

Excess fees
to be
refunded.

4. Where application in writing is made to the Accountant General before the 1st day of July, 1955, by a person who paid the fees prescribed by regulation 3 of the Dutiable Commodities (Amendment) (No. 2) Regulations, 1954, the Accountant General shall refund to such person a sum of money equal to the difference between the fees payable under that regulation and those payable under section 2.

Passed the Legislative Council of Hong Kong, this 8th day of June, 1955.

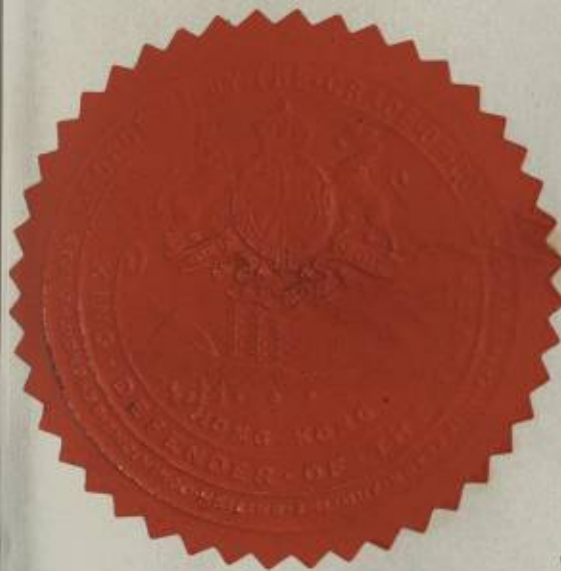


Deputy Clerk of Councils.

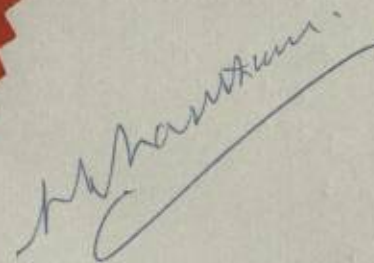
(Secretariat 1/3042/46)

HONG KONG

No. 19 OF 1955.



I assent.



Governor.

9th June, 1955.

An Ordinance to validate an undertaking for reclamation and other works over and upon unleased Crown foreshore and seabed situate at Hung Hom Bay, and to authorize, subject to the definitive approval of the Governor in Council, a further undertaking for reclamation and other works in the same situation.

[10th June, 1955.]

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 Public Reclamation Short title and Works (Hung Hom Bay) Ordinance, 1955.

Validation of undertaking in progress and extinguishment of rights. Schedule, Part I.

2. (1) All public and private rights of navigation or fishing and all public and private rights of access, user, possession or occupation and all other public or private rights (if any) in, upon and over the Crown foreshore, seabed and land occupied by the undertaking in progress set out in Part I of the Schedule, and existing prior to the commencement thereof, shall be deemed to have been extinguished and to have ceased to exist on such commencement; and such undertaking is validated for all purposes notwithstanding that such work may have been undertaken or commenced without regard to such rights (if any) and without the authority of any enactment extinguishing such rights.

(2) Save as is provided by this Ordinance, no claim shall at any time be made or action brought or continued in respect of the extinguishment under this section in whole or in part of any public or private right or the injurious affection of any land or other property resulting therefrom.

Director of Public Works given provisional authority to construct undertaking. Schedule, Part II.

3. The Director of Public Works is authorized provisionally and subject to the definitive approval of the Governor in Council to construct the undertaking set out in Part II of the Schedule.

Provisions for compensation to apply to undertaking in progress. (Ord. No. 40 of 1936).

4. The provisions for compensation set out in sections 7, 8 and 9 of the Public Reclamations Validation and Clauses Ordinance, 1936, shall apply to the undertaking in progress validated under section 2 of this Ordinance as if such undertaking in progress were to receive definitive approval at the same time as the undertaking now authorized to be carried out subject to such approval.

SCHEDULE.

PART I.

[s. 2]

Undertaking in Progress.

A reclamation in Hung Hom Bay of approximately 48.9 acres of Crown foreshore and seabed, the limits and extent of which being shown and delineated in blue on a plan numbered P. 1616 signed by the Director of Public Works and deposited in the Land Office.

PART II.

[s. 3]

Undertaking Now Authorized.

A reclamation in Hung Hom Bay of approximately 31 acres of Crown foreshore and seabed extending in a sea wall from the junction of Gillies Avenue and Winslow Street in a south-westerly direction for a distance of approximately 470 ft.; thence in a southerly direction for a distance of approximately 2,130 ft.; thence in a south-westerly direction for approximately 2,260 ft. to a point on the existing sea wall 470 ft. north of K.P.P. 23, Holt's Wharf, the limits and extent of such reclamation being shown and delineated in red on a plan numbered P. 1616 signed by the Director of Public Works and deposited in the Land Office.

Passed the Legislative Council of Hong Kong, this 8th day of June, 1955.

Deputy Clerk of Councils.

(Secretariat 2/5282/47)

HONG KONG

No. 20 OF 1955.



I assent.

Governor.

9th June, 1955.

An Ordinance for the prevention of corrupt and illegal practices
at elections.

[10th June, 1955.]

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

PART I.

Preliminary.

1. This Ordinance may be cited as the Corrupt and Illegal Short title.
Practices Ordinance, 1955.

Inter-pretation.

- 2.** In this Ordinance, unless the context otherwise requires—
- “candidate” means a person who has been nominated and has consented to nomination as a candidate for election to any body to which this Ordinance is applied by section 3;
- “Court” means the Supreme Court;
- “election” means any election to any body to which this Ordinance is applied by section 3;
- “election petition” means a petition to the Supreme Court in respect of any election;
- “elector” means a person entitled to vote at an election to which this Ordinance applies and whose name appears on the register of electors;
- “secretary” means the secretary or other equivalent official of any body to which this Ordinance is applied by section 3;
- “voter” means any person who, whether his name does or does not appear in the register of electors, applies to vote or votes at an election to which this Ordinance is applied by section 3.

Application of the Ordinance.

- 3.** This Ordinance shall apply to—
- (a) the Urban Council and to any election to fill vacancies for elected members of the Urban Council;
- (b) any other body and to any election of members of such body to which this Ordinance may be applied by resolution of the Legislative Council or by any Ordinance.

PART II.

Corrupt Practices.

Definition and punishment of corrupt practices at elections.

- 4.** Any person who contravenes the provisions of section 5, 6, 7 or 8 shall be deemed to be guilty of a corrupt practice and shall be liable—
- (a) on summary conviction to a fine of one thousand dollars and imprisonment for three months;
- (b) on conviction on indictment to a fine of five thousand dollars and imprisonment for one year,

and shall be incapable during a period of seven years from the date of his conviction of being registered as an elector or of voting at any election.

5. No person shall directly or indirectly by himself or by any other person on his behalf—

- (a) give, lend or agree to give or lend, or offer, promise or promise to procure or endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting, or on account of such voter having voted or refrained from voting at any election;
- (b) give or procure, or agree to give or procure, or offer, promise, or promise to procure or endeavour to procure, any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting or on account of any voter having voted or refrained from voting at any election;
- (c) make any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve on any body to which this Ordinance is applied by section 3, or the vote of any voter at any election;
- (d) upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure, or engage, promise or endeavour to procure the return of any person to serve on any body to which this Ordinance is applied by section 3, or the vote of any voter at any election;
- (e) advance or pay, or cause to be paid, any money or valuable consideration to or to the use of any other person with the intent that such money or valuable consideration or any part thereof shall be expended in contravention of the provisions of paragraph (a) of this section;
- (f) before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree or contract for any money, gift, loan, or valuable consideration, office, place or employment, for himself

or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election ;

- (g) after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election :

Provided always that the provisions of paragraphs (a), (b), (c), (d) and (e) shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bona fide* incurred at or concerning any election.

Personation.

6. No person shall at any election—

- (a) apply for a ballot paper in the name of any other person, whether that name be that of a person living or dead, or of a fictitious person ;
- (b) having once voted at an election, apply at the same election for a ballot paper in his own name.

Treating.

7. No person shall, before, during, or after any election, directly or indirectly, by himself, or by any other person—

- (a) corruptly give or provide, or pay wholly or in part the expense of giving or providing any meal, drink, entertainment or provision to or for any person for the purpose of influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting at such election ;
- (b) accept or take any such meal, drink, entertainment or provision.

Undue influence.

8. No person shall directly or indirectly by himself or by any other person on his behalf make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting,

or on account of such person having voted or refrained from voting at any election, or by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any voter, or thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election.

9. (1) Where upon the hearing of an election petition it is found by the certificate or report of the Court made in pursuance of the appropriate section of the relevant Ordinance, that any corrupt practice has been proved to have been committed in reference to the election questioned by such petition by or with the knowledge and consent of any candidate at such election, that candidate shall not be capable of ever holding office as a member, officer, or servant of the body to which such candidate sought election, and if he has been elected his election shall be void; and he shall further be subject to the same incapacities as if at the date of the said certificate or report he had been convicted of a corrupt practice.

Incapacity of candidate reported guilty of corrupt practice.

(2) Upon the hearing of an election petition in which a charge is made of any corrupt practice having been committed in reference to the election questioned by such petition, the Court shall report in writing to the Governor and to the secretary whether any of the candidates at such election has been guilty by his agents of any corrupt practice in reference to such election.

(3) If the report is that any candidate at such election has been guilty by his agents of a corrupt practice in reference to such election, that candidate shall be incapable of being elected to or of holding office as a member, officer, or servant of the body to which such candidate purported to be elected during a period of three years from the date of the report, and if he has been elected, his election shall be void.

PART III.

Illegal Practices.

10. Any person who contravenes the provisions of section 11, 14, 15, 17, 18, 20, 21, 22 or 23 or of subsection (1) of section 12, subsection (2) of section 13, subsection (1) of section 16 or subsection (1) or (2) of section 19 shall be deemed to be guilty of an illegal practice and shall be liable—

Definition and punishment of illegal practices at elections.

- (a) on summary conviction to a fine of five hundred dollars and imprisonment for three months;
- (b) on conviction on indictment to a fine of two thousand dollars and imprisonment for six months,

and shall be incapable during a period of seven years from the date of his conviction of being registered as an elector or voting at any election.

Illegal payment.

11. No candidate or election agent shall directly or indirectly by himself or by any other person on his behalf for the purpose of promoting or procuring the election of a candidate at an election make or contract to make any payment—

- (a) on account of the conveyance of electors to or from the poll whether for the hiring of vehicles, or for fares or otherwise; or
- (b) to any person other than a person whose ordinary business it is as an advertising agent to exhibit for payment bills and advertisements, on account of the use of any house, land, building or premises for the exhibition of any address, bill or notice;
- (c) on account of any committee room in excess of one for each candidate.

Expenses incurred by unauthorized persons.

12. (1) No person other than a candidate or the election agent of a candidate shall incur any expenses on account of holding public meetings or issuing advertisements, circulars or publications for the purpose of promoting or procuring the election of any candidate at an election, unless he is authorized in writing to do so by such candidate or election agent.

(2) Any expenses incurred on account of any such purpose as aforesaid by any agent of the candidate shall be duly returned as part of the candidate's election expenses.

Election expenses.

13. (1) The Governor in Council may by order prescribe the maximum scale of election expenses which may be incurred by or on behalf of a candidate.

(2) Subject to such exceptions as may be allowed in pursuance of this Ordinance, no sum shall be paid and no expense shall be incurred by or on behalf of a candidate at an election,

whether before, during, or after an election, on account of or in respect of the conduct or management of such election or for the purpose of promoting or procuring the election of any candidate at an election in excess of the maximum scale of election expenses prescribed by the Governor in Council.

14. No person shall vote or induce or procure any person to vote at an election, knowing that he or such person is prohibited, whether by this Ordinance or any other enactment, from voting at such election.

Voting by prohibited persons.

15. No person shall before or during any election knowingly publish a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate.

Publishing false statement of withdrawal.

16. (1) No person shall before or during any election for the purpose of affecting the return of any candidate at such election, make or publish any false statement of fact in relation to the personal character or conduct of such candidate:

False statements concerning a candidate.

Provided that no person shall be deemed to be guilty of a contravention of this section if he can show that he had reasonable grounds for believing and did believe, the statement made by him.

(2) Where a body corporate is guilty of a contravention of subsection (1), every person who, at the time of such contravention, was a director or officer of the body corporate shall be deemed to be guilty of a contravention of the subsection unless he proves that the contravention was without his knowledge or that he exercised all due diligence to prevent the contravention.

(3) Any person who shall make or publish any false statement of fact as aforesaid may be restrained by *interim* or perpetual injunction by the Court from any repetition of such false statement or any false statement of a similar character in relation to such candidate, and for the purpose of granting an *interim* injunction *prima facie* proof of the falsity of the statement shall be sufficient.

17. (1) No person shall let, lend or employ for the purpose of the free conveyance of electors to or from the poll at an election any vehicle which he keeps or uses for the purpose of letting out for hire, or for the carriage of passengers on payment of a fare.

Employment of vehicles kept for hire.

(2) No person shall hire, borrow or use for the purpose of the free conveyance of electors to or from the poll any vehicle which he knows the owner thereof is prohibited by this section to let, lend or employ for that purpose :

Provided that nothing in this section shall prevent a vehicle being let to or hired, employed, or used by an elector, or several electors at their joint cost, for the purpose of carrying him or them to or from the poll.

Corrupt withdrawal from candidature.

18. (1) No person shall corruptly induce or procure any other person to withdraw from being a candidate at an election in consideration of any payment or reward or promise of payment or reward.

(2) No person shall withdraw from being a candidate at an election in consideration of any payment or reward or promise of payment or reward by any other person.

Provisions as to addresses, bills, notices, etc.

19. (1) No person shall print, publish, exhibit, distribute or post up or cause to be printed, published, exhibited, distributed or posted up, any address, bill, notice, placard, or poster having reference to an election which fails to bear the name and address of the printer and publisher thereof.

(2) No person shall publish, exhibit, distribute or post up or cause to be published, exhibited, distributed or posted up any address, bill, notice, placard or poster having reference to an election unless he, not less than twenty-four hours before—

- (a) shall have deposited with the secretary two copies of such address, bill, notice, placard or poster; and
- (b) in the case of any such address, bill, notice, placard or poster wholly or partly in the Chinese language, shall have deposited a copy thereof with the Secretary for Chinese Affairs or, in the case of the New Territories, with the District Commissioner.

(3) Each address, bill, notice, placard and poster deposited with the secretary or the Secretary for Chinese Affairs or the District Commissioner, as the case may be, in accordance with the provisions of subsection (2) shall be retained by him at his office during the six months after it has been received by him.

After the expiration of the said six months the secretary or the Secretary for Chinese Affairs or the District Commissioner, as the case may be, may cause any such address, bill, notice, placard or poster to be destroyed.

(4) Paragraph (19) of section 3 of the Summary Offences Ordinance (Cap. 228) shall not apply to any address, bill, notice, placard or poster having reference to an election, a copy of which has been deposited with the Secretary for Chinese Affairs or the District Commissioner in accordance with the provisions of subsection (2).

20. No person shall, for the purpose of promoting or procuring the election of a candidate at an election, make or contract to make any payment on account of bands of music, torches, flags or banners.

Bands of music, torches, flags and banners.

21. (1) No person shall, for the purpose of promoting or procuring the election of a candidate, engage or employ any other person for payment or promise of payment for any purpose or in any capacity whatever, except as follows—

Certain employment to be illegal.

- (a) one election agent may be employed by each candidate;
- (b) a number of persons may be employed, not exceeding one for every thousand electors and incomplete part of a thousand electors, and such persons may be employed as clerks and messengers, or in either capacity; and
- (c) three polling agents may be employed in respect of each polling station.

(2) No person shall accept any engagement or employment if at the time of acceptance of such engagement or employment he is aware that such engagement is contrary to the provisions of subsection (1).

22. No person shall fraudulently deface or attempt to deface or fraudulently destroy or attempt to destroy any nomination paper.

Offences in relation to nomination paper.

23. No person shall—

- (a) fraudulently deface or fraudulently destroy any ballot paper or the official mark on any ballot paper; or

Offences in relation to ballot papers.

- (b) without due authority supply a ballot paper to any person ; or
- (c) fraudulently put into a ballot box any paper other than the ballot paper which he is authorized by law to put in ; or
- (d) fraudulently take out of the polling station any ballot paper ; or
- (e) without due authority destroy, take, open or otherwise interfere with any ballot box or packet of ballot papers then in use for the purposes of an election ; or
- (f) fraudulently or without due authority, as the case may be, attempt to do any of the foregoing acts.

Incapacity of candidate reported guilty of illegal practice.

24. Where upon the hearing of an election petition it is found by the certificate or report of the Court made in pursuance of the relevant Ordinance that any illegal practice has been proved to have been committed in reference to the election questioned by such petition by or with the knowledge and consent of any candidate at such election, the candidate shall be incapable of being elected to or holding office as a member, officer or servant of the body in respect of which the election was held during a period of three years from the date of the report.

PART IV.

Excuse and exemption for corrupt or illegal practice.

Report exonerating candidate in certain cases of corrupt and illegal practice by agents.

25. Where, upon the trial of an election petition, the Court reports that a candidate at the election questioned by the petition has been guilty by his agents of a corrupt practice or of an illegal practice, in relation to such election, and the Court further reports that the candidate has proved to the Court—

- (a) that no corrupt or illegal practice was committed at such election by the candidate or with his knowledge and

consent, and the offences mentioned in the said report were committed without the sanction or connivance of such candidate ; and

- (b) that all reasonable means for preventing the commission of corrupt or illegal practices at such election were taken by and on behalf of the candidate ; and
- (c) that the offences mentioned in the said report were of a trivial, unimportant and limited character ; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents ;

then the election of such candidate shall not, by reason of the offences mentioned in such report, be void, nor shall the candidate be subject to any incapacity under this Ordinance or any other enactment.

26. Where, on application made by a candidate at an election, it is shown to the Court by such evidence as seems to the Court sufficient—

Power of Court to except innocent act from being illegal practices.

- (a) that any act or omission of such candidate or of any agent or other person, would, by reason of being in contravention of any of the provisions of this Ordinance, be, but for this section, an illegal practice ; and
- (b) that such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from want of good faith ; and
- (c) that such notice (if any) of the application has been given in the Colony as to the Court seems fit ; and
- (d) that in the circumstances it seems to the Court to be just that the said candidate, agent and person, or any of them, should not be subject to any of the consequences under this Ordinance of the said act or omission ;

the Court may make an order allowing such act or omission to be an exception from the provisions of this Ordinance which would otherwise make the same an illegal practice, and thereupon such

candidate, agent, or person shall not be subject to any of the consequences under this Ordinance or any other enactment of the said act or omission.

PART V.

Election Expenses.

Sending in claims and making payments for election expenses.

27. (1) Every claim against any person in respect of any expenses incurred by or on behalf of a candidate at an election on account of or in respect of the conduct or management of such election shall be sent in within fourteen days after the day of election, and if not so sent in shall be barred and not payable, and all expenses incurred as aforesaid shall be paid within twenty-one days after the day of election, and not otherwise.

(2) Any person who makes a payment in contravention of this section, shall be liable to a fine of five hundred dollars.

Saving of right of creditors.

28. The provisions of this Ordinance prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of any expense, in excess of a certain maximum, shall not affect the right of any creditor who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Ordinance.

Declaration of election expenses.

29. (1) Within twenty-eight days after each election every candidate at such election shall send to the secretary a return of election expenses.

(2) The return of election expenses shall contain an account of all expenses incurred by such candidate and by his agents in respect of the management of such election, vouched (except in the case of sums under twenty dollars) by bills stating the particulars and by receipts.

(3) Each return of election expenses shall be accompanied by a declaration by the candidate made before a Justice of the Peace or a Commissioner for Oaths in the form set forth in the Schedule.

Schedule.

(4) If a candidate fails to make such return of election expenses within such time he shall be liable to a fine of one thousand dollars.

(5) Any candidate who knowingly makes a false statement in such a declaration shall be deemed to be guilty of a corrupt practice and shall be liable to a fine of five thousand dollars and to imprisonment for one year and shall be incapable during the period of seven years from the date of his conviction of being registered as an elector or of voting at any election :

Provided that—

- (a) if the candidate applies to the Court and shows that the failure to make the said return and declaration, or either of them, or any error or false statement therein, has arisen by reason of his illness or absence or of the absence, death, illness, or misconduct of any agent, clerk, or officer, or by reason of inadvertence, or of any reasonable cause of a like nature, and not by reason of want of good faith on the part of the applicant, the Court may, after such notice of the application and on production of such evidence of the grounds stated in the application and of the good faith of the applicant and otherwise as to the Court seems fit, make such order for allowing the authorized excuse for the failure to make such return and declaration, or for an error or false statement in such return or declaration, as to the Court seems just;
- (b) the order may make the allowance conditional upon compliance with such terms as to the Court seem calculated for carrying into effect the objects of this Ordinance, and the order shall relieve the applicant from any liability or consequences under this Ordinance in respect of the matters excused by the order;
- (c) if the Court makes any such order, such return and declaration shall be sent to the secretary within the time limited in the order for the return thereof as if such time had been the period of twenty-eight days limited by subsection (1).

(6) Any candidate who sits or votes in any body to which he has been elected after the expiry of the period of twenty-eight days mentioned in subsection (1) and without having sent to the secretary such return and declaration shall be liable to a fine of five hundred dollars for every day after such expiry in which he sits or votes in such body without having sent to the secretary such return and declaration.

(7) The return and declaration sent in pursuance of this Ordinance to the secretary shall be kept at his office, and shall, at all reasonable times during the twelve months next after they are received by him, be open to inspection by any person on payment of the fee of one dollar, and the secretary shall, on demand, furnish copies thereof or of any part thereof at the price of fifty cents for every seventy-two words.

(8) After the expiration of the said twelve months the secretary may cause the return and declaration to be destroyed, or if the candidate so require shall return the same to him.

SCHEDULE.

[s. 29.]

CORRUPT AND ILLEGAL PRACTICES ORDINANCE, 1955.
DECLARATION BY CANDIDATE AS TO EXPENSES.

I, _____, having been a candidate at the election of _____ for _____ 19 _____, do hereby solemnly and sincerely declare that I have paid and no more for my expenses at the said election and that, except as aforesaid, I have not, and to the best of my knowledge and belief, no person has, on my behalf, made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that, except as aforesaid, no money, security, or equivalent for money, has, to my knowledge or belief, been paid, advanced, given, or deposited by anyone to or in the hands of myself, or any other person, for the purpose of defraying any expenses incurred on my behalf on account of or in respect of the conduct or management of the said election.

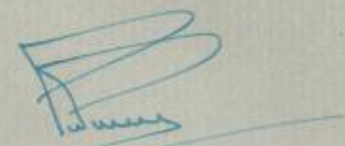
And I further solemnly and sincerely declare that I will not at any future time make or be a party to the making or giving of any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be a party to the providing of any money, security, or equivalent for money for the purpose of defraying any such expenses.

.....
Signature of declarant.

Signed and declared by the above-named declarant on the _____ day of _____, 19 _____, before me.

(Signed)
Justice of the Peace.
Commissioner for Oaths.

Passed the Legislative Council of Hong Kong, this 8th day of June, 1955.



Deputy Clerk of Councils.

(Secretariat 3/3231/55)

HONG KONG

No. 21 OF 1955.



I assent.

Governor.

9th June, 1955.

An Ordinance to amend the Prisons Ordinance, 1954.

[10th June, 1955.]

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

1. This Ordinance may be cited as the Prisons (Amendment) Ordinance, 1955. Short title.

2. Section 3 of the Prisons Ordinance, 1954, (hereinafter referred to as the principal Ordinance) is amended— Amendment of section 3. (17 of 1954).

(a) by being renumbered subsection (1) of section 3;

(b) by the deletion therefrom of paragraph (c);

(c) by the addition thereto of the following new subsection—

“(2) The Governor may appoint fit persons to be respectively Commissioner, Assistant Commissioner, Superintendents, Chief Officers, Chaplains, Medical Officers and such other officers for the service of the prisons as the Governor may think necessary, and may remove such persons from their offices.”

Amendment
of section
13.

3. Section 13 of the principal Ordinance is amended by the insertion after subsection (1) of the following new subsection—

“(1A) Where the Attorney General makes application in writing to the Commissioner of Prisons in respect of a person in custody awaiting trial, the Commissioner of Prisons shall make an order under subsection (1), and the other provisions of that subsection and of rule 208 of the Prison Rules, 1954 (which deals with the reports to be made by the Medical Officer) shall apply, notwithstanding that the prisoner is not charged with a capital offence.”

Amendment
of section
23.

4. Section 23 of the principal Ordinance is amended by the deletion from the second, third and fourth lines of paragraph (a) thereof of the following—

“, or refuses or neglects to obey any lawful order, or is guilty of any breach of discipline or any insubordination”.

Passed the Legislative Council of Hong Kong, this 8th day of June, 1955.

Deputy Clerk of Councils.

(Secretariat 48/2961/46II)

HONG KONG

No. 22 OF 1955.



I assent.

Governor.

9th June, 1955.

An Ordinance to amend the Arms and Ammunition Ordinance, Chapter 238.

[]

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

1. This Ordinance may be cited as the Arms and Ammunition (Amendment) Ordinance, 1955, and shall come into operation on a day to be appointed by the Governor by proclamation in the *Gazette*.

Short title
and com-
mencement.

2. The Arms and Ammunition Ordinance (hereinafter referred to as the principal Ordinance) is amended by the insertion after section 18 of the following new section—

Addition
of new
section
18A.
(Cap. 238).

18A. (1) Subject to the provisions for forfeiture contained in sections 31 and 32 the Commissioner of Police may store arms or ammunition which come into the hands of the police.

“Powers of
Commis-
sioner of
Police to
store arms.

Second
Schedule.

(2) The fees payable for such storage shall be those mentioned in the Second Schedule.

(3) (a) Where any arms or ammunition have been stored under the provisions of this section for eighteen months, or where fees payable under this section remain unpaid for two months, application may be made to a magistrate for the forfeiture of such arms or ammunition.

(b) Where the magistrate is satisfied—

(i) that reasonable steps have been taken to bring the application to the notice of the person who appears to be the owner of the arms or ammunition, and

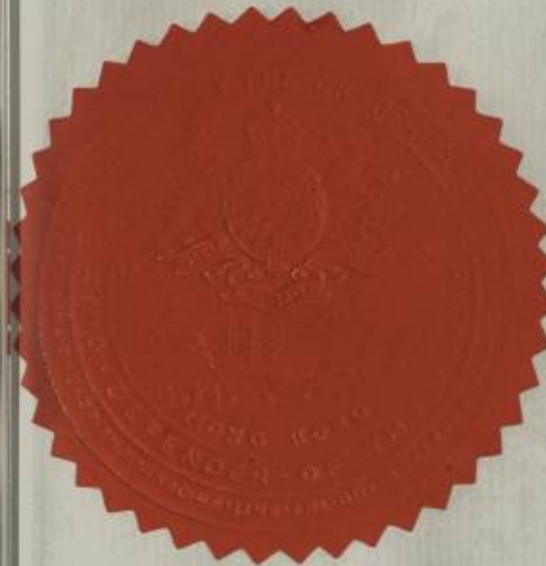
(ii) that such person has had reasonable opportunity to pay the outstanding fees or to dispose lawfully of the arms or ammunition, as the case may be,

a magistrate may on application being made under this subsection, order the arms or ammunition to be forfeited.

(4) No liability shall rest upon any member of the Police Force or any person acting under his direction in respect of any loss of or damage to any arms or ammunition stored under this section."

HONG KONG

No. 23 OF 1955.



I assent.

Governor.

9th June, 1955.

Amendment
of Second
Schedule.

3. The Second Schedule to the principal Ordinance is amended by the addition thereto of the following new items—

- | | |
|---|---|
| "3. Fee payable for storage of arms under section 18A. | \$1.00 for each weapon per month or part thereof. |
| 4. Fee payable for storage of ammunition in excess of 100 rounds under section 18A. | \$1.00 for every 100 rounds of ammunition or part thereof, in excess of the first 100 rounds, per month or part thereof." |

Passed the Legislative Council of Hong Kong, this 8th day of June, 1955.

Deputy Clerk of Councils.

(Secretariat 14/3231/55)

An Ordinance to provide for the incorporation of the President in Hong Kong of the Ling Liang World-Wide Evangelistic Mission.

[10th June, 1955.]

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 Ling Liang World-Wide Evangelistic Mission Incorporation Ordinance, 1955. Short title.

2. The President for the time being in Hong Kong of the Ling Liang World-Wide Evangelistic Mission shall be a corporation sole, hereinafter referred to as the corporation, and shall have the name of "The President in Hong Kong of Ling Liang Incorporation.

World-Wide Evangelistic Mission Incorporated" and in that name shall have perpetual succession and shall and may sue and be sued in all courts in the Colony and shall and may have and use a common seal.

Powers of corporation.

3. (1) The corporation shall have power to acquire, accept leases of, purchase, take, hold and enjoy any lands, buildings, messuages or tenements of what nature or kind soever and where-soever situate, and also to invest monies upon mortgage of any lands, buildings, messuages or tenements or upon the mortgages, debentures, stocks, funds, shares or securities of any government, municipality, corporation, or company and also to purchase, acquire, and possess goods and chattels of what nature and kind soever.

(2) Notwithstanding the provisions of subsection (1), the corporation shall not acquire any immovable property in the Colony unless it shall have previously obtained the special consent of the Governor in Council in each case.

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

Transfer of property.

4. The legal estate in any property whatsoever, transferred to the corporation in any manner whatsoever, shall in the event of death of the President for the time being in Hong Kong of the Ling Liang World-Wide Evangelistic Mission, or in the event of his ceasing to hold office as such President, pass to his successor in such office when appointed.

Execution of deeds.

5. All deeds and other instruments requiring the seal of the corporation shall be sealed in the presence of the person who is for the time being President in Hong Kong of the Ling Liang World-Wide Evangelistic Mission or of his attorney, duly authorized, and such deeds and instruments and all other documents, instruments and writings requiring the signature of the corporation shall be signed by such President or his attorney.

6. (1) Whenever any person is appointed to the office of President in Hong Kong of the Ling Liang World-Wide Evangelistic Mission, that person shall within three weeks after his appointment or within such further time as may be allowed by the Governor, furnish to the Governor satisfactory evidence of his appointment. Appointment of President.

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

(3) The appointment of a new President, in the event of death or for any other reason, shall be made by the majority vote at a general meeting of members of the Ling Liang World-Wide Evangelistic Mission in Hong Kong.

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

Passed the Legislative Council of Hong Kong, this 8th day of June, 1955.

Deputy Clerk of Councils.

(Secretariat 20/3231/55)

HONG KONG

No. 24 OF 1955.



I assent.

M. Macartney
Governor.

23rd June, 1955.

An Ordinance to authorize undertakings for the construction of passenger ferry piers at Tsim Sha Tsui, Ma Tau Kok and Stewart Road, Wanchai.

[24th June, 1955.]

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 Public Works Short title. (Passenger Ferry Piers) Ordinance, 1955.

2. The Director of Public Works is authorized to construct the undertakings set out in the Schedule.

Director of
Public
Works to
construct
under-
takings.
Schedule.

Extinction of rights over foreshore and seabed.

Schedule.

Past work legalized.

Provisions for compensation to apply to undertakings.

3. All public and private rights of navigation or fishing and all public and private rights of access, user, possession or occupation, and all other public or private rights (if any) in upon and over the Crown foreshore, seabed and land to be occupied by the undertakings set out in the Schedule shall be extinguished and cease to exist.

4. So far as the undertaking (including any accessory works) in respect of the Ma Tau Kok Passenger Ferry Pier has heretofore been carried out, such undertaking is hereby validated for all purposes, as if the same had been duly effected under this Ordinance.

5. The provisions of sections 7, 8 and 9 of the Public Reclamations Validation and Clauses Ordinance, 1936, shall apply to the undertakings set out in the Schedule:

Provided that subsection (1) of section 7 of that Ordinance shall be read as follows—

“(1) No action shall at any time be brought or continued in respect of the extinguishment under section 3 of the Public Works (Passenger Ferry Piers) Ordinance, 1955, in whole or in part of any public or private right or the injurious affection of any land or other property resulting therefrom. But any person who, but for this subsection, could have brought or continued such action, may seek to recover compensation in respect of such extinguishment or injurious affection. Any person who seeks to recover compensation shall, within six months of the coming into operation of the Public Works (Passenger Ferry Piers) Ordinance, 1955, deliver a statement of claim in writing setting forth with full particulars the nature of his claim and the amount of compensation which he seeks to recover.”

SCHEDULE.

1. TSIM SHA TSUI FERRY: A ferry pier (approximately 340 feet long and 303 feet 6 inches wide) at Tsim Sha Tsui, Kowloon, projecting into the Harbour west of the Kowloon Canton Railway Terminus, and shown and delineated in red upon a plan marked P. 1618 signed by the Director of Public Works and dated the first day of June, 1955, and deposited in the Land Office.

- 2. MA TAU KOK FERRY: A ferry pier (approximately 234 feet 6 inches long and 69 feet 6 inches wide) and projecting into the Harbour from a seawall which is bounded by M.L. 102 on the north and M.L. 90 on the south, and shown and delineated in red upon a plan marked P. 1619 signed by the Director of Public Works and dated the first day of June, 1955, and deposited in the Land Office.
- 3. STEWART ROAD FERRY WANCHAI: A ferry pier (approximately 108 feet long by 24 feet 3 inches wide) on the seaward face of the seawall bounding Gloucester Road and immediately west of Stewart Road, Wanchai, and shown and delineated in red upon a plan marked P. 1620 signed by the Director of Public Works and dated the first day of June, 1955, and deposited in the Land Office.

Passed the Legislative Council of Hong Kong, this 22nd day of June, 1955.

Deputy Clerk of Councils.

(Secretariat 1/3151/53)

HONG KONG

No. 25 OF 1955.



I assent.

[Handwritten signature]
Governor.

7th July, 1955.

An Ordinance to provide for the establishment and administration of a trust fund to be known as the Kadoorie Agricultural Aid Loan Fund and for purposes connected therewith.

[8th July, 1955.]

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 Kadoorie Agricultural Aid Loan Fund Ordinance, 1955. Short title.

2. There is hereby established a trust fund to be known as the Kadoorie Agricultural Aid Loan Fund (hereinafter referred to as the Fund) which shall consist of the moneys and assets set forth in section 3. Establishment of the Fund.

Maintenance of Fund.

3. The Fund shall consist of—
- (a) the sum of two hundred and fifty thousand dollars (\$250,000) donated jointly to the Fund by Horace Kadoorie and Lawrence Kadoorie;
 - (b) the sum of two hundred and fifty thousand dollars (\$250,000) donated by the Government;
 - (c) any further donations to the Fund which may from time to time be made either by Horace Kadoorie or by Lawrence Kadoorie or by the Government;
 - (d) any donations to the Fund which may be made during the joint lives of Horace Kadoorie and Lawrence Kadoorie with their consent and after the death of either of them and during the life of the survivor with the consent of the survivor;
 - (e) any donations made to the Fund after the death of the survivor of Horace Kadoorie and Lawrence Kadoorie,

and together with any investment from time to time representing the said moneys and together also with the interest and income derived from any such investment.

The trustee.

4. (1) The Fund is hereby vested in the Director of Agriculture, Fisheries and Forestry (hereinafter referred to as the trustee) who shall hold the Fund upon the trusts and with and subject to the powers and provisions hereinafter in this Ordinance contained.

(2) For the purposes of this Ordinance the office of the Director of Agriculture, Fisheries and Forestry shall have perpetual succession and all monies, stocks, and securities and land which may be vested in the trustee under this Ordinance shall be deemed to be vested in the Director of Agriculture, Fisheries and Forestry for the time being, without any further transfer or conveyance.

Administration of the Fund.

5. (1) The Fund shall be administered by a committee (hereinafter referred to as the committee) consisting of—
- (a) the Director of Agriculture, Fisheries and Forestry who shall be chairman of the committee;
 - (b) Horace Kadoorie or, during his life-time, his nominee;
 - (c) Lawrence Kadoorie or, during his life-time, his nominee;
 - (d) not more than three members appointed by the Governor.

(2) Members appointed by the Governor shall hold office for three years from the date of their respective appointments, and may be re-appointed or removed by the Governor at his pleasure.

(3) The quorum necessary for the transaction of the business of the committee may be fixed by regulation made under this Ordinance and unless so fixed, three members shall form a quorum.

6. The trustee shall apply the Fund in such manner as the committee may direct for the encouragement and improvement of agriculture, which expression shall include all forms of animal husbandry, poultry breeding, crop raising and the raising of fish in ponds, in the Colony by the issue of interest-free loans to farmers, to groups of farmers and to persons desirous of becoming farmers and by such other means as may be approved by the Governor. The trusts.

7. The trustee may invest the moneys of the Fund in the name of the trustee in such investments of any kind, including shares in local companies, whether such investments are permitted for the investment of trust funds or not, as the committee may direct; and, in like manner, such investments may at any time be varied. Investments.

8. The committee may make regulations for its procedure in the transaction of business and the maintenance of good order at its meetings and generally for all matters relating to the administration and management of the Fund and the discharge of the duties of the committee: Regulations.

Provided always that a copy of such regulations shall be furnished to the Colonial Secretary and that they shall be subject to disallowance or amendment at any time by the Governor.

9. The trustee shall have power subject to the direction of the committee to write off from the moneys of the Fund any sums which the committee deem to be irrecoverable. Power to write off irrecoverable moneys.

10. All questions which may arise at any meeting of the committee shall be decided by a majority of votes of the members present and, in case of an equality of votes, the chairman shall have a casting vote in addition to his original vote: Determination of questions at meetings of the committee.

Provided that, in any case in which the committee is equally divided in opinion without the casting vote of the chairman, any three members of the committee may demand that the point be referred to the Governor for his decision, which shall in every such case be final.

Accounts and audit.

11. (1) The trustee shall cause proper accounts to be kept of all income and expenditure of the Fund, and such accounts shall be audited at least once in every year by an auditor appointed from time to time by the Governor.

(2) A copy of such accounts, together with a copy of a report by the committee on the administration of the Fund during the previous financial year, shall be submitted to the Governor not later than the 31st day of December in every year.

Cost of administration.

12. The cost of administering the Fund shall be defrayed out of the general revenue of the Colony.

Prohibition against charging of interest.

13. No interest shall be charged at any time on any moneys advanced by way of loan by the committee in accordance with the provisions of this Ordinance.

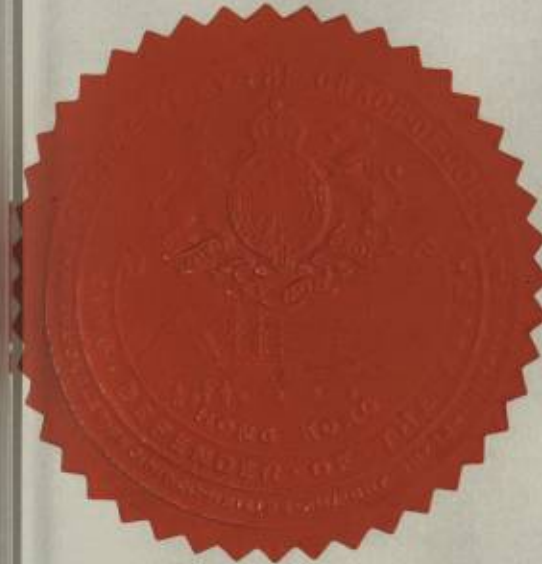
Passed the Legislative Council of Hong Kong, this 6th day of July, 1955.

Deputy Clerk of Councils.

(Secretariat 6/2321/55)

HONG KONG

No. 26 OF 1955.



I assent.

Governor.

7th July, 1955.

An Ordinance to amend the Gambling Ordinance, Chapter 148.

[8th July, 1955.]

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 Gambling (Amendment) Ordinance, 1955. Short title.

2. Section 11 of the Gambling Ordinance is amended— Amendment of section 11. (Cap. 148).
(a) by the deletion of subsection (1) and the substitution therefor of the following—

“(1) Subject to the conditions contained in subsection (2), the game of tombola promoted by a society registered under or exempted from the

(Cap. 151). provisions of the Societies Ordinance, shall be deemed not to be a lottery within the meaning of this Ordinance if the permission in writing of the Commissioner of Police has been obtained prior to its promotion. Such permission may be granted or refused in the sole discretion of the Commissioner of Police, and he may endorse on his written permission such further conditions as he may think fit.”;

(b) by the addition after paragraph (d) of subsection (2) of the following new paragraphs—

“(e) the games shall be played only on such days and at such times as may be prescribed in the written permission of the Commissioner of Police;

(f) proper accounts to the satisfaction of the Commissioner of Police shall be kept and shall be available for inspection at all times;

(g) a responsible member of the committee or management of a society shall be present at all times whilst the game is being played, and he shall personally sign a statement of account showing the amounts of money received and paid out as prizes during the session at which he was in attendance;

(h) special staff shall not be employed for the purpose of promoting or conducting the game.”

Passed the Legislative Council of Hong Kong, this 6th day of July, 1955.



Deputy Clerk of Councils.

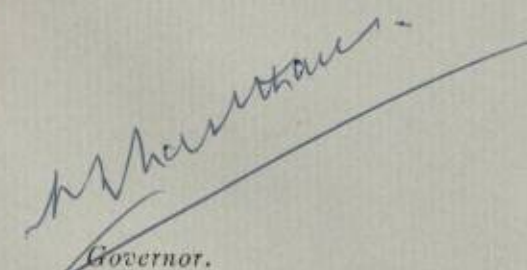
(Secretariat 46/3231/50)

HONG KONG

No. 27 OF 1955.



I assent.



Governor.

7th July, 1955.

An Ordinance further to amend the Land Transactions (Enemy Occupation) Ordinance, Chapter 256.

[8th July, 1955.]

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 Land Transactions Short title. (Enemy Occupation) (Amendment) Ordinance, 1955.

2. Section 3 of the Land Transactions (Enemy Occupation) Ordinance (hereinafter referred to as the principal Ordinance) is amended by the deletion from subsection (2) of the words “seven years” and the substitution therefor of the following—

“eight years”.

Amendment
of section 3.
(Cap. 256).

Amendment
of section 4.

3. Section 4 of the principal Ordinance is amended by the deletion therefrom of the words "seven years" wherever they occur therein and the substitution therefor of the following—
"eight years".

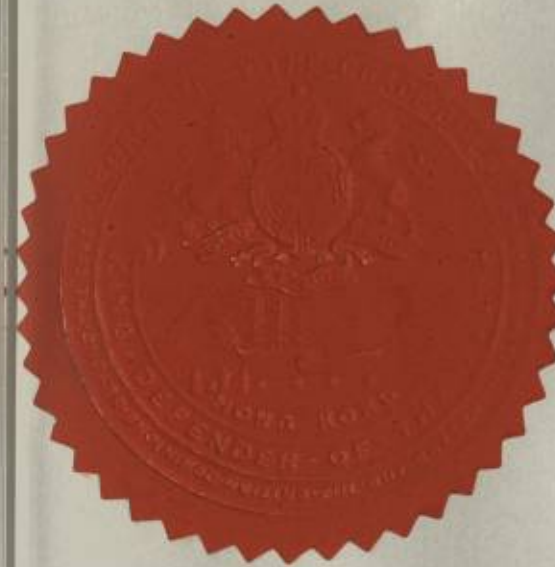
Passed the Legislative Council of Hong Kong, this 6th day of July, 1955.

(Secretariat 4/741/52)



HONG KONG

No. 28 OF 1955.



I assent.

Governor.

7th July, 1955.

An Ordinance to amend the Urban Council Ordinance, 1955.

[8th July, 1955.]

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

1. This Ordinance may be cited as the Urban Council Short title. (Amendment) Ordinance, 1955.

2. Section 15 of the Urban Council Ordinance, 1955, is amended—

(a) by the deletion of the colon at the end of paragraph (d) and the substitution therefor of the following—

" ; or " ;

Amendment
of section
15.
(14 of
1955).

(b) by the addition of a new paragraph (e) after paragraph (d) as follows—

“(e) were members of the Defence Force and Auxiliary Services :”.

Passed the Legislative Council of Hong Kong, this 6th day of July, 1955.

(Secretariat 23/3231/55)

Deputy Clerk of Councils.

HONG KONG

No. 29 OF 1955.

I assent.

Governor.

21st July, 1955.

An Ordinance to provide for the incorporation of the members of Chung Chi College.

[22nd July, 1955.]

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 Chung Chi College Short title. Incorporation Ordinance, 1955.

2. In this Ordinance—

“college” means the Chung Chi College;

“chairman” means the chairman of the Board of Governors of the college;

“constitution” means the constitution of the college approved from time to time by its members for the time being.

Inter-pretation.

Incorporation.

3. The chairman and members of the college for the time being shall be a body corporate, hereinafter referred to as the corporation, and shall have the name of "Chung Chi College" and in that name shall have perpetual succession and shall and may sue and be sued in all courts in the Colony and shall and may have and use a common seal.

Members of the college.

4. (1) The members of the college shall be—

- (a) the members of the Board of Governors;
- (b) the members of the College Council;
- (c) the members of the Faculty Board;
- (d) the teaching staff; and
- (e) the students, past and present.

(2) A member of the college shall continue to be a member so long as he possesses any one of the qualifications set out in subsection (1).

Powers of corporation.

5. (1) The corporation shall have full power—

- (a) to acquire, by purchase, lease, exchange or otherwise, hold and enjoy land, buildings, messuages, tenements of what nature or kind soever in the Colony or elsewhere;
- (b) to acquire, by purchase or otherwise, vessels, goods and chattels of what nature or kind soever;
- (c) to invest moneys on deposit in any bank in the Colony or elsewhere or in any government bonds or on mortgage of any land, buildings, messuages or tenements in the Colony or elsewhere, or in or on debenture, debenture stocks, stocks, funds, shares or securities of any corporation or company carrying on business in the Colony or elsewhere;
- (d) to grant, sell, convey, assign, surrender, yield up, mortgage, demise, let, reassign, transfer or otherwise dispose of, any land, or buildings, messuages, tenements, mortgages, debentures, debenture stock, funds, securities, vessels, goods and chattels for the time being vested in the corporation, upon such terms as the corporation may deem fit;

- (e) to erect any buildings messuages or tenements and effect any improvement thereto;
- (f) to borrow money upon such terms as the corporation shall think fit, and to raise money by public or private subscription; and
- (g) generally to do such other things as may appear to be incidental or conducive to the aims and objects of the corporation as provided by its constitution, or the purposes aforesaid or any of them.

(2) Notwithstanding the provisions of subsection (1), the corporation shall not acquire any immovable property in the Colony unless it shall have previously obtained the special consent of the Governor in Council in each case.

6. (1) On the coming into operation of this Ordinance, all moneys, securities for money, goods, chattels and effects whatsoever belonging to the unincorporated Chung Chi College shall be transferred to and be and become vested in the corporation.

Vesting of property.

(2) On the coming into operation of this Ordinance, the corporation shall become liable for all debts and liabilities of the unincorporated Chung Chi College.

7. The existing constitution of the unincorporated Chung Chi College shall be the constitution of the corporation but the same may be changed or amended by the corporation at any time and from time to time in accordance with its provisions for the time being in force.

Existing constitution to become constitution of corporation.

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

Registration with Registrar of Companies.

- (a) notice of the address of the registered office of the college and any change thereto;
- (b) a copy of the constitution and any amendment thereto, certified as correct by the chairman;
- (c) a list of the names and addresses of the members of the Board of Governors of the College, and any change therein, certified as correct by the chairman;

(d) the name and address of any person appointed under section 11 to sign deeds, documents and other instruments.

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

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

(4) A fee of five dollars shall be payable for registering or inspecting any document referred to in this section.

Dividends prohibited.

9. No dividend or bonus shall be paid and no gift or division of money shall be made by or on behalf of the corporation to or among any of the members of the college except by way of prize, reward or special grant.

Board of Governors, College Council, Faculty Board, their constitutions, powers and duties.

10. (1) There shall be a Board of Governors, a College Council and a Faculty Board, whose respective constitutions, powers and duties shall be as prescribed by this Ordinance and the constitution.

(2) The Board of Governors shall be the supreme governing body of the college and, subject to the provisions of this Ordinance and the constitution, shall have the general direction of the corporation, its functions, property and affairs.

(3) The College Council shall be the executive body of the college and shall provide for the custody and use of the seal of the corporation; subject to the provisions of this Ordinance and the constitution, it shall administer the property and manage the affairs of the corporation.

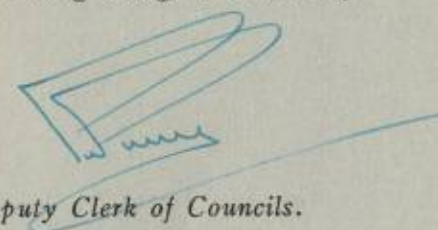
(4) Subject to the provisions of this Ordinance and the constitution, the Faculty Board shall have the regulation of all matters relating to education in the College.

(5) No act or resolution of the Board of Governors, the College Council or the Faculty Board shall be invalid by reason only of any vacancy in, or any want of qualification by or invalidity in the election or appointment of any member of any such body.

11. All deeds and other instruments requiring the seal of the corporation shall be sealed in the presence of the chairman or of such other person as the College Council shall from time to time appoint, and shall be signed by the chairman or such other person, as the case may be, and all instruments and other documents and writings requiring the signature of the corporation shall be signed by the chairman or such other person. Execution of documents.

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

Passed the Legislative Council of Hong Kong, this 20th day of July, 1955.



Deputy Clerk of Councils.

(Secretariat 25/3231/55)

HONG KONG

No. 30 OF 1955.



I assent.

Governor.

18th August, 1955.

An Ordinance to amend the Landlord and Tenant Ordinance,
Chapter 255.

[19th August, 1955.]

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

1. This Ordinance may be cited as the Landlord and Tenant (Amendment) Ordinance, 1955. Short title.

2. Subsection (1) of section 8 of the Landlord and Tenant Ordinance (hereinafter referred to as the principal Ordinance) is amended by the insertion in the fourth line of paragraph (b) after the word "grant," of the following— Amendment
of section
8.
(Cap. 255,
1953
Reprint).

"surrender, termination,".

Repeal of
section 10.

3. Section 10 of the principal Ordinance is repealed.

Amendment
of section
13.

4. Section 13 of the principal Ordinance is amended by the deletion of the number "10" in the first line and the substitution therefor of the following—

"8".

Amendment
of section
31.

5. Section 31 of the principal Ordinance is amended—

(a) by the deletion of subsection (1) and the substitution therefor of the following—

"(1) The Governor in Council may, in his absolute discretion and without the necessity of hearing any interested party, by order exclude from the further application of this Ordinance any premises or any class of premises, and such order shall be published in the *Gazette*. Upon such order being published in the *Gazette*, the tenant of any such premises shall be deemed to be holding at the rent payable immediately before the publication of such order and shall be entitled to such notice to quit as would have been required under the original contract of tenancy, or, if such notice has already been given and has expired, then to one month's notice expiring at the end of the calendar month next after the month in which such order was published:

Provided that in the event of any notice having been given prior to such order being published nothing herein contained shall entitle a landlord to recover possession prior to the expiration of such notice."

(aa) by the deletion in the second line of subsection (3) of the word "the" and the substitution therefor of the following—

"his immediate";

(b) by the deletion of subsection (6) and the substitution therefor of the following—

"(6) A tenancy tribunal appointed to determine any application under this section after hearing such parties and considering such representations as a judge in chambers has directed shall be heard and

may be put forward respectively may in its absolute discretion decide to recommend that the premises to which such application relates should be excluded, either absolutely or subject to such conditions as the tribunal may think fit to impose (including a condition requiring the payment of compensation by the landlord to any tenant), from the further application of this Ordinance or to make no recommendation and shall in open court give its decision and reasons therefor. In the event of the tenancy tribunal deciding to make a recommendation, the chairman of the tenancy tribunal shall forward in writing such recommendation and the reasons therefor together with the papers and any record of the proceedings before the tenancy tribunal to the Clerk of Councils for the consideration of the Governor in Council";

(c) by the addition after subsection (6) of the following new subsection—

"(6A) (a) Notwithstanding the provisions of section 8 it shall be lawful for a landlord who has made an application under this section to enter into an agreement with any tenant who in accordance with the provisions of subsection (4) opposes the landlord's application whereby the tenant agrees to withdraw his opposition to such application subject to such terms as may be agreed between the landlord and the tenant:

Provided that no such agreement shall contain any term whereby the tenant agrees to quit his premises before an order excluding the said premises from the further application of this Ordinance has been published in the *Gazette*:

Provided further that if no order excluding the said premises from the further application of this Ordinance is made, the agreement shall be null and void:

Provided further that if an order excluding the said premises from the further application of this Ordinance is made, the agreement shall be enforceable only in so far as it is consistent with such order.

- (b) The terms of any agreement made in accordance with the provisions of paragraph (a) shall be set out in writing and signed by the parties thereto and such agreement shall be delivered to the clerk of the tribunal.
- (c) In the event of the tribunal deciding to make a recommendation that the premises to which the application relates shall be excluded from the further application of this Ordinance, the tribunal shall make such recommendation subject to the terms agreed between the parties together with such other conditions, if any, as it may think fit to impose in accordance with subsection (6).";
- (d) by the deletion of subsections (7) and (8) and the substitution therefor of the following—
 - “(7) The costs of such application shall in any event be borne by the applicant:
 - Provided that the tribunal may in its discretion deprive any opponent of his costs in whole or in part.
 - (8) Subsections (3), (4), (5) and (7) may be rescinded, added to or varied by rules made under section 29.”;
- (e) by the deletion of paragraph (a) of subsection (9) and the substitution therefor of the following—
 - “(a) Whenever a tenancy tribunal has recommended that premises should be excluded from the further application of this Ordinance, the Governor in Council may—
 - (i) reject the recommendation;
 - (ii) remit the recommendation to the tribunal which made such recommendation or the president thereof together with such directions as he may think fit;
 - (iii) direct that the application be heard *de novo* by the tribunal which made such recommendation or by any tribunal appointed under this section;
 - (iv) accept the recommendation;

- (v) accept the recommendation with such conditions as the tribunal has recommended or delete or amend such conditions or impose new conditions, including a condition requiring the payment of compensation by the landlord to the tenant;
- Provided that save where the Governor in Council proposes to make an order to exclude any premises unconditionally, the Governor in Council shall not proceed to make an order under this section until such notice as is hereinafter provided for has been given and shall not in any event make such order if the application for exclusion is withdrawn as is hereinafter mentioned.”;
- (j) by the addition after subsection (10) of the following new subsection—
 - “(10A) All conditions approved or imposed by the Governor in Council shall be incorporated in the order made under subsection (1).”.

6. Section 31A of the principal Ordinance is amended by the deletion of subsection (1) and the substitution therefor of the following—

Amendment of section 31A.

“(1) Within fourteen days after the tenancy tribunal has given its decision in any proceedings under section 31, any person who was a party to such proceedings may appeal against such decision by way of petition to the Governor in Council.”.

7. The principal Ordinance is amended by the addition after section 31A of the following new sections—

Addition of new sections 31B, 31C and 31D.

“Re-entry for breach of condition in order under section 31.

31B. Wherever there occurs a breach of any condition incorporated in an order of the Governor in Council under section 31 in respect of premises which the landlord holds under a Crown lease or other tenancy from the Crown, such breach shall be deemed to be a breach of a covenant in the Crown lease, or of a condition or stipulation of the tenancy of such premises, and by such breach a right of re-entry on such premises under the Crown Rights (Re-entry) Ordinance shall be deemed to have accrued to the Crown.

(Cap. 126).

Registration in Land Office of order under section 31.

31C. (1) An order of the Governor in Council made under section 31 may be registered in the Land Office against the premises affected by delivering to the said office a memorial thereof signed by the Clerk of Councils and containing the full terms of such order.

(2) Where premises are excluded from the further application of this Ordinance by order under section 31, and it is a condition of the order that a building or buildings shall be erected upon the site of such premises in accordance with the terms of such order, then upon the order being registered by virtue of subsection (1), such condition shall be binding on any executor, administrator, successor or assign of the landlord of the premises and may be enforced against any such executor, administrator, successor or assign by re-entry or otherwise, in like manner as it could have been enforced against the landlord.

Rent of premises conditionally excluded.

31D. Where premises are excluded from the further application of this Ordinance by order under section 31, and it is a condition of the order that a building or buildings shall be erected upon the site of such premises in accordance with the terms of such order, then until the Building Authority has certified that such condition has been fulfilled the provisions of this Ordinance in regard to permitted rent shall continue to apply to such premises notwithstanding such exclusion, and it shall be unlawful to demand or receive in respect of such premises or any part thereof any rent in excess of the permitted rent of the premises or such part, and any person who demands or receives any rent in contravention of this section shall be guilty of an offence and shall upon summary conviction be liable to a fine of ten thousand dollars."

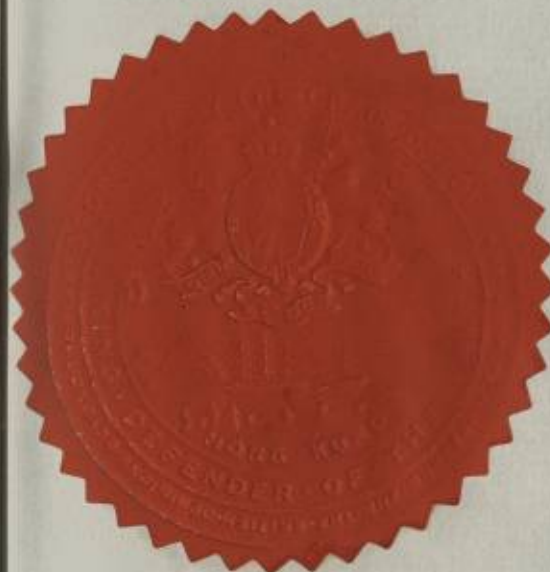
Passed the Legislative Council of Hong Kong, this 17th day of August, 1955.

Deputy Clerk of Councils.

(Secretariat 30/3231/55)

HONG KONG

No. 31 OF 1955.



I assent.

Governor.

18th August, 1955.

An Ordinance to amend the Pensions Ordinance, Chapter 89.

[19th August, 1955.]

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 Pensions (Amendment) Ordinance, 1955. Short title.

2. Subsection (1) of section 2 of the Pensions Ordinance (hereinafter referred to as the principal Ordinance) is amended by the addition at the end of paragraph (a) of the definition of "pensionable emoluments" of the following— Amendment of section 2. (Cap. 89)

"and provided further that one half only of expatriation pay in respect of service after the 30th day of September, 1953, shall be included in the expression "pensionable emoluments" "

Amendment of section 16.

3. Section 16 of the principal Ordinance is amended—

(a) by the deletion of the words "two thousand and five hundred dollars" wherever they occur therein and the substitution therefor of the following—

"five thousand dollars";

(b) by the insertion after the words "Pensions Regulations" in sub-paragraph (ii) of paragraph (b) of subsection (1) of the following—

"if his public service had been wholly in the Colony and";

(c) by the deletion of the words "Such gratuities if" from subsection (3) and the substitution therefor of the following—

"A gratuity".

Amendment of section 17.

4. Subsection (1) of section 17 of the principal Ordinance is amended by the deletion from sub-paragraph (i) of the words "seven hundred and eighty dollars" and the substitution therefor of the following—

"one thousand one hundred and fifty-two dollars".

Commencement.

5. (1) The amendments to the principal Ordinance made by section 2, paragraph (a) of section 3 and section 4 of this Ordinance shall be deemed to have had effect as from the 1st day of October, 1953.

(2) The amendments to the principal Ordinance made by paragraphs (b) and (c) of section 3 of this Ordinance shall be deemed to have had effect as from the 24th day of September, 1954.

Passed the Legislative Council of Hong Kong, this 17th day of August, 1955.

Deputy Clerk of Councils.

(Secretariat 9/4370/54)

HONG KONG

No. 32 OF 1955.



I assent.

Governor.

18th August, 1955.

An Ordinance to amend the Probate and Administration Ordinance, Chapter 10.

[19th August, 1955.]

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 Probate and Administration (Amendment) Ordinance, 1955. Short title.

2. Section 58 of the Probate and Administration Ordinance (hereinafter referred to as the principal Ordinance) is amended by— Amendment of section 58. (Cap. 10).

(a) the deletion from subsection (1) of the words "Where the whole estate in the Colony of any person dying in the Colony does not exceed in value the sum of two thousand

five hundred dollars," and the substitution therefor of the following—

"Where the whole estate in the Colony of any person dying in the Colony before the 1st day of October, 1953, does not exceed in value the sum of two thousand five hundred dollars and where the whole estate of any person dying in the Colony on or after the 1st day of October, 1953, does not exceed in value the sum of five thousand dollars,";

(b) the insertion in subsection (3) after the words "the sum of two thousand five hundred dollars," of the following—

"or the sum of five thousand dollars, as the case may be,".

3. Section 59 of the principal Ordinance is amended by—

(a) the deletion therefrom of the brackets and figure "(1)";

(b) the insertion therein after the words "On the death" of the following—

"before the 1st day of October, 1953,";

(c) the insertion therein after the words "the Government of the Colony," of the following—

"and on the death on or after the 1st day of October, 1953, of any person to whom any sum of money not exceeding five thousand dollars is so payable,";

(d) the deletion of subsection (2).

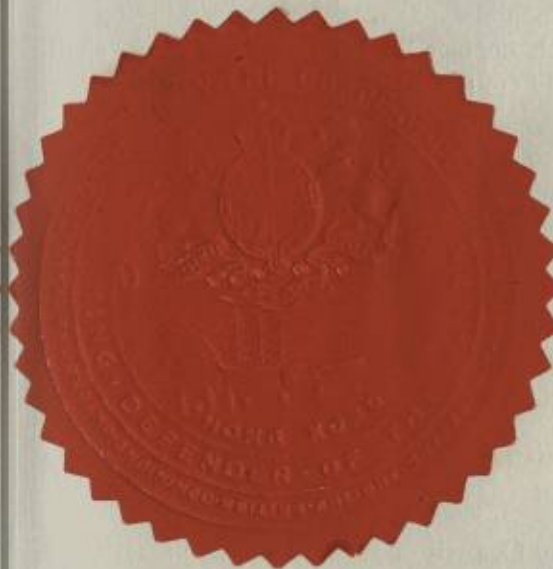
Passed the Legislative Council of Hong Kong, this 17th day of August, 1955.

Deputy Clerk of Councils.

(Secretariat 7/3231/55)

HONG KONG

No. 33 OF 1955.



I assent.

Governor.

18th August, 1955.

An Ordinance to amend the Jury Ordinance, Chapter 3.

[19th August, 1955.]

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 Jury (Amendment) Short title. (No. 2) Ordinance, 1955.

2. Section 14 of the Jury Ordinance (hereinafter referred to as the principal Ordinance) is repealed and replaced by the following section—

Repeal and replacement of section 14. (Cap. 3).

"Juries in civil actions.

14. (1) Where the court or a judge orders that a cause shall be heard before a special or common jury, the party applying for such order shall, when

the cause is set down in the general hearing list, deposit with the Registrar a sum sufficient to cover the expenses of the special or common jury as the case may be.

(2) If such deposit be not made the cause shall be heard by the court without a jury.

(3) The expenses of the special or common jury shall be treated as costs in the cause, and shall be awarded and apportioned in the manner provided by the Code of Civil Procedure."

(Vol. VII, O. 16, p. 134).

Amendment of section 30.

3. Section 30 of the principal Ordinance is amended—
- (a) by the insertion in subsection (1) after the words "twenty-five dollars each" of the following—
" , and of common jurors, ten dollars each, " ; and
 - (b) by the deletion from the first line of subsection (2) of the word "special".

Passed the Legislative Council of Hong Kong, this 17th day of August, 1955.

Deputy Clerk of Councils.

(Secretariat 62/3231/55)

HONG KONG

No. 34 OF 1955.



I assent.

Governor.

18th August, 1955.

An Ordinance to amend the law relating to factories and industrial undertakings and to the employment of women, young persons and children therein.

[]

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 Factories and Industrial Undertakings Ordinance, 1955, and shall come into operation on a day to be appointed by the Governor by proclamation in the *Gazette*.

Short title and commencement.

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

Interpretation.

"bodily injury" includes injury to health;

"child" means a person under the age of fourteen years;

“Commissioner” means the Commissioner of Labour appointed under section 3, and, except where the expression “Commissioner of Labour” is used, includes a deputy commissioner and any person appointed as a labour officer or as a Superintendent of Labour;

First
Schedule.

“dangerous trade” means any trade, process or occupation specified in the First Schedule;

“factory” means any premises or place, (other than a mine), in which articles are manufactured, altered, cleansed, repaired, ornamented, finished, adapted for sale, broken up or demolished or in which materials are transformed, and within the close or curtilage or precincts of which—

(a) any machinery other than machinery worked entirely by hand is used; or

(b) any manual labour is exercised and either—

(i) twenty or more persons are employed in manual labour; or

(ii) the process, trade or occupation carried on is in aid of an undertaking carried on by the proprietor of such premises or place in a registrable workplace elsewhere in the Colony; or

(iii) any manufacture, machinery, plant, process or description of manual labour is used in respect of which special regulations made under subsection (2) of section 5 are in force;

“industrial undertaking” includes—

(a) any factory;

(b) any mine;

(c) any industry in which articles are manufactured, altered, cleansed, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including shipbuilding;

(d) the generation, transformation, and transmission of electricity or motive power of any kind;

(e) the construction, reconstruction, maintenance, repair, alteration, or demolition, of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gaswork, waterwork, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure; and

(f) the transport of passengers or goods by road or rail, or inland waterway, including the handling of goods at docks, quays, wharves, and warehouses, and the carriage of coal and building material and debris;

“inspector” means any person appointed under section 3 as Chief Labour Inspector, a senior labour inspector or a labour inspector;

“mine” means any works for the extraction of minerals from the earth, and includes any quarry or other works for the extraction of stone;

“proprietor” in relation to any industrial undertaking includes the person for the time being having the management or control or receiving the profits of the business carried on in such industrial undertaking and includes a body corporate and a firm and also the occupier of any industrial undertaking and the agent of such occupier;

“registrable workplace” means any factory, mine, premises or place required to be registered under subsection (1) of section 7;

“scheduled trade” means any trade, process or occupation specified in the Second Schedule;

Second
Schedule.

“young person” means any person of or over the age of fourteen years and under the age of eighteen years.

(2) None of the provisions of this Ordinance shall apply to—

(a) any undertaking which is not carried on by way of trade or for purposes of gain; or

(b) any agricultural operation; or

(c) the preparation of food for consumption and sale on the premises whereon it is prepared.

Appoint-
ment of
Com-
missioner
and other
officers.

3. The Governor may appoint a Commissioner of Labour, a deputy commissioner of labour, labour officers, assistant labour officers, a Superintendent of Labour, a Chief Labour Inspector, senior labour inspectors and labour inspectors and such other officers as he may consider necessary for carrying out the purposes of this Ordinance.

Powers of
officers.

4. (1) The Commissioner and any assistant labour officer appointed under section 3 and any inspector shall have the following powers—

- (a) to enter, inspect and examine at all reasonable times, by day and night, any premises or place in which he knows or has reasonable cause to believe that an industrial undertaking is being carried on;
- (b) to take with him in any such case any person whom he may reasonably need to assist him in carrying out his duties under this Ordinance;
- (c) to require the production of any register or other document required to be kept under this Ordinance and inspect, examine and copy the same;
- (d) to make such examination and inquiry as may be necessary to ascertain whether the requirements of this Ordinance are complied with, and seize anything which may appear to be evidence of an offence against this Ordinance;
- (e) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Ordinance, any person whom he finds in any industrial undertaking, or whom he has reasonable cause to believe has been within the preceding two months employed in any industrial undertaking, or require any such person to be so examined and to sign a declaration of the truth of the matters respecting which he has been so examined;
- (f) to require any person who employs or has employed any woman, young person or child in an industrial undertaking or any agent or servant of any such employer to give to him all information in the possession of such person, agent or servant with reference to such woman, young person or child and to the labour conditions and treatment of every woman, young person and child employed by such employer;

- (g) to remove and detain for inquiries in a place of refuge appointed under any Ordinance for the time being in force relating to women, young persons or children any young person or child whom he finds in any place in or in respect of which he has reasonable cause to suspect that an offence against this Ordinance has been committed;
- (h) to require the posting of any notice in connexion with the provisions of this Ordinance or any matter related to the manufacture carried out, or machinery, plant, process or persons employed in any industrial undertaking; and
- (i) any other powers which may be conferred by any regulation made under this Ordinance.

(2) Any Health Officer, any Fire Brigade Officer with the written authority of the Chief Officer of the Fire Brigade and any officer specially authorized by the Commissioner and subject to such directions as he may impose, may at any time enter and inspect any industrial undertaking for the purpose of ascertaining whether the requirements of this Ordinance are complied with.

(3) The powers conferred by this Ordinance on any officer shall be in addition to and not in substitution for any other powers which such officer may possess.

5. (1) The Commissioner of Labour may in respect of industrial undertakings by regulations prescribe or provide for—

- (a) prohibiting or controlling the employment of all persons or any class of persons in dangerous trades or scheduled trades;
- (b) prohibiting or controlling the employment of women, young persons and children in industrial undertakings, and requiring registers to be kept of women, young persons and children employed in industrial undertakings;
- (c) imposing obligations for securing compliance with the provisions of this Ordinance upon persons who employ women, young persons or children in industrial undertakings and upon the agents and servants of such persons;
- (d) defining the duties and powers of assistant labour officers and inspectors;

Power of
Com-
missioner
of Labour
to make
regula-
tions, etc.

- (e) exempting any industrial undertaking from the operation of this Ordinance or any part thereof;
 - (f) forms both in respect of registration and otherwise;
 - (g) means of securing hygienic conditions;
 - (h) means of preventing accidents and of relieving persons suffering from the effects of such accidents;
 - (i) means of securing the removal of any danger or defect;
 - (j) requiring notifications to be made in relation to accidents and such dangerous occurrences as may be specified in the regulations;
 - (k) precautions to be taken against fire and providing for means of escape from fire;
 - (l) the taking for purposes of analysis of samples of materials or substances used or handled;
 - (m) requiring notifications to be made in relation to the occurrence amongst persons who have been or are employed in industrial undertakings of such diseases as may be specified in such regulations;
 - (n) requiring the medical inspection by a Health Officer or by a medical practitioner employed by the proprietor of the industrial undertaking concerned of any person or of any class of persons employed in any industrial undertaking;
 - (o) imposing duties on proprietors and persons employed;
 - (p) generally carrying into effect the provisions of this Ordinance.
- (2) (a) Where the Commissioner of Labour is satisfied that any manufacture, machinery, plant, process or description of manual labour, used in industrial undertakings is of such a nature as to cause risk of bodily injury to persons employed in connexion therewith, or any class of those persons, he may, without prejudice to the generality of the power to make regulations under subsection (1), make such special regulations as appear to him to be reasonably practicable and to meet the necessity of the case and in particular such special regulations may—
- (i) prohibit or control the employment of all persons or any class of persons in connexion with any manufacture, machinery, plant, process, or description of manual labour; or

- (ii) prohibit or control the use of any material or process;

and may impose duties on proprietors, employed persons and other persons.

- (b) Special regulations so made may apply to all industrial undertakings in which the manufacture, machinery, plant, process, or description of manual labour is used or to any specified class or description of such undertaking, and may provide for the exemption of any specified class or description of undertaking either absolutely or subject to conditions.

(3) All regulations made by the Commissioner of Labour shall be submitted to the Governor, and shall be subject to the approval of the Legislative Council.

(4) The Commissioner of Labour in such cases as he shall think fit may exempt any industrial undertaking from any regulation made under this Ordinance or may order the adoption of special precautions in addition to any precautions required by any regulation made under this Ordinance :

Provided that an appeal from any such exemption or order shall lie by way of petition to the Governor in Council whose decision shall be final.

(5) Regulations made under this section may provide that contravention of specified provisions of such regulations shall be an offence and may provide penalties therefor :

Provided that no penalty so provided shall exceed a fine of five thousand dollars.

6. The Governor in Council may by order amend the First Schedule and the Second Schedule.

Powers of Governor in Council to amend First and Second Schedules.

7. (1) Every factory and mine and every premises or place in which a dangerous trade or scheduled trade is carried on shall be registered annually at the office of the Commissioner of Labour.

Registration.

(2) It shall be the duty of the Commissioner—

- (a) to receive applications for the registration of registrable workplaces;
- (b) to issue certificates of registration of registrable workplaces; and
- (c) to keep a register of the registrable workplaces in respect of which certificates of registration have been issued.

(3) The Commissioner of Labour may refuse any such application for registration, and may cancel any such certificate of registration :

Provided that an appeal from any such refusal or cancellation shall lie by way of petition to the Governor in Council whose decision shall be final.

Offences and penalties.

8. (1) The proprietor of any registrable workplace which is not duly registered in accordance with subsection (1) of section 7 shall be guilty of an offence and shall be liable to a fine of five thousand dollars.

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

(3) Any person who—

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

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

Continuing offences.

9. Any person guilty of an offence against this Ordinance shall, in addition to any other penalty prescribed for such offence, be liable to a fine of five hundred dollars for every day during the whole or any part of which such offence is knowingly and wilfully continued.

10. (1) Except as may be otherwise provided by regulations made under this Ordinance, the proprietor of every industrial undertaking in or in respect of which any offence against this Ordinance has been committed shall be guilty of a like offence, and shall be liable to the penalty prescribed for such offence.

Liability of proprietor.

(2) It shall be no defence to a prosecution of the proprietor of an industrial undertaking for an offence against this Ordinance that the offence was committed without his knowledge or consent or that the actual offender has not been convicted of the offence.

11. (1) Where the person convicted of an offence against this Ordinance is a company, the chairman and every director and every officer concerned in the management of the company shall be guilty of the like offence unless he proves that the act or omission constituting the offence occurred without his knowledge or consent, and shall each be liable to a fine of five thousand dollars.

Liability of partners, etc.

(2) Where the person convicted of an offence against this Ordinance is a firm, every partner in the firm and every person concerned in the management of the firm shall be guilty of the like offence unless he proves that the act or omission constituting the offence occurred without his knowledge or consent, and shall each be liable to a fine of five thousand dollars.

12. (1) (a) Any summons relating to an offence against this Ordinance by a proprietor of an industrial undertaking may be served by leaving a copy of the summons with some person for him at the industrial undertaking mentioned in the summons.

Procedure.

(b) Any such summons may be addressed to the proprietor of an industrial undertaking without specifying the name of the proprietor.

(c) If on the hearing of any such summons the offence is proved to the satisfaction of the magistrate, he may, in addition to any other power which he may possess, order that any fine imposed, if not duly paid, shall be recovered by distress and sale of the machinery, goods and chattels found in the industrial undertaking in question, and the provisions of the Magistrates Ordinance shall apply in the case of such distress and sale as they apply to any distress and sale under that Ordinance.

(Cap. 227).

(2) Any summons relating to an offence against this Ordinance by a person employed in an industrial undertaking may be served by leaving a copy of the summons either with some person for him at his last or most usual place of abode or with some person for him at the industrial undertaking mentioned in the summons.

Presump-
tions.

13. In any prosecution under this Ordinance—

- (a) if it appears to the magistrate that any person who is alleged in the charge to have been a young person or child at the date of the alleged offence was a young person or child at the said date, it shall, until the contrary is proved, be presumed that such person was a young person or child at the said date;
- (b) if it appears to the magistrate that any young person or child who is alleged in the charge to have been under any particular age at the date of the alleged offence was under that particular age at the said date, it shall, until the contrary is proved, be presumed that the said young person or child was under the said age at the said date.

Prosecution
of
offences.

14. (1) Prosecutions for offences against this Ordinance may be brought in the name of the Commissioner of Labour, and may be commenced and conducted by any officer of the Labour Department.

(2) Save as is provided in subsection (1), no prosecution for an offence against this Ordinance shall be commenced without the written consent of the Commissioner of Labour.

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

Minor
amend-
ments to
Mining
Ordinance,
1954.
Third
Schedule.
(33 of
1954).

15. The amendments specified in the second column of the Third Schedule, being amendments of a minor nature, shall be made in the sections of the Mining Ordinance, 1954, specified in the first column of that Schedule.

16. The Factories and Workshops Ordinance and the Factories and Workshops Regulations are hereby repealed.

Repeal of
Factories
and
Workshops
Ordinance
and Regula-
tions.
(Cap. 59).
(Vol. VIII,
p. 322).

FIRST SCHEDULE.

[s.s. 2 & 6.]

Dangerous trades.

- (a) boiler chipping;
- (b) fireworks manufacture;
- (c) glass working;
- (d) processes involving the use of arsenic, lead, manganese, mercury, phosphorus, or any compound of any of them;
- (e) vermilion manufacture;
- (f) chromium plating;
- (g) the manufacture or manipulation of celluloid, magnesium or aluminium, or of any article wholly or partly made of celluloid, magnesium or aluminium;
- (h) the manufacture of hydrochloric, nitric or sulphuric acids.

SECOND SCHEDULE.

[ss. 2 & 6.]

Scheduled trades.

- (a) any industrial undertaking involving the use of any inflammable liquid declared to be dangerous goods under the Dangerous Goods Ordinance, 1873, or of any mixture containing such liquid;
- (b) any industrial undertaking involving the use of coal gas;
- (c) any industrial undertaking involving the use of electricity as motive power or for heating or in any electrolytic process, other than electricity used solely for the ventilation, heating or lighting of a building.

THIRD SCHEDULE.

[s. 15.]

Minor amendments to the Mining Ordinance, 1954.
(No. 33 of 1954).

First column	Second column
Sections to be amended	Amendments
46	Delete paragraph (d), and substitute therefor the following— “(d) exercise all the powers conferred upon labour inspectors by the Factories and Industrial Undertakings Ordinance, 1955, in so far as they are applicable to prospecting or mining operations.” (No. of 1955).
68	In subsection (2), delete paragraph (c), and substitute therefor the following— “(No. of 1955.) (c) the Factories and Industrial Undertakings Ordinance, 1955.”

Passed the Legislative Council of Hong Kong, this 17th day of August, 1955.

Deputy Clerk of Councils.

(Secretariat 16/2961/46)

HONG KONG

No. 35 OF 1955.



I assent.

Governor.

1st September, 1955.

An Ordinance to provide for the incorporation of the local representative in Hong Kong of the Franciscan Missionaires of Mary.

[2nd September, 1955.]

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 Franciscan Missionaires of Mary Incorporation Ordinance, 1955. Short title.

2. The Mother Superior for the time being in Hong Kong of the Franciscan Missionaires of Mary hereinafter called the Mother Superior, shall be a corporation sole, hereinafter called the corporation, and shall have the name “The Mother Superior in Hong Kong of the Franciscan Missionaires of Mary”, and in that name shall have perpetual succession, and shall and may sue and be sued in all courts in the Colony and shall and may have and use a Common Seal, and may from time to time break, change, alter and make anew the said seal. Incorporation.

Powers of corporation.

3. (1) The corporation shall have power to acquire, accept leases of, purchase, take, hold and enjoy any lands, buildings, messuages or tenements of what nature or kind soever and wheresoever situated, and also to invest moneys upon mortgage of any land, buildings, messuages or tenements provided that the consent of the Governor in Council is first obtained or upon the mortgage, debentures, stocks, funds, shares or securities of any government, municipality, corporation, or company and also to purchase, acquire and possess goods and chattels of what nature and kind soever.

(2) Notwithstanding the provisions of subsection (1) the corporation shall not acquire any immovable property in the Colony unless it shall have previously obtained the special consent of the Governor in Council in each case.

Vesting of property.

4. (1) The pieces or parcels of ground situate at Kowloon in the Colony of Hong Kong and registered in the Land Office respectively as Kowloon Inland Lot No. 2356 and Kowloon Inland Lot No. 2375 now vested in Mary of St. Conleth, Franciscan Missionaires of Mary together with all rights easements and appurtenances thereunto belonging and together with all the estate right title and interest of the said Mary of St. Conleth, Franciscan Missionaires of Mary shall vest in the corporation for the residue now unexpired of the term created therein by the Crown Lease thereof subject to the payment of the rent reserved by the said Crown Lease and the performance and observance of the Lessees' covenants and conditions therein contained upon such trusts and conditions as may be subsisting in respect of the said premises upon the commencement of this Ordinance.

(2) All other property goods and chattels and rights which immediately before the commencement of this Ordinance were held in trust for the Franciscan Missionaires of Mary, are hereby transferred to and vested in the corporation.

Transfer of property.

5. The legal estate in any property whatsoever, vested in the corporation in any manner whatsoever, shall, in the event of death of the Mother Superior or in the event of her ceasing to hold office as such Mother Superior, pass to her successor in such office subject to compliance with subsection (2) of section 7.

Execution of documents.

6. All deeds and other instruments requiring the seal of the corporation shall be sealed in the presence of the Mother Superior or of her attorney duly authorized, and such deeds and instruments

and all other documents, instruments and writings requiring the signature of the corporation shall be signed by the Mother Superior or her attorney.

7. (1) The appointment of a new Mother Superior, in the event of the death or for any other reason, shall be made by the Mother General of the Franciscan Missionaires of Mary, Rome.

Appointment of Mother Superior and registration of particulars.

(2) Within six weeks after the commencement of this Ordinance or within such further period as the Governor may allow, and whenever thereafter any person is appointed to the office of Mother Superior within the same period or extended period after such appointment, the Mother Superior shall furnish to the Registrar of Companies notice of her appointment and evidence thereof to the satisfaction of such Registrar, and shall then and within three weeks of any change of address, furnish to such Registrar particulars of her place of residence or other sufficient address within the Colony.

(3) The registration of the appointment of a Mother Superior shall be conclusive evidence of such appointment.

(4) There shall be payable to the Registrar of Companies a fee in accordance with the Ninth Schedule of the Companies Ordinance for making a record of any fact by this Ordinance required or authorized to be recorded by the Registrar.

(Cap. 32).

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

Saving of rights of the Crown and of certain other rights.

Passed the Legislative Council of Hong Kong, this 31st day of August, 1955.

Deputy Clerk of Councils.

(Secretariat 31/3231/55)

HONG KONG

No. 36 OF 1955.



I assent.

[Handwritten signature]
Governor.

15th September, 1955.

An Ordinance further to amend the Inland Revenue Ordinance,
Chapter 112.

[16th September, 1955.]

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 Inland Revenue Short title.
(Amendment) Ordinance, 1955.

2. This Ordinance shall be deemed to have come into Commence-
operation on the 1st day of April, 1955. ment.

Amend-
ment of
section 2.
(Cap. 112).

3. Section 2 of the Inland Revenue Ordinance (hereinafter referred to as the principal Ordinance) is amended—

(a) by the insertion in the definition of the expression "basis period"—

(i) after the word "on" in the first line of the following—

"the income or"; and

(ii) after the word "year" in the second line of the following—

"ultimately";

(b) by the deletion of the definitions of the following expressions—

(i) "income arising in or derived from the Colony";

(ii) "owner"; and

(iii) "profits";

(c) by the addition thereto of the following definitions, in their appropriate alphabetical order having regard to the initial letter of each of them—

"assessable profits" means the net profits for any period arising in or derived from the Colony calculated in accordance with the provisions of Part IV but does not include profits arising from the sale of capital assets;

"body of persons" means any body politic, corporate or collegiate and any company, fraternity, fellowship and society of persons whether corporate or not corporate;

"Governor" means the Governor of Hong Kong and includes the officer for the time being administering the Government;

"inspector" means an inspector appointed under this Ordinance;

"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;

"wife living apart from her husband" means a wife who is living apart from her husband either—

(a) under the decree of a competent court; or

(b) under a duly executed deed of separation; or

(c) in such circumstances that in the opinion of the Commissioner the separation is likely to be permanent;".

4. Section 3 of the principal Ordinance is amended by the deletion from the last line of subsection (2) of the words "and assessors" and the substitution therefor of the following—

Amend-
ment of
section 3.

"assessors and inspectors".

5. Section 4 of the principal Ordinance is amended—

Amendment
of section
4.

(a) by the deletion from paragraph (b) of subsection (4) of the full stop and the substitution therefor of the following—

“, or”;

(b) by the addition after paragraph (b) of subsection (4) of the following new paragraph—

“(c) to the Director of Commerce and Industry to such extent as the Commissioner may deem necessary for the purpose of enabling the Director of Commerce and Industry to exercise his discretion as to remission of fees on grounds of hardship as provided for in subsection (5) of section 7 of the Business Regulation Ordinance, 1952.”.

(14 of
1952).

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

Repeal and
replac-
ement of
section 5.

“Charge of
property
tax.

5. Property tax shall, subject to the provisions of this Ordinance, be charged for each year of assessment on the owner of any land or buildings or land and buildings wherever situate in the Colony and shall be computed at the standard rate on the rateable value of such land or buildings or land and buildings for each such year as assessed for rating purposes under the Rating Ordinance, less an allowance for repairs and outgoings of twenty per cent of the said rateable value:

(Cap. 116).

Provided that—

- (a) for any year of assessment on the first day of which rents are restricted by reference to rents recoverable on or before the 25th day of December, 1941, under the provisions of the Landlord and Tenant Ordinance, property tax shall be charged and computed at one-half the standard rate;
- (b) where the owner of the land is not the owner of the buildings thereon, separate assessments shall be made for the land and for the buildings;
- (c) property tax shall not be charged in respect of any land or buildings or land and buildings owned by the Government of a member of the Commonwealth;
- (d) where no valuation has been made under the Rating Ordinance in respect of any land or buildings, whether by reason of exemption from rates under that Ordinance or otherwise, the Commissioner of Rating and Valuation shall, if required by the Commissioner of Inland Revenue, cause a rateable value to be placed thereon in the same manner as if such land or buildings were subject to rates under the Rating Ordinance."

(Cap. 255, 1953 Reprint).

Repeal and replacement of section 6.

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

"Collection of property tax.

6. (1) Property tax shall be payable in the first place by the person, whether owner, agent, or occupier, who pays the rates in respect of the land or buildings or land and buildings taxed.

(2) Where property tax is paid by any person other than the owner of the land or buildings or land and buildings taxed then the amount so paid shall be a debt due to such person from the owner and shall be recoverable as such from any rent or other monies due to the owner.

(3) Where no rates are payable in respect of any land or buildings or land and buildings any property tax charged thereon shall be payable by the owner thereof."

8. Section 7 of the principal Ordinance is repealed and replaced by the following section—

Repeal and replacement of section 7.

"Reduction and refund in case of unoccupied property.

7. Where it is proved to the satisfaction of the Commissioner that any land or buildings or land and buildings have been unoccupied during one or more entire months of any year of assessment any property tax payable in respect thereof shall be reduced proportionately and any excess tax paid shall be refunded."

9. The principal Ordinance is amended by the addition after section 7 of the following new section—

Addition of new section 7A.

"Interpretation.

7A. For the purpose of this Part—
"land or buildings or land and buildings" includes piers, wharves and other structures;
"owner" includes a person who holds land or buildings or land and buildings subject to a ground rent or other annual charge;
"unoccupied" means put to no beneficial use other than use as a habitation for a caretaker."

10. The heading to Part III of the principal Ordinance is amended by the deletion therefrom of the words "and Annuities".

Amendment of heading to Part III.

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

Repeal and replacement of section 8.

"Charge of salaries tax.

8. (1) Salaries tax shall, subject to the provisions of this Ordinance, be charged for each year of assessment on every person in respect of his income arising in or derived from the Colony from the following sources—

- (a) any office or employment of profit; and
- (b) any pension.

(2) In computing the income of any person for the purposes of subsection (1) there shall be excluded the following—

- (a) the official emoluments received by the Governor;
- (b) 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;
- (c) any sum received by way of commutation of pension and any sum, other than a pension, withdrawn from a provident fund;
- (d) the emoluments payable by the Governments of the Members of the Commonwealth, other than the Government of Hong Kong, to members of Her Majesty's Forces and to persons in the permanent service of those Governments in the Colony in respect of their offices under those Governments;
- (e) wound and disability pensions granted to members of Her Majesty's Forces;
- (f) gratuities granted to members of Her Majesty's Forces in respect of services rendered during war;
- (g) any income exempted by order of the Governor in Council under section 87;
- (h) any pension paid to a person who has left the Colony permanently."

Addition of new section 8A.

12. The principal Ordinance is amended by the addition after section 8 of the following new section—

"Income deemed to arise in and be derived from Hong Kong.

8A. Any sum received by—

- (a) a person in respect of an office or employment of profit, or
- (b) a person, other than a person who has left the Colony permanently, by way of a pension,

which is allowable as a deduction under section 16 in computing the profits of the payer for the purposes of Part IV, shall, unless the recipient proves to the satisfaction of the assessor that such payment is elsewhere chargeable to a tax of substantially the same nature as that charged under section 8, be deemed to be income of the recipient arising in or derived from the Colony."

13. Section 9 of the principal Ordinance is amended—

Amendment of section 9.

(a) by the deletion of subsection (3) and the substitution therefor of the following—

"(3) A pension shall include a pension which is voluntary or is capable of being discontinued."

(b) by the addition after subsection (3) of the following new subsection—

"(4) For the purposes of this Part, any sum arising in or derived from the Colony and accruing to a person annually, which is not—

- (a) income as defined in subsection (1) or (3) of this section;
- (b) chargeable to tax under Part II, IV or V;
- (c) a dividend from a corporation chargeable to tax under Part IV;
- (d) a return of capital,

shall be deemed to be a pension in the hands of that person."

14. Section 10 of the principal Ordinance is repealed and replaced by the following section—

Repeal and replacement of section 10.

"Aggregation of incomes of husband and wife.

10. The income of a wife not being a wife living apart from her husband charged to tax under this Part shall, for the purposes of this Part, be deemed to be the income of the husband and shall be chargeable accordingly in his name :

Provided that such part of the total amount of tax charged to the husband as appears to the Commissioner to be charged in respect of the income of such 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 the collection and recovery of tax shall apply accordingly."

Repeal and
replace-
ment of
section 11.

15. Section 11 of the principal Ordinance is repealed and replaced by the following section—

"Ascertain-
ment of
assessable
income.

11. (1) The assessable income of a person charged to salaries tax for any year of assessment shall be the aggregate amount of his assessable income from all sources calculated in accordance with the provisions of this section.

(2) Save as is otherwise provided in this section the assessable income of a person from a source for any year of assessment shall be the amount of income accruing to him from that source during the year preceding the year of assessment.

(3) Where a person commences to derive income from a source on a day within a year of assessment, his assessable income from that source for that year of assessment shall be the amount of income accruing to him from that source in the period from such day to the end of that year of assessment.

(4) Where a person commences to derive income from a source on a day within the year preceding the year of assessment other than the 1st day of April, his assessable income from that source for that year of assessment shall be the amount of income accruing to him from that source during that year of assessment.

(5) Where a person commences to derive income from a source on the 1st day of April in the year preceding the year of assessment, or on some day in the year next before the year preceding the year of assessment other than the 1st day of April and where his income from that source in such year of assessment is less than his income from that source assessed in accordance with subsection (2) his income from that

source so assessed shall be reduced to the amount of his income from that source accruing to him during such year of assessment.

(6) Where a person ceases to derive income from a source his assessable income from that source for the year of assessment in which the cessation occurs shall be the amount of his income from that source accruing to him during the period beginning on the 1st day of April in that year and ending on the date of cessation :

Provided that where the assessable income accruing to him from that source during the year of assessment immediately preceding the year in which the cessation occurs exceeds his assessable income from that source for that year of assessment computed in accordance with subsection (2) his assessable income for that year of assessment from that source shall be increased by the amount of such excess.

(7) For the purposes of this section a person shall be deemed to commence or cease, as the case may be, to derive income from a source whenever and as often as he commences or ceases—

- (a) to hold any office or employment of profit; or
- (b) to become entitled to a pension.

(8) Income which has accrued to a person during the basis period for a year of assessment but which has not been received by him in such basis period shall not be included in his assessable income for that year of assessment until such time as he shall have received such income, when notwithstanding anything contained in this Ordinance, an additional assessment shall be raised in respect of such income :

Provided that for the purposes of this subsection income which has either been made available to the person to whom it has accrued or which has been dealt with on his behalf or according to his directions shall be deemed to have been received by such person.

(9) For the purposes of this section income accrues to a person when he becomes entitled to claim payment thereof."

Repeal and replacement of section 12.

16. Section 12 of the principal Ordinance is repealed and replaced by the following section—

“Ascertainment of net chargeable income.

12. (1) The net chargeable income for any year of assessment of a person chargeable to salaries tax under this Part shall be his assessable income for that year reduced by the following—

- (a) the allowances provided under section 42B; and
- (b) all outgoings and expenses, other than capital expenditure on machinery or plant qualifying for allowances under paragraph (c), wholly exclusively and necessarily incurred in the production of such assessable income; and
- (c) allowances calculated in accordance with the provisions of Part VI in respect of capital expenditure on machinery or plant the use of which is essential to the production of such assessable income.

(2) Where any machinery or plant is not used wholly and exclusively in the production of such assessable income the amount of the allowances provided for in paragraph (c) of subsection (1) shall be reduced in the proportion considered by the assessor to be fair and reasonable.

(3) Where under the provisions of Part VI a balancing charge arises the amount of such charge shall be deemed to be income derived from the office or employment of profit or the pension in respect of which the plant or machinery was used in the production of assessable income.”

Addition of new section 12A.

17. The principal Ordinance is amended by the addition after section 12 of the following new section—

“Treatment of losses.

12A. Where the aggregate of the outgoings, expenses and allowances deductible under paragraphs (b) and (c) of subsection (1) of section 12 from the assessable income of a person exceeds the amount of his assessable income, the amount of the excess shall be carried forward and set off against his assessable income in subsequent years:

Provided that—

- (a) in no circumstances shall the aggregate set off against his assessable income in subsequent years exceed the amount of such excess; and
- (b) a set off under this section shall first be made against his assessable income for the year of assessment next succeeding the year of assessment in respect of which the loss occurred, and, so far as it cannot be so made, against his assessable income for the next year of assessment and so on until the loss has been completely set off.”

18. Section 13 of the principal Ordinance is repealed and replaced by the following section—

Repeal and replacement of section 13.

“Calculation of salaries tax. Second Schedule.

13. Salaries tax shall be charged at the rates specified in the Second Schedule on the net chargeable income of a person for each year of assessment ascertained in accordance with the provisions of this Part:

Provided that—

- (a) where a person is liable to tax under this Part for a part only of any year of assessment prior to the year of assessment 1950/51, the provisions of the Second Schedule shall be modified in the manner specified therein; and
- (b) in no case shall the amount of salaries tax charged on any person exceed the amount which would have been chargeable on him had the standard rate been charged on the whole of his income chargeable to salaries tax before deducting the allowances provided for in paragraph (a) of subsection (1) of section 12.”

19. The principal Ordinance is amended by the addition after section 13 of the following new sections—

Addition of new sections 13A and 13B.

“Provision in regard to doubt as to whether income is arising in or derived from the Colony.

13A. (1) In the case of any doubt as to whether any income is for the purposes of this Part arising in or derived from the Colony the onus of proving that such income is not income arising in or derived from the Colony shall always be on the person charged to tax in respect of such income.

(2) In determining any such doubt regard shall be had to the fact *inter alia* as to whether or not the income in dispute has borne elsewhere a tax of substantially the same nature as the tax charged under this Part.

(3) For the purposes of this section an assessor may require a person who alleges that he has been charged to tax in respect of income not arising in or derived from the Colony to declare in writing—

- (a) the name of the place in which such person alleges the income arose or whence it was derived; and
- (b) whether such income has or has not borne in that place a tax of substantially the same nature as the tax charged under this Part.

Interpretation.

13B. In this Part—

“income arising in or derived from the Colony” shall, without in any way limiting the meaning of the expression, include all income derived from services rendered in the Colony.”

Repeal and replacement of section 14.

20. Section 14 of the principal Ordinance is repealed and replaced by the following section—

“Charge of corporation profits tax.

14. (1) Corporation profits tax shall, subject to the provisions of this Ordinance, be charged for each year of assessment on every corporation carrying on trade or business in the Colony in respect of the profits of the corporation arising in or derived from the Colony from such trade or business.

(2) Any sum arising in or derived from the Colony, other than a sum from the sale of capital assets, received by or credited to a corporation carrying on a trade or business in the Colony shall be deemed to arise from the trade or business carried on.”

Repeal and replacement of section 15.

21. Section 15 of the principal Ordinance is repealed and replaced by the following section—

“Charge of business profits tax.

15. (1) Business profits tax shall, subject to the provisions of this Ordinance, be charged for each year of assessment on every person other than a corporation

carrying on a trade, profession or business in the Colony in respect of the profits of that person arising in or derived from the Colony from such trade, profession or business.

(2) Any sum arising in or derived from the Colony, received by or credited to a person other than a corporation carrying on a trade, profession or business in the Colony shall be deemed to arise from such trade, profession or business:

Provided that any such sum which—

- (a) is liable to interest tax under Part V; or
- (b) arises from the sale of a capital asset; or
- (c) is received by or credited to a person carrying on a trade, profession or business but which derives from his own personal property,

shall not be deemed so to arise.”

22. The principal Ordinance is amended by the addition after section 15 of the following new sections—

Addition of new sections 15A, 15B and 15C.

“Aggregation of assessable profits from more than one trade, profession or business.

15A. Where the ultimate controlling interest in two or more trades, professions or businesses or any combination thereof is in any year of assessment owned by the same person, such person shall aggregate the assessable profits and losses thereof for that year and tax shall be charged accordingly on such person in one single assessment.

Husband and wife.

15B. For the purposes of this Part a wife not being a wife living apart from her husband shall be deemed to be one and the same person as her husband.

Valuation of trading stock on cessation of business.

15C. Where a person ceases to carry on a trade or business the trading stock of the trade or business at the date of cessation shall be valued for the purpose of computing the assessable profits of that person as follows—

- (a) in the case of any such trading stock—
 - (i) which is sold or transferred for valuable consideration to a person who carries on or intends to carry on a trade or business in the Colony; and

(ii) the cost whereof may be deducted by the purchaser as an expense in computing his assessable profits from such trade or business, the value thereof shall be taken to be the amount realized on the sale or the value of the consideration given for the transfer;

(b) in the case of any other such trading stock, the value thereof shall be taken to be the amount which it would have realized if it had been sold in the open market at the date of cessation."

Amend-
ment of
section 16.

23. Section 16 of the principal Ordinance is amended—

(a) by the insertion in the first line of subsection (1) after the words "ascertaining the" of the following—

"assessable";

(b) by the deletion from the fifth line of subsection (1) of the word "the" and the substitution therefor of the following—

"such";

(c) by the deletion from the third line of paragraph (a) of subsection (1) after the word "producing" of the word "the" and the substitution therefor of the following—

"such";

(d) by the deletion from the second line of paragraph (b) of subsection (1) after the word "acquiring" of the word "the" and the substitution therefor of the following—

"such";

(e) by the insertion in the second line of paragraph (d) of subsection (1) after the word "proved" of the following—

"to the satisfaction of the assessor";

(f) by the insertion in the fourth line of paragraph (d) of subsection (1) after the word "they" of the following—

"are respectively estimated to the satisfaction of the assessor to";

(g) by the addition after paragraph (d) of subsection (1) of the following new paragraphs—

"(e) expenditure incurred in the repair of any premises, plant, machinery, implement, utensil or article employed in the production of such profits;

(f) expenditure incurred in the replacement of any implement, utensil, or article employed in the production of such profits;

Provided that no allowances have been or shall be made under the provisions of Part VI in respect of such implement, utensil or article;

(g) notwithstanding the provisions of section 17 a sum expended for the registration in the Colony of a trade mark used in the trade, profession or business which produces such profits;";

(h) by the re-numbering of paragraph (e) as paragraph (h);

(i) by the deletion of subsection (2).

24. The principal Ordinance is amended by the addition after section 16 of the following new section—

Addition
of new sec-
tion 16A.

"Special
lump sum
contribu-
tion to an
approved
retirement
scheme
allowable
as a
deduction.

16A. (1) Where a person carrying on a trade, profession or business in the Colony makes a special lump sum contribution to an approved retirement scheme fund for the purpose of providing retirement benefits under that scheme for an employee in respect of a period of service completed prior to the commencement of such scheme, such contribution shall notwithstanding the provisions of section 17 be deemed to be an expense wholly and exclusively incurred in the production of the assessable profits of such person and shall be deducted therefrom in accordance with subsection (2).

(2) For the purpose of making the deduction provided for in subsection (1) one fifth part of any such special lump sum contribution shall be deemed to have been expended during the basis period in which the total expenditure actually occurred and the remaining four parts shall be deemed to have been expended at the rate of one part in each of the succeeding four basis periods:

Provided that where the basis period in which one part of such special lump sum contribution was made, or is deemed to have been made, overlaps

another basis period no part of such special lump sum contribution shall be deducted from the assessable profits of the first of such basis periods."

Amendment of section 17.

25. Section 17 of the principal Ordinance is amended—

- (a) by the insertion in the first line of subsection (1) after the word "ascertaining" of the following—
"assessable";
- (b) by the deletion from the second line of paragraph (b) of subsection (1) after the word "producing" of the word "the" and the substitution therefor of the following—
"such";
- (c) by the deletion from the third line of paragraph (f) of subsection (1) of the word "the" and the substitution therefor of the following—
"such";
- (d) by the deletion from the second line of paragraph (g) of subsection (1) of the words "and annuities";
- (e) by the addition to subsection (1) of the following new paragraph—
"(h) any sum paid by an employer as a contribution to a retirement scheme fund for the benefit of an employee, to the extent by which such payment exceeds 15% of the total emoluments of such employee from such employer for the period in respect of which such payment is made.";
- (f) by the insertion in the first line of subsection (2)—
 - (i) after the word "the" of the following—
"assessable"; and
 - (ii) after the word "or" of the following—
"the".

Amendment of section 18.

26. Section 18 of the principal Ordinance is amended—

- (a) by the deletion from the third line of subsection (1) of the word "its" and the substitution therefor of the following—
"such";

- (b) by the insertion in subsection (2) before the word "profits" wherever it occurs of the following—
"assessable";
- (c) by the insertion in the third line of subsection (3) before the word "profits" of the following—
"assessable";
- (d) by the insertion in the fourth line of subsection (4) before the word "profits" of the following—
"assessable";
- (e) by the insertion in the fourth line of the proviso to subsection (4) before the word "profits" of the following—
"assessable";
- (f) by the insertion in subsection (5) before the word "profits" wherever it occurs immediately preceded by the word "the" of the following—
"assessable";
- (g) by the insertion in the third line of subsection (6) before the word "profits" of the following—
"assessable";
- (h) by the insertion in the second line of subsection (7)—
 - (i) before the word "profits" of the following—
"assessable"; and
 - (ii) after the word "or" of the following—
"the";
- (i) by the deletion in the fourth line of subsection (7) of the word "the" and the substitution therefor of the following—
"such".

27. The principal Ordinance is amended by the addition after section 18 of the following new sections—

"Calcula-
tion of
corporation
profits tax.

18A. Corporation profits tax shall be charged for each year of assessment at the standard rate on the assessable profits of a corporation for that year ascertained in accordance with the provisions of this Part.

Addition
of new
sections
18A and
18B.

Calculation of business profits tax.

18B. (1) Business profits tax shall, subject to the provisions of subsection (2), be charged for each year of assessment at the standard rate on the assessable profits of a person other than a corporation for that year ascertained in accordance with the provisions of this Part.

- (2) Where such assessable profits—
 - (a) do not exceed the sum of seven thousand dollars no tax shall be charged in respect thereof, or
 - (b) are of such an amount that tax charged thereon would exceed one half of the amount by which such profits exceed the sum of seven thousand dollars the charge to tax in respect thereof shall not be in excess of half the amount by which such profits exceed the sum of seven thousand dollars :

Provided that this subsection shall not apply in favour of a person who is chargeable to both business profits tax and salaries tax for the same year of assessment."

Repeal and replacement of section 19.

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

"Treatment of losses.

19. (1) Subject to the provisions of subsection (3) where a loss is incurred in any year of assessment by a person chargeable to tax under this Part the amount of such loss attributable to activities in the Colony shall be set off against what would otherwise have been the assessable profits of such person for that year of assessment.

(2) Where the amount of loss which may be set off under subsection (1) is such that it cannot be wholly set off against the assessable profits for the year of assessment in which the loss occurred, the amount not so set off shall be carried forward and shall be set off against what would otherwise have been assessable profits for the future years in succession.

(3) For the avoidance of doubt it is hereby declared that losses incurred during the basis period for any year of assessment prior to that commencing on the 1st of April, 1955, shall be ascertained and treated in accordance with the relevant provisions of this Ordinance in force on the 31st day of March, 1955.

(4) Notwithstanding anything in subsection (3), where a loss is sustained in respect of the basis period for the year of assessment commencing on the 1st of April, 1955 such part of such loss as is attributable to that portion (including the whole) of the basis period which is prior to the 1st of April, 1955, shall for the purposes of this section be deemed to have been sustained during the said year of assessment."

29. Subsection (2) of section 20 of the principal Ordinance is amended—

Amendment of section 20.

- (a) by the insertion in the fourth line after the word "profits" of the following—
"which arise in or derive from the Colony";
- (b) by the insertion in the fifth line after the word "arise" of the following—
"in or derive from the Colony".

30. Section 21 of the principal Ordinance is amended by the insertion in the first line after the word "profits" of the following—

Amendment of section 21.

"arising in or derived from the Colony".

31. Section 22 of the principal Ordinance is amended—

Amendment of section 22.

- (a) by the deletion of subsection (1) and the substitution thereof of the following subsection—

"(1) Where a trade, profession or business is carried on by two or more persons jointly the assessable profits therefrom shall be computed in one sum and the tax in respect thereof shall be charged in the partnership name.";

- (b) by the insertion in the eighth line of subsection (3) before the words "a person" of the following—

"if";

(c) by the deletion from subsection (4) of all the words following the word "partner" and the substitution therefor of a full stop.

Repeal and replacement of section 23.

32. Section 23 of the principal Ordinance is repealed and replaced by the following section—

"Ascertainment of assessable profits of life insurance companies.

23. (1) The assessable profits for any year of assessment of a corporation, whether mutual or proprietary, from the business of life insurance, shall—

- (a) be deemed to be five *per centum* of the premiums from life insurance business in the Colony of the corporation during the basis period for that year; or
- (b) should the corporation so elect, be that part of the adjusted surplus ascertained in accordance with the provisions of subsections (3) and (4), which is deemed under subsection (7) to arise in the basis period:

Provided that, until such part of the adjusted surplus is ascertained, the assessable profits shall be calculated provisionally in accordance with paragraph (a) of this subsection, and tax charged and collected as if no such election had been made.

(2) A corporation which elects to be assessed in the manner provided in paragraph (b) of subsection (1) shall—

- (a) if subject to the requirements of section 12 of the Life Insurance Companies Ordinance, submit to the Commissioner a certified true copy of the abstract of the report of the actuary (hereinafter referred to in this section as "an actuarial report") caused to be made in compliance with the said section of the said Ordinance;
- (b) if exempt from the requirements of section 12 of the Life Insurance Companies Ordinance submit to the Commissioner certified true copies of every account, balance sheet, abstract

statement or other document (hereinafter referred to in this section as "an actuarial report") required by the Assurance Companies Acts, 1909 and 1946, to be deposited with the Board of Trade.

(3) Any election under paragraph (b) of subsection (1) shall be effective only if the actuarial report is submitted not later than two years after the end of the period in respect of which it is made.

(4) (a) The surplus shall be the amount by which the life insurance fund exceeds the estimated liability of the corporation on the life insurance fund at the end of the period in respect of which any actuarial report is made.

(b) The adjusted surplus shall be ascertained by adding to the surplus—

(i) any deficit in respect of a period prior to the period in respect of which the relevant actuarial report is made where such deficit is included in such report;

(ii) any outgoing or expense charged against the life insurance fund in the relevant actuarial report which is not such that it would be allowed as a deduction in ascertaining assessable profits under the provisions of section 16;

(iii) any expense disbursement or loss charged against the life insurance fund in the relevant actuarial report which is such that it would not be allowed as a deduction in ascertaining assessable profits by reason of the provisions of section 17;

(iv) any income or profits of the corporation arising in the period in respect of which the relevant actuarial report is made, not being profits from the business of insurance other than life insurance, and not credited to the life insurance fund in such report;

(v) any appropriations of profits or transfers to reserve charged against the fund during the period in respect of which the relevant actuarial report is made, other than appropriations or transfers to policy holders in their capacity as such;

and by deducting therefrom—

(vi) any surplus disclosed by a previous actuarial report which has been retained in the life insurance fund in the relevant actuarial report;

(vii) any transfer or appropriation to policy holders in their capacity as such, effected during the period in respect of which the relevant actuarial report is made where such transfer or appropriation has not been charged against the life insurance fund in such report;

(viii) any outgoing or expense not charged against the life insurance fund during the period in respect of which the relevant actuarial report is made which is such that it would be deducted in ascertaining assessable profits under the provisions of section 16;

(ix) any receipt of a capital nature, or transfer from reserve, credited to the life insurance fund during the period in respect of which the relevant actuarial report is made.

(5) Notwithstanding anything contained in subsection (4) the adjusted surplus of a corporation which transacts life insurance business both within the Colony and elsewhere shall be the adjusted surplus ascertained in accordance with the provisions of the said subsection (4) less that portion of such adjusted surplus as is not deemed under the provisions of subsection (6) to be profits arising in or derived from the Colony.

(6) Where a corporation transacts life insurance business both within the Colony and elsewhere, the portion of the adjusted surplus ascertained in accordance with the provisions of subsection (4) which shall

be deemed to be profits arising in or derived from the Colony is the amount which bears the same proportion to the adjusted surplus so ascertained as the aggregate of the premiums from life insurance business in the Colony for the period of the relevant actuarial report bears to the aggregate of the premiums from the whole of the corporations life insurance business for that period.

(7) Any adjusted surplus ascertained in accordance with the foregoing provisions shall be deemed to arise during the basis periods which comprise the period in respect of which the relevant actuarial report is made in the proportion which the aggregate of the premiums from life insurance business in the Colony in each such basis period bears to the aggregate of such premiums for the total period in respect of which the relevant actuarial report is made.

(8) (a) Where the making of the adjustments required by subsection (4) results in a deficit, such deficit shall be deemed to be the loss sustained by the corporation during the period in respect of which the relevant actuarial report is made.

(b) In ascertaining for the purposes of section 19 what part of such loss so calculated is attributable to activities in the Colony the provisions of subsections (5) and (6) shall apply *mutatis mutandis*.

(c) Any such loss attributable to activities in the Colony shall be deemed to have been sustained during the years of assessment which comprise the period in respect of which the relevant actuarial report is made in the proportion which the aggregate of the premiums from life insurance business in the Colony in each such year of assessment bears to the aggregate of such premiums for the total period in respect of which the relevant actuarial report is made.