoint persons to be Collectors.

(2)—(a) Where any tax is in default, the Commissioner may issue a certificate to any Collector or bailiff containing particulars of such tax and the name of the defaulter, and the officer to whom such certificate is issued shall be empowered and is hereby required to cause the tax to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

(b) The said seizure shall be effected in such manner as the said officer shall deem most expedient in that behalf, and any property so seized shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the tax in default together with the costs and charges within the said five days, the Collector or bailiff shall cause the said property to be sold by public auction.

(c) The sum realized by the sale shall be applied—

(i) firstly, in payment of the costs and charges of seizing, keeping, and selling the property, and

(ii) secondly, in satisfaction of the tax in default, and any balance shall be restored to the owner of the property seized.

(3) Whenever the Commissioner issues a certificate under this section, he shall at the same time issue to the defaulter a notification thereof by personal service, registered post, or telegraph; but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

Recovery of tax on certificate to a magistrate

60.—(1) Where the Commissioner is of opinion in any case that recovery of tax in default by seizure and sale is impracticable or inexpedient, or where the full amount of the tax has not been recovered by seizure and sale, he may issue a certificate containing particulars of such tax and the name and last known place of business or residence of the defaulter to a Magistrate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the tax should not be taken against him, and in default of sufficient cause being shown, the tax in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of the Magistrates Ordinance, 1932, relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that Ordinance, he could have made at the time of imposing such sentence:

Ordinance No. 41 of 1932.

Provided that nothing in this section shall authorize or require the Magistrate in any proceeding thereunder to consider, examine, or decide the correctness of any statement in the certificate of the Commissioner.

(2) In any proceeding under sub-section (1) the Commissioner's certificate shall be sufficient evidence that the tax has been duly assessed and is in default, and any plea that the tax is excessive, incorrect, or under appeal shall not be entertained, except that where any person proceeded against has not appealed within the proper time against the assessment in respect of which the tax is charged and alleges that the tax is in excess of the sum which would have been charged

if he had so appealed, the court may adjourn the matter for not more than thirty days to enable such person to submit to the Commissioner his objection to the tax.

(3) The Commissioner shall notwithstanding the provisions of section 55, consider such objection and give his decision thereon, which shall be final, and shall be certified by him to the Magistrate, and proceedings under this section shall thereupon be resumed to enforce payment of the tax as reduced or confirmed under such decision.

61.—(1) Where tax payable by any person is in default and it appears to the Commissioner to be probable that any person:—

Recovery from debtor of taxpayer.

(a) owes or is about to pay money to the defaulter; or

(b) holds money for or on account of the defaulter; or

(c) holds money on account of some other person for payment to the defaulter; or

(d) has authority from some other person to pay money to the defaulter,

the Commissioner may give to such person notice in writing (a copy of which shall be sent by post to the defaulter) requiring him to pay any such moneys not exceeding the amount of the tax in default to the officer named in such notice. The notice shall apply to all such moneys which are in his hands or due from him or about to be paid by him at the date of receipt of such notice, or come into his hands or become due from him or are about to be paid by him at any time within a period of thirty days thereafter.

(2) Any person who has made any payment in pursuance of this section shall be deemed to have acted under the authority of the person by whom the tax was payable and of all other persons concerned, and is hereby indemnified in respect of such payment against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract or agreement.

(3) Any person to whom a notice has been given under sub-section (1) who is unable to comply therewith owing to the fact that the moneys in question do not come into his hands or become due from him within the period referred to in sub-section (1) shall within fourteen days of the expiration thereof give notice in writing to the Commissioner acquainting him with the facts.

(4) Where any person to whom a notice has been given under sub-section (1) is unable to comply therewith and has failed to give notice to the Commissioner as provided in sub-section (3), or where he has deducted or could have deducted the tax to which the notice relates or any part thereof and has not paid over as directed by the Commissioner the amount of such tax or part thereof within fourteen days after the expiration of the period referred to in sub-section (1), he shall be personally liable for the whole of the tax which he has been required to deduct, which may be recovered from him by all means provided in this Ordinance.

62.—(1) Where the Commissioner is of opinion that any person is about to or likely to leave the Colony without paying all tax assessed upon him, he may issue a certificate containing particulars of such tax and the name of such person to a Magistrate, who shall on receipt thereof issue a direction

Recovery of tax from persons leaving the Colony.