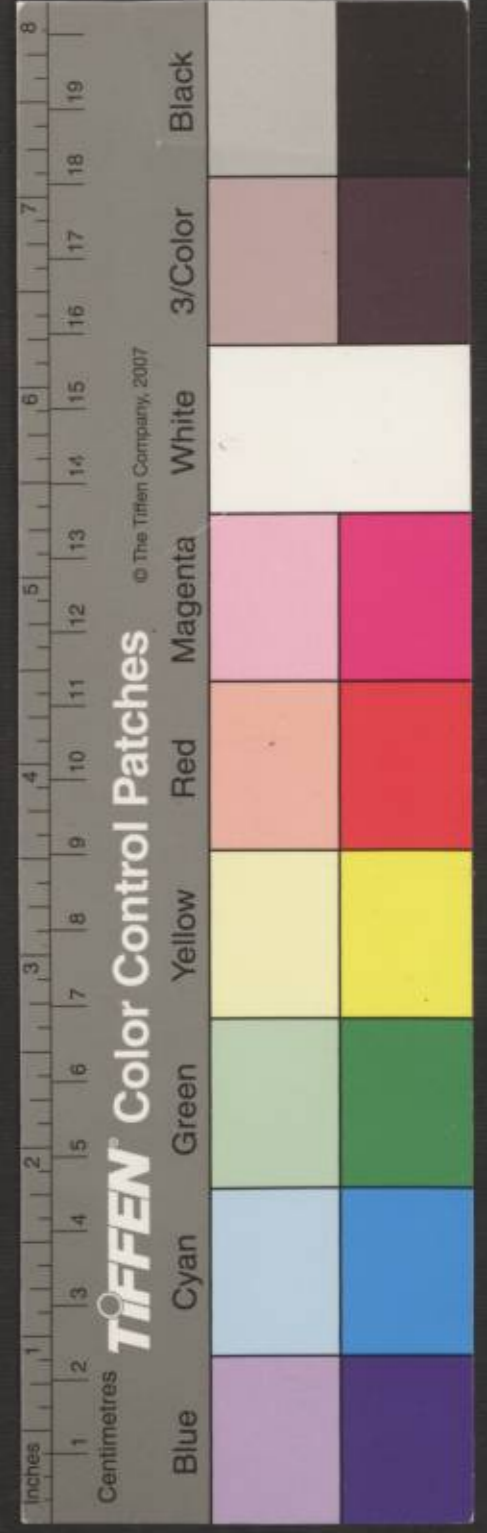


D. & S. No 8/28

ORDERS
OF
H. K.

1961



(b) in paragraph (c) by the insertion after the words "imposed on them" of the following—

"by law or by any direction of the Governor".

Amendment
of section 8.

4. Section 8 of the principal Ordinance is amended—

(a) by the insertion after the words "on the occasion of a fire" of the following—

"or other calamity";

(b) in paragraph (c) by the deletion of the words "any premises for the purpose of putting an end to the fire" and the substitution therefor of the following—

"or cause to be taken possession of or demolished any premises or thing for the purpose of putting an end to the fire or minimizing the effect of the calamity"; and

(c) in paragraph (d) by the insertion after the word "fire" of the following—

"or calamity".

Addition of
new sec-
tion 8A.

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

"Power to fix
fire hydrant
and
emergency
water supply
location
plates.

8A. (1) Upon giving seven days' notice in writing to the owner of any property situated in the vicinity of a fire hydrant or emergency water supply, the Chief Officer may cause a plate indicating the location of such fire hydrant or water supply to be fixed to such part of the property as may, in the opinion of the Chief Officer, be best suited to indicate such location.

(2) Any person who refuses to allow the fixing of any such plate as is referred to in subsection (1) or obstructs any person in the course of the fixing thereof or removes or defaces any such plate after it has been so fixed shall be guilty of an offence and liable to a fine of one thousand dollars."

Addition of
new sec-
tion 13A.

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

"Dismissal
of members
in control of
unexplained
pecuniary
resources.

13A. (1) Where the Governor is of opinion that a member appears to be—

(a) maintaining a standard of living; or

(b) in control of pecuniary resources,

above a standard which the Governor considers commensurate with his official emoluments, the Governor may, after consultation with the Attorney General, direct that such member be notified in writing by the Chief Officer of the

ground on which the allegations against him are based, and be called upon to give an explanation in writing before a date to be specified.

(2) If, when called upon, the member fails to give any explanation, or fails to give an explanation which satisfies the Governor, the Governor may thereupon refer the matter to a Tribunal composed of a judicial officer as chairman, nominated as occasion requires by the Chief Justice, and two other officers in the public service appointed by the Governor.

(3) Upon such reference the Tribunal shall inquire into the matter referred.

(4) The member shall be notified by the Chief Officer of the day appointed for the hearing by the Tribunal and that he will be required to appear before it.

(5) At the inquiry the Government may be represented by the Attorney General or by an officer in the public service nominated by him and the member may be represented by solicitor or counsel or by another officer in the public service.

(6) (a) The member shall be entitled to be present throughout the hearing and to cross-examine any witnesses called on behalf of the Government, and to give evidence himself and to call witnesses on his own behalf.

(b) No documentary evidence shall be adduced on behalf of the Government unless the member has previously been supplied with a copy thereof or been given access thereto.

(c) Evidence shall not be taken on oath.

(7) If at the inquiry it is proved that the member is or has been—

(a) maintaining a standard of living above that which is commensurate with; or

(b) in control of pecuniary resources in excess of,

his official emoluments, the onus of explaining how he is or has been able to maintain such a standard of living or how such pecuniary resources came under his control shall lie upon the member.

(8) The Tribunal, having inquired into the matter, shall make a report to the Governor; and if the Governor is of opinion that the report should be amplified in any

respect or that further inquiry is desirable, he may refer any matter back to the Tribunal for further inquiry or report accordingly, or may himself in the presence of the member subject to the inquiry, hear such further evidence as he may think necessary.

(9) If after considering the report of the Tribunal, together with such further report or evidence, if any, the Governor is of opinion that the member has failed to give a satisfactory explanation of his standard of living or his pecuniary resources, the member shall be liable to dismissal;

Provided that no member shall be dismissed by virtue of this section without the approval of the Secretary of State.

(10) If the Governor is of the opinion that the member should not be dismissed but that the proceedings disclose grounds for requiring him to retire in the public interest he may so require him:

Provided that no member who holds an appointment which is subject to the approval of the Secretary of State or who was selected for appointment by the Secretary of State shall be required to retire by virtue of this section without the approval of the Secretary of State.

(11) Notwithstanding anything contained in this Part, the provisions of Colonial Regulations relating to interdiction and suspension and to the payment of emoluments and allowances thereon shall apply to all members in the case of proceedings under this section."

Amendment of section 18. 7. Section 18 of the principal Ordinance is amended by the insertion after the word "fire" of the following—
"or other calamity".

Amendment of section 20. 8. Section 20 of the principal Ordinance is amended by the addition after paragraph (d) of the following new paragraph—

"(dd) the making and issue of reports and certificates regarding—
(i) fires or other calamities attended by the fire brigade;
(ii) premises, vessels or other property damaged by fire;
(iii) matters relating to fire risks or fire precautions in or connected with any premises, vessel or other property, and fees to be charged in relation thereto;"

9. Section 21 of the principal Ordinance is amended by the repeal of subsection (1) and the replacement thereof by the following— Amendment of section 21.

"(1) The Governor in Council may by regulation made under section 20 delete from, vary or add to any of the Schedules to this Ordinance any provision in relation to any matter in respect of which he is empowered by that section to make regulations."

10. The Fourth Schedule to the principal Ordinance is amended— Amendment of the Fourth Schedule.
(a) by the revocation of regulation 3 and the replacement thereof by the following—

"3. All sums considered by the Chief Officer to be surplus to the normal requirements of the Fund shall at his request—

(a) be invested in such securities or deposited in such manner in the Colony by the Accountant General as the Financial Secretary may from time to time approve for that purpose; or

(b) be remitted to the Crown Agents for investment in such securities or deposit in such manner as the Secretary of State may from time to time approve for that purpose,

and the dividends or interest accruing from such investments or deposits shall be credited to the account specified in paragraph 2."

(b) by the revocation of regulation 9; and

(c) by the revocation of regulations 11 and 12 and the replacement thereof by the following—

"Accounts.

11. (1) The Chief Officer shall cause proper accounts to be kept of all transactions of the Fund and shall cause to be prepared for every period of twelve months ending the 31st day of March in each year a statement of the accounts of the Fund, which statement shall include an income and expenditure account and balance sheet and shall be signed by the Chief Officer.

(2) The accounts of the Fund and the signed statement of the accounts shall be audited by the Director of Audit, who shall certify the statement subject to such report, if any, as he may think fit.

(3) A copy of the signed and audited statement of accounts together with the Director of Audit's report, if any, and a report by the Chief

Officer on the administration of the Fund during the period covered by the audited accounts shall be laid upon the Table of the Legislative Council not later than the 30th day of September next following the end of such period or so soon thereafter as the Governor, in his absolute discretion, may allow.”.

Addition of new Fifth Schedule.

11. The principal Ordinance is amended by the addition after the Fourth Schedule of the following new schedule—

“FIFTH SCHEDULE. [s. 20.]

Fire Brigade (Reports and Certificates) Regulations, 1960.

“Citation.

1. These regulations may be cited as the Fire Brigade (Reports and Certificates) Regulations, 1960.

Authority to issue reports or certificates.

2. The Chief Officer may, with the consent of the Colonial Secretary, given either generally or in any particular case, issue to any person applying therefor in writing and upon payment of the appropriate fee prescribed by these regulations,—

- (a) a report on any fire or other calamity attended by the fire brigade;
- (b) a report on any damage caused by fire to any premises, vessel or other property;
- (c) a report or certificate relating to the structure or condition of any premises, vessel or other property, in relation to fire risks or fire precautions.

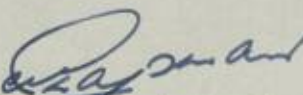
Fees.

3. The fees specified in the third column of the following Table shall be payable to the Chief Officer in respect of any of the matters respectively specified in the second column of such Table—

TABLE.

(a) Report on fire or other calamity attended by the fire brigade	50 dollars
(b) Report on fire damage (otherwise than damage caused by a fire attended by the fire brigade)	50 dollars
(c) Certificate required for compliance with any enactment	5 dollars.”.

Passed the Legislative Council of Hong Kong, this 4th day of January, 1961.


Deputy Clerk of Councils.

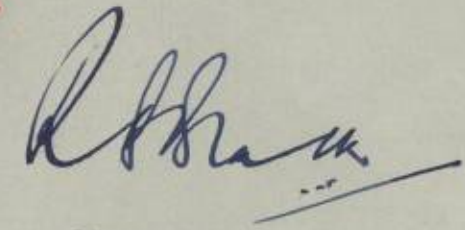
(Secretariat GR22/3231/52)

HONG KONG

No. 2 OF 1961.



I assent.



Governor.

19th January, 1961.

An Ordinance to amend the Royal Hong Kong Defence Force Ordinance, 1951.

[1st January, 1956.]

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 Royal Hong Kong Defence Force (Amendment) Ordinance, 1961, and shall be deemed to have come into operation on the 1st day of January, 1956.

Short title and commencement.

2. Section 2 of the Royal Hong Kong Defence Force Ordinance, 1951 (hereinafter referred to as the principal Ordinance) is amended—

Amendment of section 2. (25 of 1951).

(a) by the insertion before the definition “appointments” of the following—

““active service” means service when called out;”;

(b) by the deletion from the definition “bounty” of the brackets and figure “(3)” and the substitution therefor of the following—

“(1)”;

- (c) by the insertion after the definition "Commanding Officer" of the following—
 "day" means a period of twenty-four consecutive hours counted from midnight to midnight;
- (d) by the deletion from the definition "emergency" of the words "in council";
- (e) by the deletion of the definition "instruction" and the substitution therefor of the following—
 "instruction" means any period of duty, not being active service and not exceeding six hours in duration, performed at such time and at such place as ordered by the Commandant or Commanding Officer;"
- (f) by the deletion from the definition "instruction allowance" of the brackets and figure "(2)" and the substitution therefor of the following—
 "(1)"; and
- (g) by the deletion of the definition "training" and the substitution therefor of the following—
 "training" means duty, not being active service, which exceeds six hours in duration in any one day and is performed at such time and place as ordered by the Commandant or Commanding Officer;"

Repeal and
 replace-
 ment of
 section 17.

3. Section 17 of the principal Ordinance is repealed and replaced by the following—

"Pay and
 allowances.

17. (1) Every officer and member shall be entitled, subject to and in accordance with the provisions of regulations made under section 15, to receive—

- (a) when on active service, full pay and allowances appropriate to his rank and unit at the rate in accordance with the Force Pay and Pensions Code as at the date of such service;
- (b) when under training, full pay and allowances appropriate to his rank and unit at the rate in accordance with the Force Pay and Pensions Code as at 31st December, 1955;
- (c) when under instruction, an instruction allowance; and
- (d) at the end of each year, a bounty.

(2) An officer or member who is called out on active service, but not under training and who is eligible to receive any pay or emoluments (other than by virtue of the

(Cap. 89). Pensions Ordinance), in respect of his services as a public servant shall receive only such amount by which his pay or allowances under this section exceed the pay or emoluments to which he is entitled and which he receives in respect of his services as a public servant."

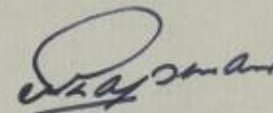
4. Section 18 of the principal Ordinance is amended by the insertion, after subsection (2) of the following— Amendment
of section 18.

"(2A) Any pension payable in accordance with the provisions of subsections (1) and (2) shall be calculated in accordance with the provisions of the Force Pay and Pensions Code as at the date of the service in respect of which the pension is payable, irrespective of whether the officer, at such time, was under training, under instruction or on active service."

5. Section 19 of the principal Ordinance is amended by the insertion in subsection (1) after the figures "17" of the following— Amendment
of section 19.

", subject to subsection (2) of that section".

Passed the Legislative Council of Hong Kong, this 18th day of January, 1961.

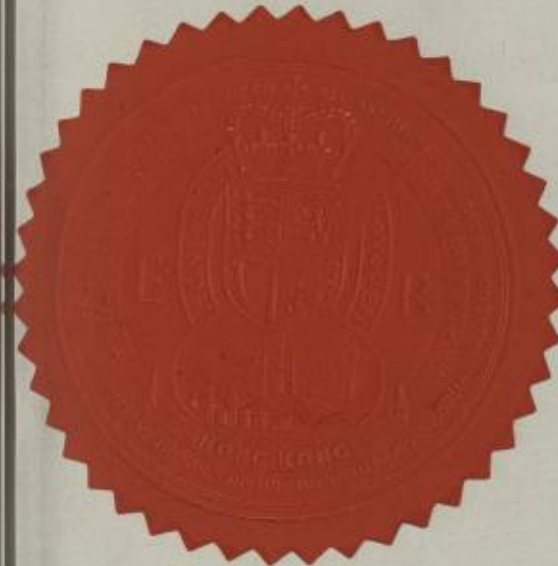


Deputy Clerk of Councils.

(Secretariat CR7/1486/59II)

HONG KONG

No. 3 OF 1961.



I assent.

Governor.

19th January, 1961.

An Ordinance to amend the Essential Services Corps Ordinance,
Chapter 197.

[1st January, 1956.]

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 Essential Services Corps
(Amendment) Ordinance, 1961 and shall be deemed to have come into
operation on the 1st day of January, 1956.

Short title
and com-
mencement.

2. The Essential Services Corps Ordinance is amended by the
addition after section 10 of the following new section—

Addition
of new
section 10A.
(Cap. 197).

*Pay and
allowances.

10A. (1) Subject to and in accordance with the
provisions of regulations made under section 7, every
member shall be entitled to receive—

- (a) when called out, the pay and allowances stipulated
in the Pay Code and Allowances Regulations
applicable to the British Army, including the
Women's Royal Army Corps as at the date of
such service;

- (b) when under training, the pay and allowances applicable to the British Army, including the Women's Royal Army Corps as at 31st December, 1955;
- (c) when under instruction, an instruction allowance; and
- (d) at the end of each year, a bounty.”.

Passed the Legislative Council of Hong Kong, this 18th day of January, 1961.



[Signature]
Deputy Clerk of Councils.

(Secretariat CR7/1486/59II)

HONG KONG

No. 4 OF 1961.



I assent.

[Signature]

Governor.

19th January, 1961.

An Ordinance to amend the Hong Kong Auxiliary Police Force Ordinance, 1959.

[30th January, 1959.]

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

1. This Ordinance may be cited as the Hong Kong Auxiliary Police Force (Amendment) Ordinance, 1961 and shall be deemed to have come into operation on the 30th January, 1959.

Short title
and com-
mencement.

2. Section 2 of the Hong Kong Auxiliary Police Force Ordinance, 1959 is amended by the deletion of the definition “day” and the substitution therefor of the following—

Amendment
of section 2.
(2 of 1959).

““day” means a period of twenty-four consecutive hours counted from midnight to midnight.”.

Revocation and replacement of regulation 6. (G.N.A. 5/59).

3. Regulation 6 of the Hong Kong Auxiliary Police Force Regulations, 1959 is revoked and replaced by the following—

"Pay and allowances for training.

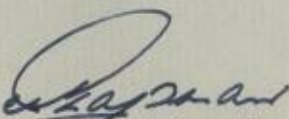
6. (1) Every member who is under training shall be entitled—

- (a) for every period of continuous attendance for a period exceeding six hours but not exceeding twenty-four hours, whether wholly in one day or partly in one day and partly in another day, to one day's pay and allowances; and
- (b) for every period of continuous attendance for a period exceeding twenty-four hours, to one day's pay and allowances for each day during which he attends for a period exceeding six hours, such pay and allowances to be at the rates prescribed in the Pay Code as at the 31st day of December, 1955:

Provided that a member shall be deemed to be under training from the time when he reports for duty until the time when he is dismissed from duty.

(2) No allowance for instruction shall be payable in respect of any day in respect of which payment is made in accordance with the provisions of regulation 5 or of this regulation."

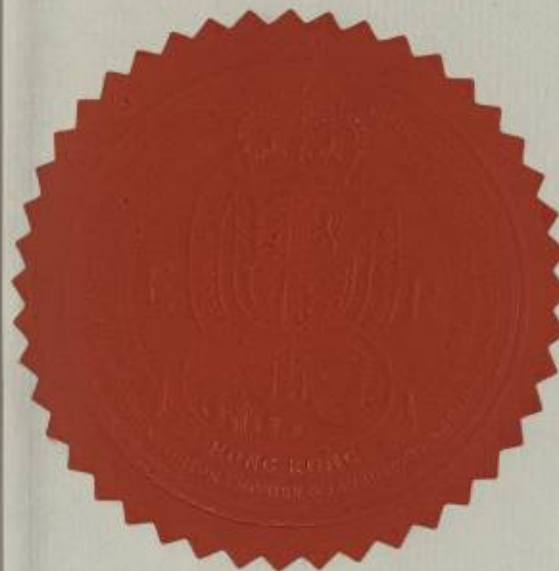
Passed the Legislative Council of Hong Kong, this 18th day of January, 1961.


Deputy Clerk of Councils.

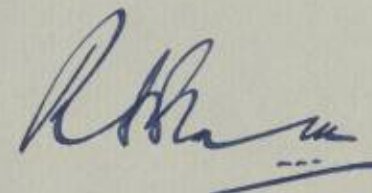
(Secretariat CR7/1486/59II)

HONG KONG

No. 5 OF 1961.



I assent.



Governor.

19th January, 1961.

An Ordinance to amend certain by-laws made by the Urban Council.

[11th November, 1960.]

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 Health and Urban Services (Miscellaneous By-laws Amendment) Ordinance, 1961, and shall be deemed to have had effect as from the 11th day of November, 1960.

Short title and commencement.

2. The Conservancy By-laws, 1960 are amended by the addition, at the end thereof, of the following new by-law—

Amendment of Conservancy By-laws, 1960. (G.N.A. 103/60).

"Transitional provisions. (Schedule A to Ordinance 15 of 1935).

13. (1) Any person who was liable under the cancelled Conservancy By-laws to pay, in respect of the two quarters commencing on the 1st day of October, 1960, the fees which were payable under those By-laws in respect of the provision of a conservancy service shall continue to be liable to pay such fees in respect of those two quarters, and to pay any surcharge which may be or may become payable thereon, as if those By-laws had not been cancelled.

(2) Notwithstanding the provisions of by-law 10, any person who has paid such fees and any surcharge which may be or may become payable thereon shall be entitled to the provision of a conservancy service until the 31st day of May, 1961, without payment of any further fee other than the fee specified in paragraph (3).

(3) Unless any such person ceases to require the provision of a conservancy service with effect from the 1st day of April, 1961, he shall, on or before the said 1st day of April, 1961, pay to the Treasury, in respect of the period from the said 1st day of April, 1961 to the 31st day of May, 1961 (both days inclusive), that proportion of the fee payable under these by-laws in respect of the quarter commencing on the 1st day of March, 1961, which the said period from the 1st day of April, 1961 to the 31st day of May, 1961 bears to that quarter, calculated to the nearest ten cents."

Amendment
of Frozen
Confections
By-laws, 1960.
(G.N.A.
105/60).

3. By-law 40 of the Frozen Confections By-laws, 1960 is amended by the insertion in the proviso to paragraph (2) thereof, after the word "granted", of the following—
"on or".

Amendment
of Milk
By-laws,
1960.
(G.N.A.
106/60).

4. By-law 41 of the Milk By-laws, 1960 is amended by the deletion of paragraph (1) and the substitution therefor of the following—

(Vol. X,
p. 118).
(G.N.A.
109/60).

"(1) Any licence relating to the sale of milk granted under the provisions of the cancelled Milk Shops and Pasteurization Plants By-laws which is in force at the commencement of these by-laws shall be deemed to be a permission in writing granted under the provisions of by-law 30 of the Food Business By-laws, 1960, and, where, on the 1st day of January, 1961, the holder (if any) of the permission which such licence is so deemed to be is a person to whom neither the provisions of sub-paragraph (a) of paragraph (2) of the said by-law 30 of the Food Business By-laws, 1960, nor the provisions of sub-paragraph (b) of that paragraph, apply, such holder shall, on or before such date as may be specified in a demand note issued in respect thereof, being a date not earlier than the said 1st day of January, 1961, pay to the Treasury, in respect of the period from the 1st day of January, 1961 (being the date on which such licence would have become due for renewal under the provisions of the said Milk Shops and Pasteurization Plants By-laws) to the 31st day of March, 1961 (being the date on which any such permission expires under the provisions of the said Food Business By-laws, 1960), one

quarter of the annual fee, calculated to the nearest ten cents, which is payable under the provisions of the said Food Business By-laws, 1960 in respect of a permit to sell milk.

(Vol. X,
p. 118).
(Vol. X,
p. 129).

(1A) Any licence relating to the processing or reconstitution of milk granted under the provisions of the cancelled Milk Shops and Pasteurization Plants By-laws or the cancelled Food Factories By-laws which is in force at the commencement of these by-laws shall be deemed to be a licence granted under the provisions of Part III of these by-laws, and, where such first-mentioned licence was a licence relating to the reconstitution of milk, the licence which it is so deemed to be shall, notwithstanding the provisions of paragraph (1) of by-law 38, not be renewable until the 1st day of January, 1962 but the holder thereof (if any) on the 1st day of October, 1961 shall, on or before such date as may be specified in a demand note issued in respect thereof, being a date not earlier than the said 1st day of October, 1961, pay to the Treasury, in respect of the period from the 1st day of October, 1961 (being the date on which such first-mentioned licence would have become due for renewal under the provisions of the said Food Factories By-laws) to the 31st day of December, 1961 (being the date on which a licence granted under Part III of these by-laws expires), one quarter of the annual fee, calculated to the nearest ten cents, which is payable under the provisions of these by-laws in respect of a licence granted under the provisions of Part III thereof."

5. The Hawker By-laws, 1960 are amended by the deletion of the word "pedlar" where it appears in item (vi) of Table I in paragraph (1) of by-law 7 and under the heading "Class (vi)" in the second column of Table II in by-law 35.

Amendment
of Hawker
By-laws, 1960.
(G.N.A.
108/60).

6. The Food Business By-laws, 1960 are amended by—

(a) the deletion of sub-paragraph (c) of paragraph (2) of by-law 30 and the substitution therefor of the following—

Amendment
of Food
Business
By-laws,
1960.
(G.N.A.
109/60).

"(c) if granted to an applicant to whom neither the provisions of sub-paragraph (a) nor the provisions of sub-paragraph (b) apply, expire annually on the 31st day of March and be granted subject to the payment in advance to the Treasury of the appropriate fee prescribed in the third column of the Second Schedule:

Second
Schedule.

Provided that, where such permission is granted on or after the 1st day of October in any year, the fee payable in respect of the grant thereof shall be one-half of the fee so prescribed."

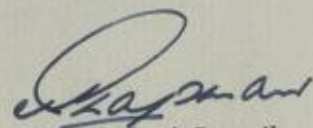
(b) the deletion from paragraph (4) of by-law 31 of the word "expire" and the substitution therefor of the following—

"be renewable"; and

(c) the insertion, at the end of paragraph (1) of by-law 37 after the word "applicable", of the following—

" , and, where any such licence was a licence in respect of premises used for the manufacture of aerated waters, the holder (if any) on the 1st day of January, 1961 of the licence which it is so deemed to be shall, on or before such date as may be specified in a demand note issued in respect thereof, being a date not earlier than the said 1st day of January, 1961, pay to the Treasury, in respect of the period from the 1st day of January, 1961 (being the date on which such first-mentioned licence would have become due for renewal under the provisions of the said Food Factories By-laws) to the 30th day of September, 1961 (being the date on which a licence to carry on a food business which comprises the manufacture of aerated waters expires under the provisions of these by-laws), three quarters of the annual fee, calculated to the nearest ten cents, which is payable under the provisions of these by-laws in respect of a licence to carry on such a food business".

Passed the Legislative Council of Hong Kong, this 18th day of January, 1961.


Deputy Clerk of Councils.

(Secretariat GR8/3231/54)

HONG KONG

No. 6 OF 1961.



I assent.



Governor.

19th January, 1961.

An Ordinance to amend the Radiation Ordinance, 1957.

[]

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 Radiation (Amendment) Ordinance, 1961, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*. Short title and commencement.
2. The Radiation Ordinance, 1957 (hereinafter referred to as the principal Ordinance) is amended in section 2— Amendment of section 2. (35 of 1957).
 - (a) by the insertion after the definition "inspector" of the following definition—

"ionising radiation" means electromagnetic radiation (that is to say, X-ray or gamma ray photons or quanta) or corpuscular radiation, (that is to say, alpha particles, beta particles, electrons, positrons, protons, neutrons

or heavy particles) being electromagnetic radiation or corpuscular radiation capable of producing ions and emitted from a radioactive substance or from a machine that is intended to produce ionising radiations, or from a machine in which electrons are accelerated by a voltage of not less than five kilovolts (that is to say, 5,000 volts);”;

- (b) by the deletion of the definition “irradiating apparatus” and the substitution therefor of the following definition—

“irradiating apparatus” means any apparatus, other than a television set, which is capable of producing or emitting ionising radiation;”;

- (c) by the deletion of the definition “radioactive substance” and the substitution therefor of the following definition—

“radioactive substance” means any substance which consists of or contains any radioactive chemical element whether natural or artificial and whose specific activity exceeds 0.002 of a microcurie of parent radioactive chemical element per gramme of substance;”.

Amendment
of section 5.

3. Section 5 of the principal Ordinance is amended by the deletion of the words “advisory or technical committees” and the substitution therefor of the following—

“advisory, technical or medical committees”.

Addition of
new sections
14A and 14B.

4. The principal Ordinance is amended by the addition after section 14 of the following new sections—

“Recommendations
for protection
from
radiation
hazards.

14A. (1) The Board may from time to time issue free of charge in such manner as it thinks fit recommendations for protection from radiation hazards for the guidance of licensees and persons engaged in radiation work.

(2) Failure on the part of any person to observe the provisions of any such recommendations shall not of itself render that person liable to criminal proceedings of any kind, but any such failure may in any proceedings under this Ordinance be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.

Power to
exempt from
provisions of
Ordinance or
regulations.

14B. (1) The Board may grant, subject to such conditions or restrictions as it may consider expedient, exemption from any of the provisions of this Ordinance or of any regulations made thereunder to any specified person, group or class of persons where, having regard to the public interest to be served and the degree of risk, if any, to

human health involved by the granting of such exemption, the Board is of opinion that it is expedient and safe so to do.

(2) A notice in writing signed by the Chairman of the Board of any exemption granted in accordance with subsection (1) shall be issued to the person, group or class of persons to which such exemption applies:

Provided that in the case of a group or class of persons such notice may be issued by means of a notification in the *Gazette*.”.

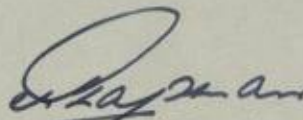
5. The Principal Ordinance is amended by the addition after section 21 of the following new section—

“Liability of
directors, etc.,
where offence
committed
by company.

21A. Where a person by whom an offence under this Ordinance has been committed is a company, 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 constituting the offence took place without his knowledge or consent.”.

Addition
of new
section 21A.

Passed the Legislative Council of Hong Kong, this 18th day of January, 1961.


Deputy Clerk of Councils.

(Secretariat CR1/3916/52)

HONG KONG

No. 7 OF 1961.



I assent.

Governor.

9th February, 1961.

An Ordinance to amend the Foreign Judgments (Reciprocal Enforcement) Ordinance, 1960.

[10th February, 1961.]

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 Foreign Judgments (Reciprocal Enforcement) (Amendment) Ordinance, 1961. Short title.

2. The Foreign Judgments (Reciprocal Enforcement) Ordinance, 1960, is amended by the repeal of section 9 and the replacement thereof by the following new section— Repeal and replacement of section 9. (13 of 1960).

“Power to apply the provisions of the Ordinance to countries in the British Commonwealth.

9. The Governor in Council may by order made under section 3 direct that the provisions of this Ordinance shall apply to any country in the British Commonwealth to which the Reciprocal Enforcement of Judgments (General Application to His Majesty's Dominions, etc.) Order, 1933, or any Order in Council varying such Order, applies and to judgments obtained in the superior courts of such country,

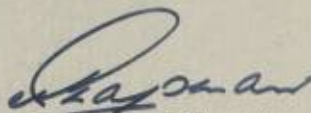
(Cap. 9).

as they apply to foreign countries and judgments obtained in the superior courts of foreign countries; and upon the making of any such order under section 3, if the provisions of the Judgments (Facilities for Enforcement) Ordinance extends to such country in the British Commonwealth aforesaid, the provisions of that Ordinance shall cease to have effect in relation thereto:

Provided that—

- (a) the fact that a judgment was given in any such country in the British Commonwealth to which the provisions of the Judgments (Facilities for Enforcement) Ordinance applied before the coming into operation of such order made under section 3 shall not prevent such judgment from being a judgment to which the provisions of this Ordinance apply, but the time limited for the registration of such judgment so given shall be twelve months from the date of the judgment or such longer period as may be allowed by the Supreme Court; and
- (b) any judgment registered in the Supreme Court under the provisions of the Judgments (Facilities for Enforcement) Ordinance before the coming into operation of such order made under section 3 shall be deemed to have been registered in that court under the provisions of this Ordinance and anything done in relation thereto under the provisions of the Judgments (Facilities for Enforcement) Ordinance or any rules of court or other provisions applicable thereto shall be deemed to have been done under the provisions of this Ordinance or corresponding rules of court or other provisions applicable thereto.”

Passed the Legislative Council of Hong Kong, this 8th day of February, 1961.


Deputy Clerk of Councils.

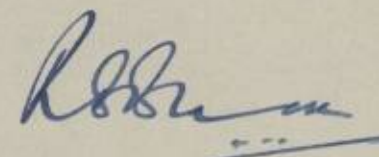
(Secretariat GR5/3231/58)

HONG KONG

No. 8 OF 1961.



I assent.



Governor.

9th February, 1961.

An Ordinance to amend the Interpretation Ordinance, Chapter 1.

[10th February, 1961.]

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 Interpretation (Amendment) Ordinance, 1961. Short title.
2. Section 4 of the Interpretation Ordinance (hereinafter referred to as the principal Ordinance) is amended by the addition after the word “such” of the following— Amendment of section 4. (Cap. 1).

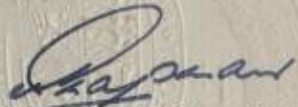
“together with all regulations and other instruments made under any such Ordinance. Any such enactment purporting to be printed by the Government Printer shall, till the contrary is proved, be taken as being an authentic copy of such enactment as enacted together with all amendments made prior to the date of such printing”.

Amendment
of section 43.

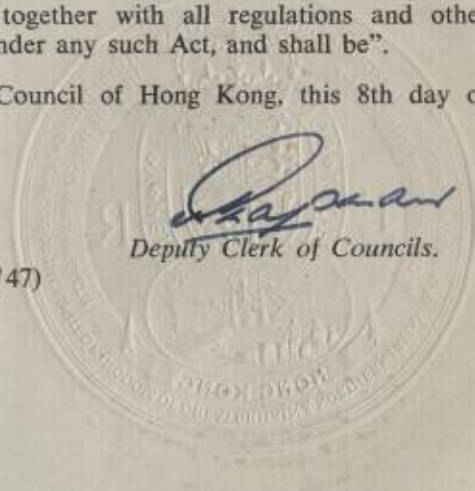
3. Section 43 of the principal Ordinance is amended by the insertion after the words "shall be" where they first appear of the following—

"judicially noticed together with all regulations and other instruments made under any such Act, and shall be".

Passed the Legislative Council of Hong Kong, this 8th day of February, 1961.


Deputy Clerk of Councils.

(Secretariat GR85/3231/47)

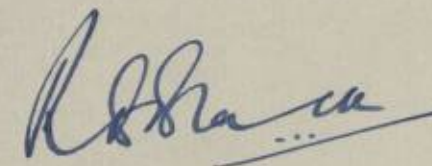


HONG KONG

No. 9 OF 1961.



I assent.



Governor.

9th February, 1961.

An Ordinance to amend the Corrupt and Illegal Practices Ordinance, 1955.

[10th February, 1961.]

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 Corrupt and Illegal Practices (Amendment) Ordinance, 1961. Short title.

2. Section 2 of the Corrupt and Illegal Practices Ordinance, 1955 (hereinafter referred to as the principal Ordinance) is amended by the deletion of the definition "secretary" and the substitution therefor of the following— Amendment
of section 2.
(20 of 1955).

"returning officer" means such officer as may from time to time be appointed to be returning officer for the purposes of any election to which the provisions of this Ordinance are applied in accordance with section 3."

Repeal and replacement of section 7.

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

"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 having voted or refrained from voting at such election; or
- (b) corruptly accept or take any such meal, drink, entertainment or provision:

Provided that—

- (i) the serving of non-alcoholic beverages incidental to an election meeting shall not of itself *prima facie* be deemed corrupt within the meaning of this section; and
- (ii) the serving of meals of any kind incidental to an election meeting shall of itself *prima facie* be deemed corrupt within the meaning of this section."

Amendment of section 10.

4. Section 10 of the principal Ordinance is amended—

- (a) by the deletion of the full stop at the end and the substitution therefor of a colon; and
- (b) by the addition of the following proviso—

"Provided that no person shall be rendered incapable of being registered as an elector or voting by reason only of a conviction in respect of a contravention of any of the provisions of subsection (2) of section 19."

Amendment of section 19.

5. Section 19 of the principal Ordinance is amended—

- (a) in subsection (1) by the deletion of the words "which fails to bear the name and address of the printer and publisher thereof" and the substitution therefor of the following—

"which, in the case of printed matter, fails to bear, in the English language, the name and address of the printer together with the date of printing and the number of copies printed";

- (b) by the deletion of subsection (2) and the substitution therefor of the following—

"(2) Any person who publishes, exhibits, distributes or posts up or causes to be published, exhibited, distributed or posted up any address, bill, notice, placard or poster having reference to an election shall, not later than seven days after the publication, exhibition, distribution or posting up thereof, deposit with the returning officer two copies of such address, bill, notice, placard or poster, as the case may be.";

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

"(3) Each address, bill, notice, placard or poster deposited with the returning officer in accordance with subsection (2) shall be retained by him until the expiration of six months after the date upon which the election to which such address, bill, notice, placard or poster relates and may thereafter be destroyed.";

- (d) in subsection (4) by the substitution of a full stop for the comma after the word "election" and the deletion of all words thereafter; and

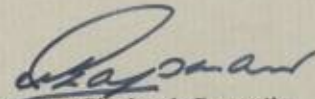
- (e) by the addition after subsection (4) of the following new subsection—

"(5) For the purpose of this section the expression "printed material" shall include material reproduced by any method of multiplying copies except by means of carbon copies reproduced by manuscript or by typewriter manipulated by hand; and the expression "printer" includes any person producing such printed material."

- 6. Section 29 of the principal Ordinance is amended by the deletion of the word "secretary" wherever it appears and the substitution therefor of the following—

"returning officer".

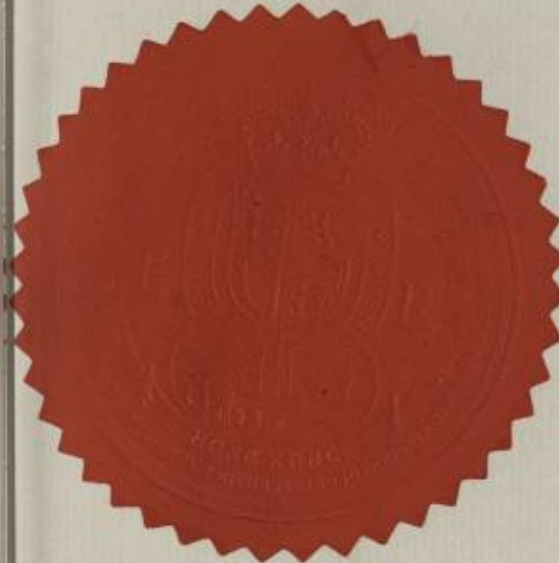
Passed the Legislative Council of Hong Kong, this 8th day of February, 1961.


Deputy Clerk of Councils.

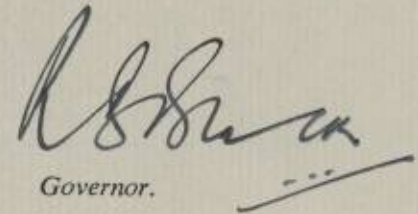
(Secretariat GR3/3231/55)

HONG KONG

No. 10 OF 1961.



I assent.


Governor.

29th March, 1961.

An Ordinance to apply a sum not exceeding one thousand and seventy-four million, six hundred and three thousand, two hundred and ten dollars to the Public Service of the financial year ending the 31st day of March, 1962.

[1st April, 1961.]

WHEREAS the expenditure required for the service of this Colony for the financial year ending on the 31st day of March, 1962, has been estimated at the sum of one thousand and seventy-four million, six hundred and three thousand, two hundred and ten dollars: Preamble.

NOW, THEREFORE, BE IT ENACTED by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

1. This Ordinance may be cited as the Appropriation (1961-62) Ordinance, 1961. Short title.
2. A sum not exceeding one thousand and seventy-four million, six hundred and three thousand, two hundred and ten dollars shall be and the same is hereby charged upon the revenue and other funds of the Colony for the service of the financial year commencing on the 1st day of April, 1961, and ending on the 31st day of March, 1962, Appropriation from the general revenues and other funds.

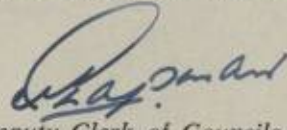
Schedule.

and the said sum so charged may be expended in the manner expressed in the Schedule.

SCHEDULE.		
[s. 2.]		
Number of vote.	Head of Expenditure.	Amount of vote.
		\$
21.	His Excellency the Governor's Establishment	511,900
22.	Agriculture and Forestry Department	6,488,700
23.	Audit Department	1,140,600
24.	Census Department	1,102,900
25.	Civil Aviation Department	8,758,100
26.	Colonial Secretariat and Legislature	5,346,600
27.	Commerce and Industry Department	9,158,500
28.	Co-operative Development and Fisheries Department ...	2,512,400
29.	Defence: R.H.K.D.F. Headquarters and Hong Kong Regiment	2,277,500
30.	Defence: Hong Kong Royal Naval Reserve	1,064,300
31.	Defence: Hong Kong Auxiliary Air Force	499,600
32.	Defence: Essential Services Corps and Directorate of Manpower	179,500
33.	Defence: Auxiliary Fire Service	463,900
34.	Defence: Auxiliary Medical Service	1,106,100
35.	Defence: Civil Aid Services	2,067,200
36.	Defence: Registration of Persons Office	1,498,800
37.	Defence: Miscellaneous Measures	26,561,000
38.	Education Department	51,586,300
39.	Fire Brigade	12,743,200
40.	Information Services Department	2,290,500
41.	Inland Revenue Department	4,438,100
42.	Judiciary	4,895,300
43.	Kowloon-Canton Railway	13,314,500
44.	Labour Department: Labour Division	2,330,000
45.	Labour Department: Mines Division	114,500
46.	Legal Department	1,409,900
47.	Marine Department	17,958,600
48.	Medical and Health Department	64,152,100
49.	Miscellaneous Services	19,969,000
50.	New Territories Administration	8,013,500
51.	Pensions	23,161,000
52.	Police Force: Hong Kong Police	68,096,800
53.	Police Force: Auxiliary Police	1,474,700
54.	Police Force: Immigration Department	2,010,900
55.	Post Office	30,251,500
56.	Printing Department	3,832,600
57.	Prisons Department	11,887,000
58.	Public Debt	5,922,310
59.	Public Enquiry Service	164,800
60.	Public Services Commission	58,800
61.	Public Works Department	45,492,700
62.	Public Works Recurrent	41,025,000

Number of vote.	Head of Expenditure.	Amount of vote.
		\$
63.	Public Works Non-Recurrent	353,360,900
64.	Radio Hong Kong	3,380,700
65.	Rating and Valuation Department	1,423,900
66.	Registrar General's Department	2,111,000
67.	Registry of Trade Unions	249,200
68.	Resettlement Department	12,064,400
69.	Royal Observatory	2,385,600
70.	Secretariat for Chinese Affairs	1,553,500
71.	Social Welfare Department	7,393,400
72.	Stores Department	11,129,700
73.	Subventions: Social Welfare	4,108,800
74.	Subventions: Medical	25,247,200
75.	Subventions: Education	85,968,800
76.	Subventions: Miscellaneous	3,213,400
77.	Treasury	3,040,100
78.	Urban Services Department and Urban Council	38,669,200
79.	Urban Services Department: Housing Division	1,660,500
80.	Urban Services Department: New Territories Division	2,827,700
81.	Colonial Development and Welfare Schemes	658,300
82.	World Refugee Year Schemes	6,825,700
	TOTAL	<u>\$1,074,603,210</u>

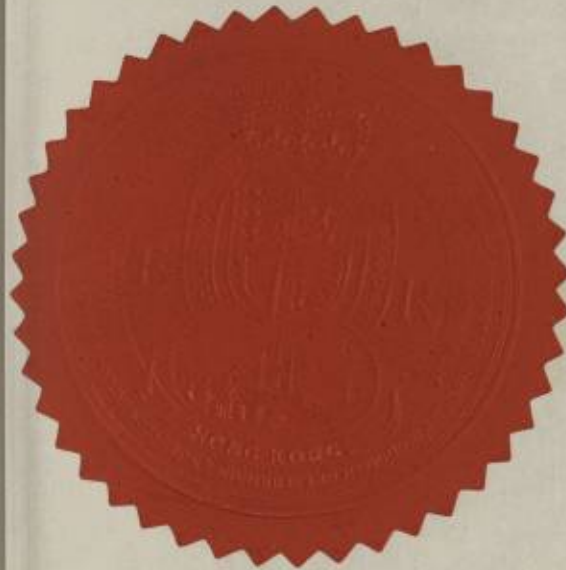
Passed the Legislative Council of Hong Kong, this 29th day of March, 1961.


Deputy Clerk of Councils.

(Secretariat GR3/2291/61)

HONG KONG

No. 11 OF 1961.



I assent.

Governor.

29th March, 1961.

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

[1st April, 1961.]

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 (Amendment) Ordinance, 1961, and shall come into operation on the 1st day of April, 1961. Short title and commencement.
2. Section 5 of the Inland Revenue Ordinance (hereinafter referred to as the principal Ordinance) is amended— Amendment of section 5. (Cap. 112).
 - (a) by the deletion of paragraph (a) of the proviso thereto and the substitution therefor of the following new paragraph—

“(a) for any year of assessment on the first day of which the rent of any land or buildings or land and buildings is restricted by reference to the rent recoverable on or before the 25th of December, 1941, under the provisions of the

(Cap. 255). Landlord and Tenant Ordinance, property tax relating to such land or buildings or land and buildings shall be charged at one-half the standard rate;"

(b) by the insertion after paragraph (b) of the proviso thereto of the following new paragraphs—

"(ba) property tax shall not be charged in respect of any building or any part thereof where the same is occupied exclusively by the owner himself for residential purposes, and for the purposes of this paragraph "owner" includes a beneficial owner, a tenant for life, a mortgagor and a person who is making payments to a co-operative society registered under the Co-operative Societies Ordinance for the purpose of purchasing a building or part thereof;

(Cap. 33).

(bb) where any building or any part thereof is owned jointly or in common, and the owners or any of them occupy such building or part exclusively for residential purposes, the following provisions shall have effect—

(i) where such building or part is owned jointly, property tax in respect thereof shall be refunded in the proportion which the number of owners so occupying bears to the total number of owners of such building or part;

(ii) where such building or part is owned in common, property tax in respect thereof shall be refunded in proportion to the share in such ownership of the owners so occupying;"

Addition
of new
section 5A.

3. The principal Ordinance is amended by the addition after section 5 of the following new section—

"Evidence
on appeal.

5A. In any appeal made under the provisions of this Ordinance where the question is whether or not property tax shall be charged and computed at one-half the standard rate, there shall be admissible in evidence—

(a) a certified copy of any relevant order, dated not more than twelve months next before notice of objection to the assessment appealed against was given, of a tribunal constituted under the provisions of the Landlord and Tenant Ordinance;

(Cap. 255).

(b) a certificate under the hand of the Commissioner of Rating and Valuation as to whether or not rents are restricted."

4. Section 7A of the principal Ordinance is amended by the insertion before the definition "land or buildings or land and buildings" of the following new definition—

Amendment
of sec-
tion 7A.

" "buildings" includes any part of a building;"

5. Section 25 of the principal Ordinance is amended by the deletion of paragraphs (a) and (b) of the proviso thereto and the substitution therefor of the following new paragraphs—

Amendment
of section 25.

"(a) no reduction shall be allowed unless either the profits derived from such property are part of the profits of the trade profession or business carried on by such person or the property is occupied by him for the purposes of his trade profession or business;

(b) if the amount of property tax paid for a year of assessment exceeds the profits tax payable, the amount so paid in excess shall be refunded in accordance with the provisions of section 79;

(c) where property tax for the year of assessment commencing on the 1st day of April, 1960, or earlier years, exceeded the profits tax payable for such years the amount of the excess shall be set off against the profits tax payable for the year of assessment commencing on the 1st day of April, 1961, after deduction of the property tax paid for that year and any balance left over shall be carried forward and set off in like manner against the profits tax payable for the next succeeding years."

6. (1) Subsection (1) of section 42 of the principal Ordinance is amended by the deletion of paragraph (a) and the substitution therefor of the following—

Amendment
of section 42.

"(a) the profits derived from the letting of land or buildings or land and buildings owned by the individual computed in accordance with the provisions of Part IV as if they were profits derived from the carrying on of a business; and for the purposes of this paragraph the assessable profits for any year of assessment shall be computed on the full amount of the profits derived from the letting of land or buildings or land and buildings owned by that individual during the year preceding the year of assessment;"

(2) For the avoidance of doubt, the assessable profits for the year of assessment commencing on the 1st day of April, 1961, shall be computed on the full amount of the profits derived from the letting of land or buildings or land and buildings owned by the individual during the year commencing on the 1st day of April, 1960.

Avoidance
of doubt.

Amendment
of sec-
tion 42B.

7. Paragraph (e) of subsection (1) of section 42B of the principal Ordinance is amended by the deletion of the full stop at the end thereof and the addition thereto of the following—

“where the amount of such interest has not been allowed and deducted under the provisions of Part IV.”.

Passed the Legislative Council of Hong Kong, this 29th day of March, 1961.


Deputy Clerk of Councils.

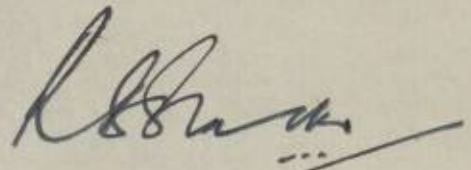
(Secretariat GR2/2301/47V)

HONG KONG

No. 12 OF 1961.



I assent.


Governor.

29th March, 1961.

An Ordinance to make provision for the management of the city hall.

[30th March, 1961.]

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 City Hall Ordinance, 1961. Short title.
2. In this Ordinance, unless the context otherwise requires— Interpre-
“city hall” means all those buildings and grounds appurtenant thereto tation.
situated at Connaught Road Central, Victoria, which comprise and
are known as the city hall;
“public meeting” has the same meaning as it has in the Summary (Cap. 228).
Offences Ordinance;
“Urban Council” means the Urban Council constituted under the Urban (14 of 1955).
Council Ordinance, 1955. Management
3. Subject to the provision of this Ordinance, the management of the city
of the city hall shall be vested in the Urban Council; and the Urban hall.
Council shall have power to contract for the purpose of facilitating
such management.

Regulations.

4. (1) The Urban Council may make regulations to prescribe or provide for—

- (a) the fixing of the days of the week and the hours of the day during which the city hall or any part thereof may be opened to members of the public;
- (b) the fixing of fees to be paid for the use of all or any of the facilities provided in the city hall or admission by the public to any part of the city hall;
- (c) the regulation of the conduct of persons admitted to the city hall or any part thereof and for the removal therefrom of any person who infringes any of the provisions of any regulation made pursuant to this section;
- (d) the general regulation and management of the city hall and any facilities provided therein.

(2) Regulations made under this section may provide that contravention of specified provisions of such regulations shall be an offence and may provide penalties therefor not exceeding a fine of one thousand dollars and imprisonment for three months.

(3) All regulations made by the Urban Council under this section shall be submitted to the Governor and shall be subject to the approval of the Legislative Council.

Grant of use of city hall.

5. Notwithstanding any power to make regulations contained in section 4, the Urban Council may grant, either gratuitously or for payment, to any person the exclusive use of any part of the city hall for such period or periods and for such purposes as the Urban Council may consider fit in each case; and admission by the public to any such part, the exclusive use of which has been so granted, shall be either with or without payment as may be directed either by the Urban Council or, with the consent of the Urban Council, by the person to whom the use thereof has been so granted.

Consent of Colonial Secretary.

6. (1) Notwithstanding any grant made under section 5, if any person uses any part of the city hall for the purpose of any public meeting without having obtained the prior consent thereto in writing of the Colonial Secretary he shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars and three months imprisonment.

(2) Any consent of the Colonial Secretary granted in pursuance of subsection (2) may be granted subject to such conditions or restrictions as the Colonial Secretary may think fit.

(3) If, after the consent of the Colonial Secretary has been obtained for the holding of any public meeting to which the provisions of this section apply, any of the purposes of such meeting in respect

of which the consent was obtained is materially altered or any new purpose is added thereto or if any condition or restriction subject to which the consent was granted is not complied with, such meeting shall be deemed to be held without the consent of the Colonial Secretary as required by subsection (1).

(4) The provisions of this section are in addition to and not in derogation from the provisions of subsection (21) of section 3 of the Summary Offences Ordinance.

(Cap. 228).

7. (1) Any police officer, or any duly appointed manager of the city hall, having reasonable grounds to believe that any public meeting has been convened or is about to be convened in contravention of any of the provisions of section 6 forthwith may—

Prevention of unauthorized public meetings in city hall.

- (a) order any person who appears to him to be taking part in the convening of such meeting, not to convene the meeting; or
- (b) where such meeting has already been convened, order any persons present at the meeting to disperse.

(2) Any person who refuses or fails to comply with any order given in pursuance of subsection (1)—

- (a) may forthwith be removed from the precincts of the city hall; and
- (b) shall be guilty of an offence and liable on summary conviction to a fine of two thousand dollars and imprisonment for six months.

8. All money obtained by the Urban Council from the collection of fees under this Ordinance or otherwise derived from the management of the city hall shall be paid into the general revenue of the Colony.

Receipts to be paid to general revenue.

9. Every part of the city hall which from time to time the public have access, whether on payment or otherwise, shall, during any such time, be deemed to be public place for the purpose of the Summary Offences Ordinance.

Certain parts of the city hall to be public places. (Cap. 228).

10. (1) Where any person by whom an offence under this Ordinance has been committed is a company, 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 constituting the offence took place without his knowledge or consent.

Liability in the case of companies or associations.

(2) Where any offence is committed under this Ordinance by any person purporting to act in the name of any association, every officer of such association shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

Passed the Legislative Council of Hong Kong, this 29th day of March, 1961.

[Signature]
Deputy Clerk of Councils.

(Secretariat CR6/1146/58)

HONG KONG

No. 13 OF 1961.



I assent.

[Signature]
Governor.

13th April, 1961.

An Ordinance to amend the New Territories Ordinance, Chapter 97.

[]

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 New Territories (Amendment) Ordinance, 1961 and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*. Short title and commencement.

2. Section 2 of the New Territories Ordinance (hereinafter referred to as the principal Ordinance) is amended by the insertion after the word "includes" in the definition "District Commissioner" of the following— Amendment of section 2. (Cap. 97).

"Deputy District Commissioner and".

3. Section 3 of the principal Ordinance is amended by the insertion after the words "District Commissioner" of the following— Amendment of section 3.

“, a Deputy District Commissioner”.

Repeal of sections 12, 13, 14 and 15.

4. Sections 12, 13, 14 and 15 of the principal Ordinance are repealed.

Repeal and replacement of section 16.

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

"Jurisdiction in land matters.

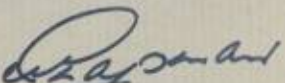
16. The Supreme Court and the District Court shall have jurisdiction to hear and determine all questions and disputes at law or in equity in connexion with or in anywise arising out of or regarding any land in the New Territories:

Provided that nothing in this section shall confer any greater jurisdiction upon the District Court than it exercises from time to time with regard to questions and disputes at law or in equity in connexion with or in anywise arising out of or regarding land situated in any part of the Colony other than the New Territories."

Repeal of Part III and declaration as to jurisdiction of Supreme Court and District Court.

6. Part III of the principal Ordinance is hereby repealed, and it is hereby declared for the avoidance of doubt that the Supreme Court and the District Court shall have respectively the jurisdiction in relation to the New Territories which those courts would have had if the said Part III had never been enacted.

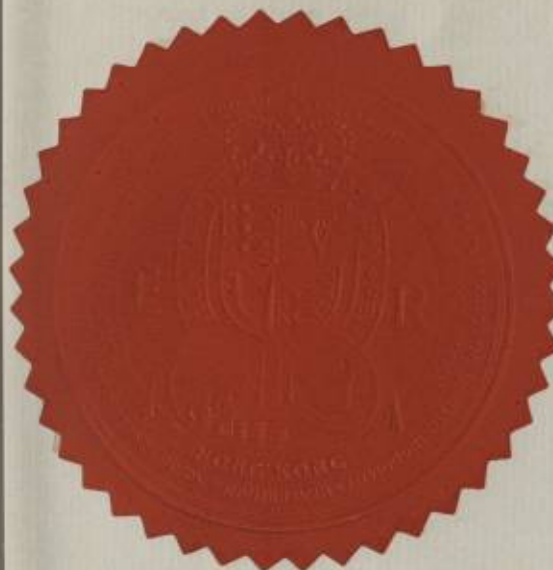
Passed the Legislative Council of Hong Kong, this 12th day of April, 1961.


Deputy Clerk of Councils.

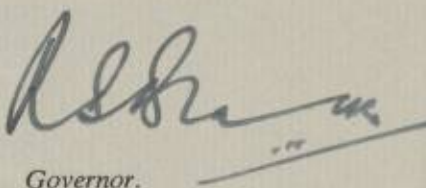
(Secretariat GR10/3231/52)

HONG KONG

No. 14 OF 1961.



I assent.



Governor.

13th April, 1961.

An Ordinance to amend the Road Traffic Ordinance, 1957.

[14th April, 1961.]

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 Road Traffic (Amendment) Ordinance, 1961. Short title.
2. Subsection (2) of section 2 of the Road Traffic Ordinance (hereinafter referred to as the principal Ordinance) is amended— Amendment of section 2. (39 of 1957).
 - (a) by the deletion after the words "following classes" of the symbol "—" and the addition thereto of the following—

"which, in respect of any vehicle which is registered under any such class or any division thereof, indicate the purpose for which the vehicle may be lawfully used—";

(b) by the deletion of paragraph (d) and the substitution therefor of the following—

“(d) hire cars, that is to say any cars, not being taxis, which are hired or intended to be hired for the carriage of passengers under a contract expressed or implied, other than a hire purchase agreement, for the use of the vehicles as a whole at or for a fixed or agreed rate or sum, whether or not such contract makes provision for the driving of the vehicles by the hirers;” and

(c) by the addition in paragraph (e) after the words “hire cars” of the following—

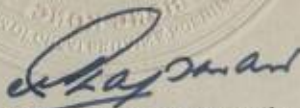
“, public cars”.

Amendment
of section 9.

3. Section 9 of the principal Ordinance is amended by the addition in subsection (7), after the figure and symbols “(1)”, of the following—

“or (3)”.

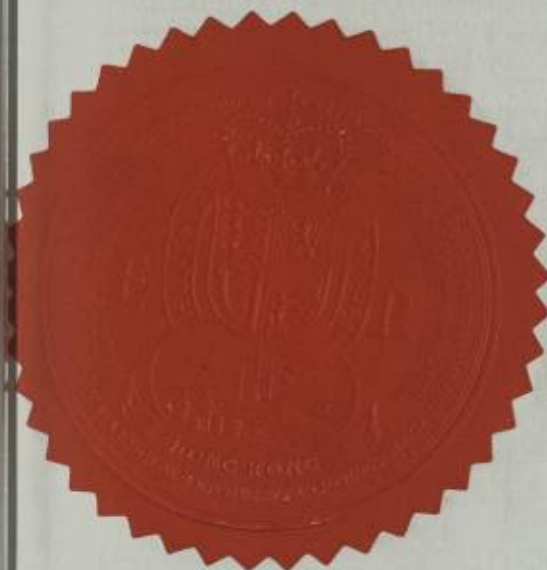
Passed the Legislative Council of Hong Kong, this 12th day of April, 1961.


Deputy Clerk of Councils.

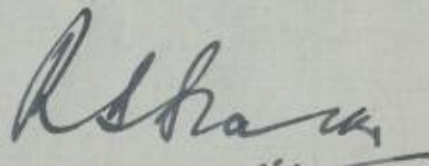
(Secretariat GR33/3231/54)

HONG KONG

No. 15 OF 1961.



I assent.


Governor.

27th April, 1961.

An Ordinance to amend the New Territories (Amendment) Ordinance, 1961.

[28th April, 1961.]

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 New Territories (Amendment) (No. 2) Ordinance, 1961. Short title.

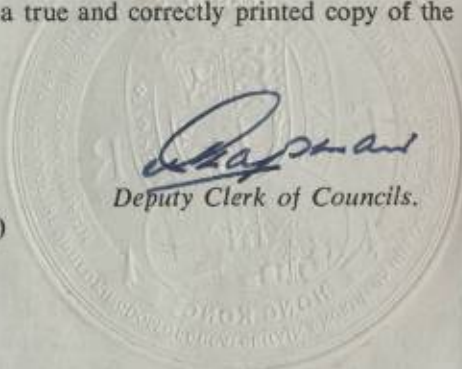
2. The New Territories (Amendment) Ordinance, 1961, is amended by the addition after section 6 of the following new section— Addition of
new section 7.

^{“Transitional provisions.}

7. (1) Notwithstanding the repeal of section 12 and Part III of the principal Ordinance, any proceeding instituted under that section or that Part prior to the commencement of this Ordinance may be continued as if that section or that Part had not been repealed, and notwithstanding their repeal, sections 13, 14 and 15 of the principal Ordinance and that Part shall continue in force so far as may be necessary for the purpose of any such proceeding.

(2) Where a cause of action arose but no proceeding was instituted in respect thereof prior to the commencement of this Ordinance, any proceeding instituted thereafter shall be instituted in the Supreme Court or the District Court and the Supreme Court or the District Court, as the case may be, shall hear and determine such proceeding.”

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 26th day of April, 1961, and is found by me to be a true and correctly printed copy of the said Bill.



[Signature]
Deputy Clerk of Councils.

(Secretariat GR10/3231/52)

HONG KONG

No. 16 OF 1961.



I assent.

[Signature]
Governor.

27th April, 1961.

An Ordinance to amend the Stamp Ordinance, Chapter 117.

[28th April, 1961.]

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 Stamp (Amendment) Short title. Ordinance, 1961.

2. Section 3 of the Stamp Ordinance (hereinafter referred to as the principal Ordinance) is amended— Amendment of section 3. (Cap. 117).

(a) by the insertion in the definition “charter party” after the word “vessel” wherever it appears of the following—

“or aircraft”;

(b) by the insertion after the definition “comprador order” of the following—

“contract note” means the note sent by a broker or agent to his principal, or by any person who by way of business deals, or holds himself out as dealing as a principal in any

share or marketable security, advising the principal or the vendor or purchaser, as the case may be, of the sale or purchase of any shares or marketable securities;”;

- (c) by the insertion after the definition “conveyance on sale” of the following—

“duly stamped” as applied to an instrument means that the instrument bears an adhesive, franked or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in the Colony;”;

- (d) by the deletion of the definition “letter of hypothecation” and the substitution therefor of the following—

“letter of hypothecation” means an instrument relating to a deposit with a banker of documents of title to goods, shares or marketable securities and made for the purpose of hypothecating the goods, shares or marketable securities to the banker;”;

- (e) by the deletion of the semi-colon at the end of the definition “policy of insurance” and the addition thereto of the following—

“and “insurance” includes “assurance”;”;

- (f) by the addition after the definition “policy of insurance” of the following—

““power of attorney” means any instrument except a warrant to act as a solicitor in any judicial proceedings, empowering a specified person to act in the stead of the person executing it;”;

- (g) by the deletion of the definition “share contract note” and the substitution therefor of the following—

““vessel” includes any ship or boat or any other description of vessel used in navigation; and “ship” includes every description of vessel used in navigation and not propelled by oars.”.

Amendment
of section 15.

3. Section 15 of the principal Ordinance is amended by the repeal, in subsection (1), of paragraph (c) thereof and the substitution therefor of the following—

“(c) that the said bank do pay on or before the 7th day of January and on or before the 7th day of July in each year to the Collector the amount due and collected thereon, up to the previous 31st day of December or the previous 30th day of June as the case may be, as duties on such unstamped cheques.”.

4. Section 18 of the principal Ordinance is amended by the repeal of subsection (6) and the substitution therefor of the following—

“(6) In this section, “court” means “district court”;”;

Amendment
of section 18.

5. Section 28 of the principal Ordinance is repealed.

Repeal of
section 28.

6. Section 41 of the principal Ordinance is repealed and replaced by the following—

Repeal and
replacement
of section 41.

“General
exemptions.

41. (1) Where any instrument is executed by or on behalf of the Government or by any public officer in his official capacity and for an official purpose in a case where but for this section the Government or the public officer would be liable to pay the stamp duty chargeable in respect of such instrument, the Government and the public officer shall be exempt from paying such stamp duty.

(2) In a case where the Government or the public officer acting in his official capacity is the only person liable for stamp duty on the instrument, the Collector may, notwithstanding the provisions of subsection (3) of section 14, stamp such instrument with the stamp denoting that it is not chargeable with any duty without an adjudication fee stamp.

(3) The provisions in subsections (1) and (2) shall not apply to any instrument executed by—

- (a) any public officer in his capacity as—

- (i) Official Administrator;
- (ii) Official Receiver;
- (iii) Official Receiver of Companies;
- (iv) liquidator;
- (v) Official Trustee;

- (b) any public officer in pursuance of any order or writ of any court;

- (c) the Administrator of Japanese Property.

(4) The following instruments shall be exempt from stamp duty under this Ordinance to the extent hereinafter stated—

- (a) all instruments for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any vessel, or of any part interest, share or property of or in any vessel, shall be wholly exempt from duty;

- (b) all instruments which relate to property situate out of the Colony, other than shares and marketable

securities, shall be exempt from duty in respect of such property;

- (c) all instruments which have been duly stamped under the stamp regulations enforced by the Japanese in Hong Kong between the 26th day of November, 1942 and the 1st day of September, 1945, shall be wholly exempt from duty;
- (d) all grants and leases made on behalf of the Crown and all surrenders thereof shall be wholly exempt from duty;
- (18 of 1954), (e) all instruments executed by the Housing Authority for the purposes of the Housing Ordinance, 1954, shall be wholly exempt from duty;
- (Cap. 33), (f) all instruments exempted by the Governor under subsection (1) of section 55 of the Co-operative Societies Ordinance shall be wholly exempt from duty;
- (Cap. 6), (g) all instruments exempted under section 125 of the Bankruptcy Ordinance shall be wholly exempt from duty;
- (Cap. 32), (h) all instruments exempted under section 105 or 266 of the Companies Ordinance shall be wholly exempt from duty.
- (5) For the purpose of this section "Government" shall include the Government of the United Kingdom."

Repeal and replacement of section 42.

7. Section 42 of the principal Ordinance is repealed and replaced by the following—

"Instruments affecting land made for new Crown lease or exchange.

42. (1) Where the Land Officer certifies that any instrument affecting any land held from the Crown has been executed in compliance with his requirements for the sole purpose of enabling a Crown lease of the land to be granted to the owner thereof and has been replaced by a new instrument affecting the land in the same manner as, and similar as far as possible to, the instrument replaced, and executed immediately upon the granting of the said Crown lease, then such instruments shall be exempt from stamp duty, and the Collector shall, on production to him of the instruments so certified, endorse thereon a certificate to the effect that the instruments are by virtue of this section exempt from stamp duty.

(2) Where the Land Officer certifies that any instrument affecting any land held from the Crown has been executed in compliance with his requirements for the sole purpose of enabling the owner of the land to surrender it

to the Crown as consideration or part consideration for an exchange and has been replaced by a new instrument affecting the land in the same manner as, and similar as far as possible to, the instrument replaced, and executed immediately upon the granting of the said Crown lease, then such instruments shall be exempt from stamp duty, and the Collector shall, on production to him of the instruments so certified, endorse thereon a certificate to the effect that the instruments are by virtue of this section exempt from stamp duty."

8. The Schedule to the principal Ordinance is amended—

Amendment of the Schedule.

(a) in Head 2—

(i) by the deletion of the figure and words "2. AFFIDAVIT, AFFIRMATION, DECLARATION AND STATUTORY DECLARATION." and the substitution therefor of the following—

"2. AFFIDAVIT, STATUTORY DECLARATION OR DECLARATION IN WRITING ON OATH OR AFFIRMATION MADE BEFORE A PERSON AUTHORIZED BY LAW TO ADMINISTER AN OATH.";

(ii) by the addition after paragraph (f) of the following—

"(g) Affidavit or declaration by a person on acceptance of an appointment in the service of the Government.

(Cap. 112), (h) Affidavit or declaration required by the Commissioner of Inland Revenue for the purposes of the Inland Revenue Ordinance.

(Cap. 121), (i) Affidavit or declaration required by the Collector of Stamp Revenue for the purposes of this Ordinance or the Stamp Duties Management Ordinance.

(j) Oath of allegiance required to be made pursuant to the British Nationality Act, 1948.";

(b) in Head 3—

(i) by the deletion of the full stop at the end of paragraph (c) in the first column and the addition thereto of the following—

"other than a hire-purchase agreement.";

(ii) by the deletion of the symbol and figures "\$1.00" from paragraph (a) of the second column and the substitution therefor of the following—

"\$3";

- (c) by the addition after Head 3 of the following—

“3A. AGREEMENT OR CONTRACT FOR HIRE- PURCHASE.	(a) \$5. (b) 7 days after execution. (c) All persons executing.”;
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- (d) by the deletion of Heads 8, 9 and 11;

- (e) by the deletion of Head 12 and the substitution therefor of the following—

“12. BANK NOTE: To be paid monthly by the banker to the Collector.	(a) One and a half per cent per annum on the average value of bank notes in circulation. (b) — (c) The issuing bank.
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Exemption.

Bank notes covered by
certificates of indebtedness
issued under the provisions of
the Exchange Fund Ordin-
(Cap. 66).
ance.”;

- (f) in Head 29 by the deletion of the figures and word “10 cents”
and the substitution therefor of the following—

“15 cents”;

- (g) in Head 34—

(i) by the deletion of the full stop from the first column
of Sub-Head (4) and the addition thereto of the following—

“OR AGREEMENT FOR SURRENDER OF LEASE.”;

(ii) by the addition after Sub-Head (5) of the following—

“34. (6) RENEWAL OF LEASE OR AGREE- MENT FOR LEASE OR EXTENSION OF LEASE OR AGREEMENT FOR LEASE.	As for lease and agreement for lease.
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34. (7) TRANSFER OF LEASE OR AGREE- MENT FOR LEASE.	See conveyance on sale.”;
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- (h) in Head 35 by the deletion of the figures and word “10 cents”
and the substitution therefor of the following—

“15 cents”;

- (i) by the addition after the word “MORTGAGE” in the first
column preceding Sub-Head (1) of Head 39 of the following—

“; BOND, DEBENTURE, COVENANT (except a
marketable security otherwise specifically charged with
duty) and WARRANT OF ATTORNEY to confess and
enter up judgment”;

- (j) in Head 39—

(i) by the deletion of paragraph (a) in the second column of
Sub-Head (2) and the substitution therefor of the following—

“(a) 10 cents for every \$100 or part thereof of the total
sum secured up to a maximum of \$20.”;

(ii) by the deletion of paragraph (a) in the second column of
Sub-Head (7) and the substitution therefor of the following—

“(a) 10 cents for every \$100 or part thereof of the total
sum secured up to a maximum of \$20.”;

- (k) by the deletion of Head 41 and the substitution therefor of the
following—

“41. NOTE OF PRO- TEST of a bill of exchange or promissory note. May be by an adhesive stamp.	(a) \$1 (b) 7 days after execution. (c) The notary.”;
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- (l) by the deletion of Head 44 and the substitution therefor of the
following—

“44. (1) LIFE POLICIES	(a) 25 cents for every \$1,000 or part thereof insured.
------------------------	---

(b) Before execution.

(c) The insurer.

44. (2) ALL POLICIES (OTHER THAN LIFE POLI- CIES) AND RENEWALS of such policies.	(a) 50 cents. (b) Before execution. (c) The insurer.
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44. (3) LIFE POLICIES, RENEWAL RECEIPTS for amounts exceeding \$20. May be by an adhesive stamp.	(a) 15 cents (b) Before execution. (c) The insurer.
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44. (4) DUPLICATES of policies.	(a) The same duty as on the original policy. (b) Before execution. (c) The insurer.
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(a) The same duty as on
the original policy.

(b) Before execution.

(c) The insurer.

44. (5) REINSURANCE. (a) The same rates of duty as on the direct policies.
- (b) Before execution.
- (c) The insurer.

Exemptions.

(39 of 1951). (a) Certificate of insurance issued under subsection (3) of section 6 of the Motor Vehicles (Third Party Risks) Ordinance, 1951, provided that the relevant policy of insurance has been duly stamped.

(b) Cover note of a duly stamped policy issued in pursuance of the same transaction within one month of the date of such cover note.

(c) Group life policies taken out by an employer for a group of employees of such employer: Provided that individual life policies have been issued to the persons covered and duly stamped.”;

(m) by the deletion of Heads 45, 46 and 47 and the substitution therefor of the following—

- “45. POWER OF ATTORNEY for any purpose whatsoever. (a) S5.
- (b) 7 days after execution.
- (c) The person executing.

Exemptions.

(a) Power of attorney relating exclusively to things to be done out of the Colony.

(b) Power of attorney for appointing a proxy to vote at a specified meeting or revocation thereof.

(c) Power of attorney authorizing a third party to receive the salary of an employee.

(d) Power of attorney authorizing relative, friend or agent to appear on behalf of a litigant in any cause or matter in the District Court.”;

(n) in Head 48—

(i) by the deletion of paragraph (b) in the first column and the substitution therefor of the following—

“(b) Receipt given by a banker for money lodged or deposited with him by any person where the money is expressed to be received for the credit or account of such person and such person is the person to whom the money is to be accounted for.”;

(ii) by the deletion of paragraph (e) in the first column and the substitution therefor of the following—

“(e) Receipt given by an officer in Her Majesty’s Service for money paid by way of imprest or advance in adjustment of an account where he derives no personal benefit therefrom.”;

(iii) by the deletion of paragraph (h) in the first column and the substitution therefor of the following—

“(h) Receipt for a gift, grant, contribution or donation to or from any fund, cause or organization—

- (i) which is wholly administered or controlled by the Government or by any public official in his official capacity; or
- (ii) which the Collector is satisfied is established and is applied or maintained solely for purposes of charity or public welfare and which holds a valid certificate in writing from the Collector to that effect.”.

(iv) by the deletion from paragraph (k) in the first column of the words and figures “section 80 of”;

(v) by the addition after paragraph (m) in the first column of the following—

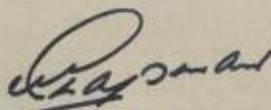
“(n) Receipts given in respect of repayment of money deposited with the Government.

(Cap. 98). (o) Receipts given on encashment of a money order or postal order issued under the Post Office Ordinance.”;

(o) in Head 52 by the deletion of the figures “10” in paragraph (a) of the second column of Sub-Head (1) and the substitution therefor of the following—

“20”.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 26th day of April, 1961, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

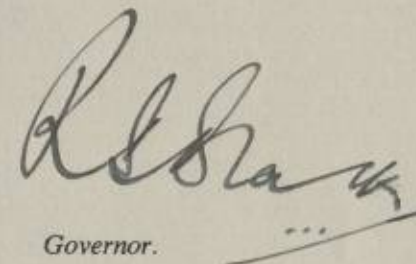
(Secretariat GR24/2961/4611)

HONG KONG

No. 17 OF 1961.



I assent.


Governor.

11th May, 1961.

An Ordinance to amend the Protection of Women and Juveniles Ordinance, 1951.

[12th May, 1961.]

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 Protection of Women and Juveniles (Amendment) Ordinance, 1961. Short title.

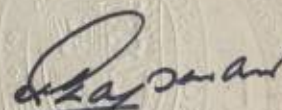
2. The Protection of Women and Juveniles Ordinance, 1951, is amended by the addition after section 48 of the following new section— Addition of new section 48A. (1 of 1951).

^aDelegation of powers.

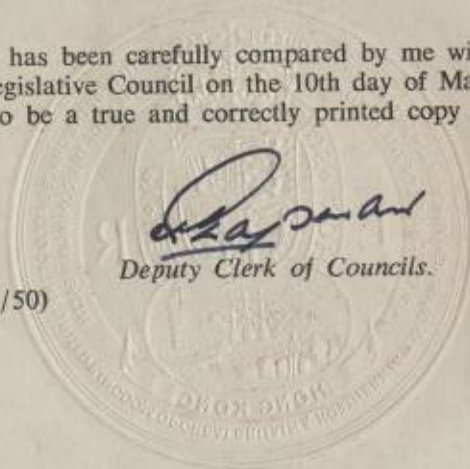
48A. (1) Save where the contrary intention appears from the context of any provision of this Ordinance and subject to any special instructions of the Director of Social Welfare, an Assistant Director of Social Welfare may exercise or discharge any of the powers or duties which the Director of Social Welfare is entitled to exercise or required to discharge by any of the provisions of this Ordinance.

(2) Save where a contrary intention appears from the context of any of the provisions of this Ordinance, and subject to any special instructions of the Governor, the Director of Social Welfare may authorize any public officer to exercise or discharge any of the powers or duties which the Director of Social Welfare is entitled to exercise or required to discharge by any of the provisions of this Ordinance."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 10th day of May, 1961, and is found by me to be a true and correctly printed copy of the said Bill.

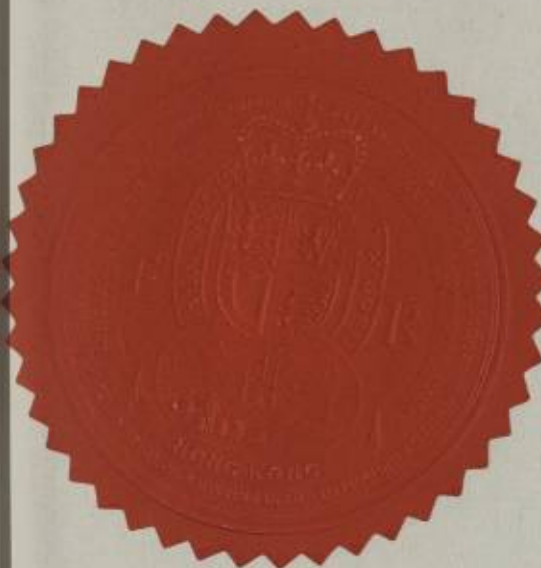

Deputy Clerk of Councils.

(Secretariat GR25/3231/50)

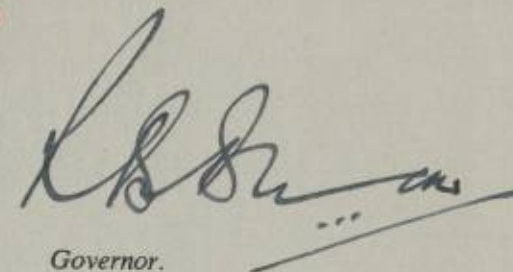


HONG KONG

No. 18 OF 1961.



I assent.



Governor.

11th May, 1961.

An Ordinance to provide for the incorporation of The Council of Heep Yunn School.

[12th May, 1961.]

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 Council of Heep Yunn School Incorporation Ordinance, 1961.

2. In this Ordinance—

"constitution" means the constitution of The Council of Heep Yunn School approved from time to time by its members for the time being in accordance with the constitution for the time being in operation;

Interpreta-
tion.

"the corporation" means the body incorporated by section 3.

3. The Council of Heep Yunn School shall be a body corporate, and shall have the name of "The Council of Heep Yunn School" and in that name shall have perpetual succession and may sue and be sued in all courts in the Colony and shall have and may use a common seal.

Incorpora-
tion.

Power of
corporation.

4. The corporation shall have full power—
- (a) to manage, administer and operate The Heep Yunn School;
 - (b) to acquire, accept leases of, purchase, take or otherwise hold and enjoy any land, buildings, messuages or tenements of what nature or kind soever and wheresoever situate:

Provided that the corporation shall not acquire, accept leases of, purchase, take or hold any immovable property in the Colony unless it shall have previously obtained the consent of the Governor in Council in each case;

- (c) to acquire, by purchase or otherwise, goods and chattels of any kind or description;
- (d) to invest monies on deposit in any bank in the Colony or elsewhere within the British Commonwealth or in any Hong Kong or British Commonwealth government bonds or on mortgage of any land, buildings, messuages or tenements in the Colony, or in or on debentures, debenture-stocks, stocks, funds, shares or securities of any corporation or company carrying on business in the Colony or elsewhere within the British Commonwealth;
- (e) to grant, sell, convey, assign, surrender, yield up, mortgage, demise, let, reassign, transfer or otherwise dispose of, any land, buildings, messuages, tenements, mortgages, debentures, debenture-stocks, stocks, funds, securities, vessels, goods and chattels for the time being vested in the corporation, upon such terms as the corporation may deem fit;
- (f) to erect any buildings, messuages or tenements and effect any improvement thereto;
- (g) to borrow money upon such terms as the corporation shall think fit, and to raise money by public or private subscription; and
- (h) 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 for the time being, or for carrying into effect the provisions of this Ordinance.

Transfer of
property.

5. All monies, securities for money, goods, chattels, and effects whatsoever belonging or purporting to belong to the unincorporated The Heep Yunn School are hereby transferred to and vested in the corporation.

Members.

6. The corporation shall consist of such members as shall be provided by its constitution.

7. All the existing members of the unincorporated Council of The Heep Yunn School at the commencement of this Ordinance shall be the first members of the corporation.

Existing
members
to become
members.

8. The constitution of the unincorporated Council of The Heep Yunn School in operation at the commencement of this Ordinance shall be the constitution of the corporation:

Existing
constitution
to become
constitution
of corpora-
tion.

Provided that the same may be changed or amended by the corporation from time to time in the manner provided by the constitution for the time being in operation.

9. (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 corporation and any change thereto;
- (b) a copy of the constitution and any amendment thereto, certified as correct by the chairman of the corporation;
- (c) a list of the names and addresses of the members of the corporation and any change therein, certified as correct by the chairman of the corporation; and
- (d) the name and address of any person appointed under section 10 to sign deeds, documents and other instruments.

(2) Notification in accordance with subsection (1) shall be made within twenty-eight days of the commencement 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, upon payment of such fee as may be payable under any enactment relating thereto.

(4) The corporation shall pay such fee for registering any document with any public registry as may be payable under any enactment relating thereto.

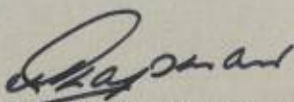
10. All deeds, documents and other instruments requiring the seal of the corporation shall be signed by the chairman of the corporation or by such other person or persons as the corporation shall from time to time appoint and such signing shall be taken as sufficient evidence of the due sealing of such deeds, documents and other instruments.

Sealing
of deeds.

11. 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 person except such as are mentioned in this Ordinance and those claiming by, from or under them.

Saving.

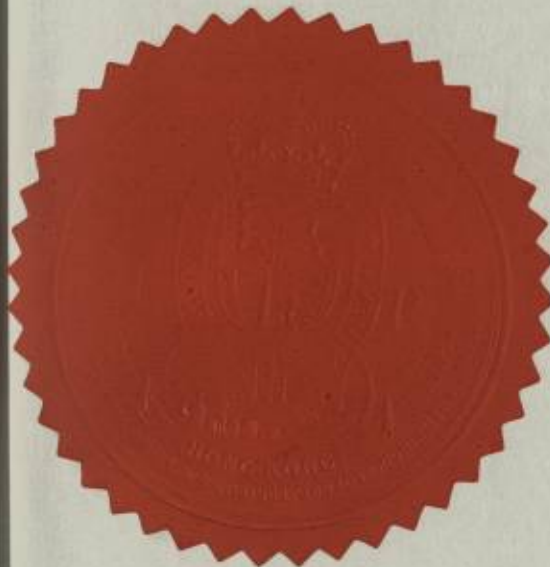
This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 10th day of May, 1961, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

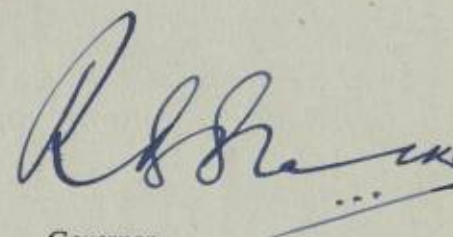
(Secretariat GR2/3231/61)

HONG KONG

No. 19 OF 1961.



I assent.



Governor.

25th May, 1961.

An Ordinance to amend the Registration of Persons Ordinance, 1960.

[26th May, 1961.]

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

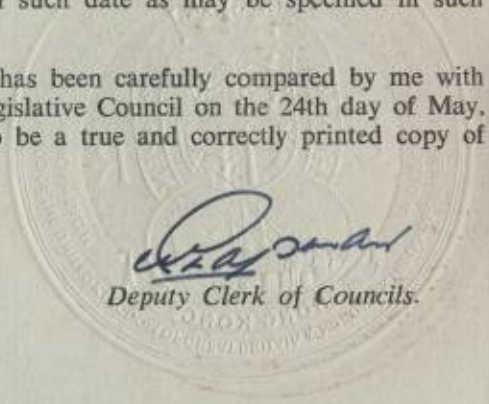
1. This Ordinance may be cited as the Registration of Persons (Amendment) Ordinance, 1961. Short title.
2. Section 6 of the Registration of Persons Ordinance, 1960 (hereinafter referred to as the principal Ordinance) is repealed. Repeal of section 6. (18 of 1960).
3. Section 10 of the principal Ordinance is amended—
 - (a) by the substitution of a colon for the full stop at the end of proviso (v); and Amendment of section 10.
 - (b) by the addition after proviso (v) of the following—

“(vi) notwithstanding the provisions of proviso (i), the Governor may by order published in the *Gazette* declare that any person affected by any order made under proviso (iv) shall cease to be deemed to be registered or

exempted from registration under the provisions of this Ordinance with effect from such day as may be specified in such first mentioned order;

(vii) notwithstanding anything contained in proviso (ii), the Governor may by order published in the *Gazette* declare that the identity card of any person affected by the provisions of proviso (v) shall cease to be deemed to have been issued under the provisions of this Ordinance with effect from such date as may be specified in such order.”.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of May, 1961, and is found by me to be a true and correctly printed copy of the said Bill.

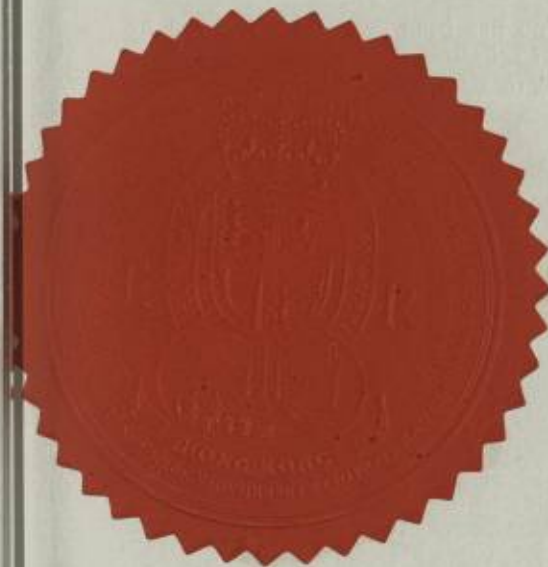


[Signature]
Deputy Clerk of Councils.

(Secretariat D/RPO)

HONG KONG

No. 20 OF 1961.



I assent.

[Signature]
Governor.

25th May, 1961.

An Ordinance to amend the Gambling Ordinance, Chapter 148.

[26th May, 1961.]

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

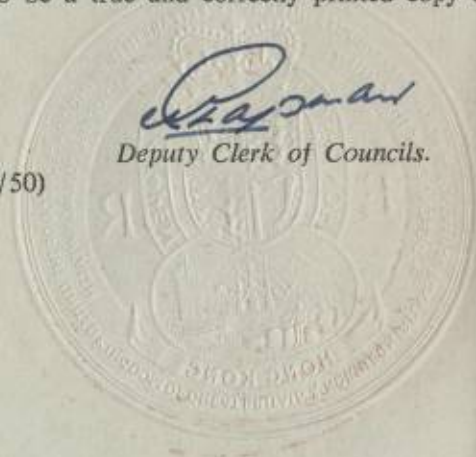
1. This Ordinance may be cited as the Gambling (Amendment) Ordinance, 1961. Short title.

2. Section 11A of the Gambling Ordinance is amended by the addition after subsection (7) of the following new subsection— Amendment of section 11A. (Cap. 148).

“(8) Without prejudice to anything contained in subsection (7), if a breach of any of the conditions of the licence is committed, the person committing such breach, and the licensee and every person concerned in the management of the place in respect of which such licence was issued and every person concerned in the promotion, conduct or continuance of any game in respect of which such breach was committed, shall, unless he

proves that the breach was committed without his knowledge or consent, be guilty of an offence and liable upon summary conviction to a fine of one thousand dollars and imprisonment for six months."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of May, 1961, and is found by me to be a true and correctly printed copy of the said Bill.



Deputy Clerk of Councils.

(Secretariat GR46/3231/50)

HONG KONG

No. 21 OF 1961.



I assent.

[Signature]
Governor.

8th June, 1961.

An Ordinance to codify the law relating to marine insurance.

[9th June, 1961.]

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 Marine Insurance Short title. Ordinance, 1961.

Marine insurance.

2. (1) A contract of marine insurance is a contract whereby the insurer undertakes to indemnify the assured, in manner and to the extent thereby agreed, against marine losses, that is to say, the losses incident to marine adventure. Marine insurance defined.

(2) A contract of marine insurance may, by its express terms, or by usage of trade, be extended so as to protect the assured against

losses on inland waters or on any land risk which may be incidental to any sea voyage.

(3) Where a ship in course of building, or the launch of a ship, or any adventure analogous to a marine adventure, is covered by a policy in the form of a marine policy, the provisions of this Ordinance, in so far as applicable, shall apply thereto; but, except as by this section provided, nothing in this Ordinance shall alter or affect any rule of law applicable to any contract of insurance other than a contract of marine insurance as by this Ordinance defined.

Marine
adventure
and maritime
perils
defined.

3. (1) Subject to the provisions of this Ordinance, every lawful marine adventure may be the subject of a contract of marine insurance.

(2) In particular there is a marine adventure where—

- (a) any ship goods or other moveables are exposed to maritime peril. Such property is in this Ordinance referred to as "insurable property";
- (b) the earning or acquisition of any freight, passage money, commission, profit, or other pecuniary benefit, or the security for any advances, loan, or disbursements, is endangered by the exposure of insurable property to maritime perils;
- (c) any liability to a third party may be incurred by the owner of, or other person interested in or responsible for, insurable property, by reason of maritime perils.

(3) For the purposes of this Ordinance, "maritime perils" means the perils consequent on, or incidental to, the navigation of the sea, that is to say, perils of the seas, fire, war perils, pirates, rovers, thieves, captures, seizures, restraints, and detainments of princes and peoples, jettisons, barratry, and any other perils, either of the like kind or which may be designated by the policy.

Insurable interest.

Avoidance of
wagering or
gaming
contracts.

4. (1) Every contract of marine insurance by way of gaming or wagering is void.

(2) A contract of marine insurance is deemed to be a gaming or wagering contract—

- (a) where the assured has not an insurable interest as defined by this Ordinance, and the contract is entered into with no expectation of acquiring such an interest; or

- (b) where the policy is made "interest or no interest", or "without further proof of interest than the policy itself", or "without benefit of salvage to the insurer", or subject to any other like term:

Provided that, where there is no possibility of salvage, a policy may be effected without benefit of salvage to the insurer.

5. (1) Subject to the provisions of this Ordinance, every person has an insurable interest who is interested in a marine adventure. Insurable
interest
defined.

(2) In particular a person is interested in a marine adventure where he stands in any legal or equitable relation to the adventure or to any insurable property at risk therein, in consequence of which he may benefit by the safety or due arrival of insurable property, or may be prejudiced by its loss, or by damage thereto, or by the detention thereof, or may incur liability in respect thereof.

6. (1) The assured must be interested in the subject matter insured at the time of the loss though he need not be interested when the insurance is effected: When interest
must attach.

Provided that where the subject matter is insured "lost or not lost", the assured may recover although he may not have acquired his interest until after the loss, unless at the time of effecting the contract of insurance the assured was aware of the loss, and the insurer was not.

(2) Where the assured has no interest at the time of the loss, he cannot acquire interest by any act or election after he is aware of the loss.

7. (1) A defeasible interest is insurable, as also is a contingent interest. Defeasible
or contingent
interest.

(2) In particular, where the buyer of goods has insured them, he has an insurable interest, notwithstanding that he might, at his election, have rejected the goods, or have treated them as at the seller's risk, by reason of the latter's delay in making delivery or otherwise.

8. A partial interest of any nature is insurable. Partial
interest.

9. (1) The insurer under a contract of marine insurance has an insurable interest in his risk, and may re-insure in respect of it. Re-insurance.

(2) Unless the policy otherwise provides, the original assured has no right or interest in respect of such re-insurance.

Bottomry. **10.** The lender of money on bottomry or respondentia has an insurable interest in respect of the loan.

Master's and seamen's wages. **11.** The master or any member of the crew of a ship has an insurable interest in respect of his wages.

Advance freight. **12.** In the case of advance freight, the person advancing the freight has an insurable interest, in so far as such freight is not repayable in case of loss.

Charges of insurance. **13.** The assured has an insurable interest in the charges of any insurance which he may effect.

Quantum of interest. **14.** (1) Where the subject matter insured is mortgaged, the mortgagor has an insurable interest in the full value thereof, and the mortgagee has an insurable interest in respect of any sum due or to become due under the mortgage.

(2) A mortgagee, consignee, or other person having an interest in the subject matter insured may insure on behalf and for the benefit of other persons interested as well as for his own benefit.

(3) The owner of insurable property has an insurable interest in respect of the full value thereof, notwithstanding that some third person may have agreed, or be liable, to indemnify him in case of loss.

Assignment of interest. **15.** Where the assured assigns or otherwise parts with his interest in the subject matter insured, he does not thereby transfer to the assignee his rights under the contract of insurance, unless there be an express or implied agreement with the assignee to that effect.

But the provisions of this section do not affect a transmission of interest by operation of law.

Insurable value.

Measure of insurable value. **16.** Subject to any express provision or valuation in the policy, the insurable value of the subject matter insured must be ascertained as follows—

- (1) in insurance on ship, the insurable value is the value, at the commencement of the risk, of the ship, including her outfit,

provisions and stores for the officers and crew, money advanced for seamen's wages, and other disbursements (if any) incurred to make the ship fit for the voyage or adventure contemplated by the policy, plus the charges of insurance upon the whole:

The insurable value, in the case of a steamship, includes also the machinery, boilers, and coals and engine stores if owned by the assured, and, in the case of a ship engaged in a special trade, the ordinary fittings requisite for that trade;

- (2) in insurance on freight, whether paid in advance or otherwise, the insurable value is the gross amount of the freight at the risk of the assured, plus the charges of insurance;
- (3) in insurance on goods or merchandise, the insurable value is the prime cost of the property insured, plus the expenses of and incidental to shipping and the charges of insurance upon the whole;
- (4) in insurance on any other subject matter, the insurable value is the amount at the risk of the assured when the policy attaches, plus the charges of insurance.

Disclosure and representations.

17. A contract of marine insurance is a contract based upon the utmost good faith, and, if the utmost good faith be not observed by either party, the contract may be avoided by the other party.

Insurance is uberrimae fidei.

18. (1) Subject to the provisions of this section, the assured must disclose to the insurer, before the contract is concluded, every material circumstance which is known to the assured, and the assured is deemed to know every circumstance which, in the ordinary course of business, ought to be known by him. If the assured fails to make such disclosure, the insurer may avoid the contract.

Disclosure by assured.

(2) Every circumstance is material which would influence the judgment of a prudent insurer in fixing the premium, or determining whether he will take the risk.

(3) In the absence of inquiry the following circumstances need not be disclosed, namely—

- (a) any circumstance which diminishes the risk;
- (b) any circumstance which is known or presumed to be known to the insurer. The insurer is presumed to know matters of common notoriety or knowledge, and matters which an insurer in the ordinary course of his business, as such, ought to know;
- (c) any circumstance as to which information is waived by the insurer;

(d) any circumstance which it is superfluous to disclose by reason of any express or implied warranty.

(4) Whether any particular circumstance, which is not disclosed, be material or not is, in each case, a question of fact.

(5) The term "circumstance" includes any communication made to, or information received by, the assured.

Disclosure by agent effecting insurance.

19. Subject to the provisions of the preceding section of this Ordinance as to circumstances which need not be disclosed, where an insurance is effected for the assured by an agent, the agent must disclose to the insurer—

(a) every material circumstance which is known to himself and an agent to insure is deemed to know every circumstance which in the ordinary course of business ought to be known by, or to have been communicated to, him; and

(b) every material circumstance which the assured is bound to disclose, unless it comes to his knowledge too late to communicate it to the agent.

Representations pending negotiation of contract.

20. (1) Every material representation made by the assured or his agent to the insurer during the negotiations for the contract, and before the contract is concluded, must be true. If it be untrue the insurer may avoid the contract.

(2) A representation is material which would influence the judgment of a prudent insurer in fixing the premium, or determining whether he will take the risk.

(3) A representation may be either a representation as to a matter of fact, or as to a matter of expectation or belief.

(4) A representation as to a matter of fact is true, if it be substantially correct, that is to say, if the difference between what is represented and what is actually correct would not be considered material by a prudent insurer.

(5) A representation as to a matter of expectation or belief is true if it be made in good faith.

(6) A representation may be withdrawn or corrected before the contract is concluded.

(7) Whether a particular representation be material or not is, in each case, a question of fact.

When contract is deemed to be concluded.

21. A contract of marine insurance is deemed to be concluded when the proposal of the assured is accepted by the insurer, whether the policy be then issued or not; and, for the purpose of showing when the proposal was accepted, reference may be made to the slip or covering note or other customary memorandum of the contract.

The policy.

22. Subject to the provisions of any Ordinance, a contract of marine insurance is inadmissible in evidence unless it is embodied in a marine policy in accordance with this Ordinance. The policy may be executed and issued either at the time when the contract is concluded, or afterwards.

Contract must be embodied in policy.

23. A marine policy must specify the name of the assured, or of some person who effects the insurance on his behalf.

What policy must specify.

24. (1) A marine policy must be signed by or on behalf of the insurer, provided that in the case of a corporation the corporate seal may be sufficient, but nothing in this section shall be construed as requiring the subscription of a corporation to be under seal.

Signature of insurer.

(2) Where a policy is subscribed by or on behalf of two or more insurers, each subscription, unless the contrary be expressed, constitutes a distinct contract with the assured.

25. Where the contract is to insure the subject matter "at and from", or from one place to another or others, the policy is called a "voyage policy", and where the contract is to insure the subject matter for a definite period of time the policy is called a "time policy". A contract for both voyage and time may be included in the same policy.

Voyages and time policies.

26. (1) The subject matter insured must be designated in a marine policy with reasonable certainty.

Designation of subject matter.

(2) The nature and extent of the interest of the assured in the subject matter insured need not be specified in the policy.

(3) Where the policy designates the subject matter insured in general terms, it shall be construed to apply to the interest intended by the assured to be covered.

(4) In the application of this section regard shall be had to any usage regulating the designation of the subject matter insured.

27. (1) A policy may be either valued or unvalued.

Valued policy.

(2) A valued policy is a policy which specifies the agreed value of the subject matter insured.

(3) Subject to the provisions of this Ordinance, and in the absence of fraud, the value fixed by the policy is, as between the insurer and assured, conclusive of the insurable value of the subject intended to be insured, whether the loss be total or partial.

(4) Unless the policy otherwise provides, the value fixed by the policy is not conclusive for the purpose of determining whether there has been a constructive total loss.

Unvalued
policy.

28. An unvalued policy is a policy which does not specify the value of the subject matter insured, but subject to the limit of the sum insured, leaves the insurable value to be subsequently ascertained, in the manner hereinbefore specified.

Floating
policy by
ship or ships.

29. (1) A floating policy is a policy which describes the insurance in general terms, and leaves the name of the ship or ships and other particulars to be defined by subsequent declaration.

(2) The subsequent declaration or declarations may be made by indorsement on the policy, or in other customary manner.

(3) Unless the policy otherwise provides, the declarations must be made in the order of dispatch or shipment. They must, in the case of goods, comprise all consignments within the terms of the policy, and the value of the goods or other property must be honestly stated, but an omission or erroneous declaration may be rectified even after loss or arrival, provided the omission or declaration was made in good faith.

(4) Unless the policy otherwise provides, where a declaration of value is not made until after notice of loss or arrival, the policy must be treated as an unvalued policy as regards the subject matter of that declaration.

Construction
of terms in
policy.
Schedule.

30. (1) A policy may be in the form in the Schedule to this Ordinance.

(2) Subject to the provisions of this Ordinance, and unless the context of the policy otherwise requires, the terms and expressions mentioned in the Schedule to this Ordinance shall be construed as having the scope and meaning in that schedule assigned to them.

Premium to
be arranged.

31. (1) Where an insurance is effected at a premium to be arranged, and no arrangement is made, a reasonable premium is payable.

(2) Where an insurance is effected on the terms that an additional premium is to be arranged in a given event, and that event happens but no arrangement is made, then a reasonable additional premium is payable.

Double insurance.

Double
insurance.

32. (1) Where two or more policies are effected by or on behalf of the assured on the same adventure and interest or any part thereof, and the sums insured exceed the indemnity allowed by this Ordinance, the assured is said to be over-insured by double insurance.

(2) Where the assured is over-insured by double insurance—

(a) the assured, unless the policy otherwise provides, may claim payment from the insurers in such order as he may think fit,

provided that he is not entitled to receive any sum in excess of the indemnity allowed by this Ordinance;

- (b) where the policy under which the assured claims is a valued policy, the assured must give credit as against the valuation for any sum received by him under any other policy without regard to the actual value of the subject matter insured;
- (c) where the policy under which the assured claims is an unvalued policy he must give credit, as against the full insurable value, for any sum received by him under any other policy;
- (d) where the assured receives any sum in excess of the indemnity allowed by this Ordinance, he is deemed to hold such sum in trust for the insurers, according to their right of contribution among themselves.

Warranties, etc.

33. (1) A warranty, in the following sections relating to warranties, means a promissory warranty, that is to say, a warranty by which the assured undertakes that some particular thing shall or shall not be done, or that some condition shall be fulfilled, or whereby he affirms or negatives the existence of a particular state of facts.

Nature of
warranty.

(2) A warranty may be express or implied.

(3) A warranty, as above defined, is a condition which must be exactly complied with, whether it be material to the risk or not. If it be not so complied with, then, subject to any express provision in the policy, the insurer is discharged from liability as from the date of the breach of warranty, but without prejudice to any liability incurred by him before that date.

34. (1) Non-compliance with a warranty is excused when, by reason of a change of circumstances, the warranty ceases to be applicable to the circumstances of the contract, or when compliance with the warranty is rendered unlawful by any subsequent law.

When breach
of warranty
excused.

(2) Where a warranty is broken, the assured cannot avail himself of the defence that the breach has been remedied, and the warranty complied with, before loss.

(3) A breach of warranty may be waived by the insurer.

35. (1) An express warranty may be in any form of words from which the intention to warrant is to be inferred.

Express
warranties.

(2) An express warranty must be included in, or written upon, the policy, or must be contained in some document incorporated by reference into the policy.

(3) An express warranty does not exclude an implied warranty, unless it be inconsistent therewith.

Warranty of neutrality.

36. (1) Where insurable property, whether ship or goods, is expressly warranted neutral, there is an implied condition that the property shall have a neutral character at the commencement of the risk, and that, so far as the assured can control the matter, its neutral character shall be preserved during the risk.

(2) Where a ship is expressly warranted "neutral" there is also an implied condition that, so far as the assured can control the matter, she shall be properly documented, that is to say, that she shall carry the necessary papers to establish her neutrality, and that she shall not falsify or suppress her papers, or use simulated papers. If any loss occurs through breach of this condition, the insurer may avoid the contract.

No implied warranty of nationality.

37. There is no implied warranty as to the nationality of a ship, or that her nationality shall not be changed during the risk.

Warranty of good safety.

38. Where the subject matter insured is warranted "well" or "in good safety" on a particular day, it is sufficient if it be safe at any time during that day.

Warranty of seaworthiness of ship.

39. (1) In a voyage policy there is an implied warranty that at the commencement of the voyage the ship shall be seaworthy for the purpose of the particular adventure insured.

(2) Where the policy attaches while the ship is in port, there is also an implied warranty that she shall, at the commencement of the risk, be reasonably fit to encounter the ordinary perils of the port.

(3) Where the policy relates to a voyage which is performed in different stages, during which the ship requires different kinds of or further preparation or equipment, there is an implied warranty that at the commencement of each stage the ship is seaworthy in respect of such preparation or equipment for the purposes of that stage.

(4) A ship is deemed to be seaworthy when she is reasonably fit in all respects to encounter the ordinary perils of the seas of the adventure insured.

(5) In a time policy there is no implied warranty that the ship shall be seaworthy at any stage of the adventure, but where, with the privity of the assured the ship is sent to sea in an unseaworthy state, the insurer is not liable for any loss attributable to unseaworthiness.

No implied warranty that goods are seaworthy.

40. (1) In a policy on goods or other moveables there is no implied warranty that the goods or moveables are seaworthy.

(2) In a voyage policy on goods or other moveables there is an implied warranty that at the commencement of the voyage the ship is

not only seaworthy as a ship, but also that she is reasonably fit to carry the goods or other moveables to the destination contemplated by the policy.

41. There is an implied warranty that the adventure insured is a lawful one, and that, so far as the assured can control the matter, the adventure shall be carried out in a lawful manner. Warranty of legality.

The voyage.

42. (1) Where the subject matter is insured by a voyage policy "at and from" or "from" a particular place, it is not necessary that the ship should be at that place when the contract is concluded, but there is an implied condition that the adventure shall be commenced within a reasonable time, and that if the adventure be not so commenced the insurer may avoid the contract. Implied condition as to commencement of risk.

(2) The implied condition may be negated by showing that the delay was caused by circumstances known to the insurer before the contract was concluded, or by showing that he waived the condition.

43. Where the place of departure is specified by the policy, and the ship instead of sailing from that place sails from any other place, the risk does not attach. Alteration of port of departure.

44. Where the destination is specified in the policy, and the ship, instead of sailing for that destination, sails for any other destination, the risk does not attach. Sailing for different destination.

45. (1) Where, after the commencement of the risk, the destination of the ship is voluntarily changed from the destination contemplated by the policy, there is said to be a change of voyage. Change of voyage.

(2) Unless the policy otherwise provides, where there is a change of voyage, the insurer is discharged from liability as from the time of change, that is to say, as from the time when the determination to change it is manifested; and it is immaterial that the ship may not in fact have left the course of voyage contemplated by the policy when the loss occurs.

46. (1) Where a ship, without lawful excuse, deviates from the voyage contemplated by the policy, the insurer is discharged from liability as from the time of deviation, and it is immaterial that the ship may have regained her route before any loss occurs. Deviation.

(2) There is a deviation from the voyage contemplated by the policy—

(a) where the course of the voyage is specifically designated by the policy, and that course is departed from; or

(b) where the course of the voyage is not specifically designated by the policy, but the usual and customary course is departed from.

(3) The intention to deviate is immaterial; there must be a deviation in fact to discharge the insurer from his liability under the contract.

Several ports
of discharge.

47. (1) Where several ports of discharge are specified by the policy, the ship may proceed to all or any of them, but, in the absence of any usage or sufficient cause to the contrary, she must proceed to them, or such of them as she goes to, in the order designated by the policy. If she does not there is a deviation.

(2) Where the policy is to "ports of discharge", within a given area, which are not named, the ship must, in the absence of any usage or sufficient cause to the contrary, proceed to them, or such of them as she goes to, in their geographical order. If she does not there is a deviation.

Delay in
voyage.

48. In the case of a voyage policy, the adventure insured must be prosecuted throughout its course with reasonable dispatch, and if without lawful excuse it is not so prosecuted, the insurer is discharged from liability as from the time when the delay became unreasonable.

Excuses for
deviation or
delay.

49. (1) Deviation or delay in prosecuting the voyage contemplated by the policy is excused—

- (a) where authorized by any special term in the policy; or
- (b) where caused by circumstances beyond the control of the master and his employer; or
- (c) where reasonably necessary in order to comply with an express or implied warranty; or
- (d) where reasonably necessary for the safety of the ship or subject matter insured; or
- (e) for the purpose of saving human life, or aiding a ship in distress where human life may be in danger; or
- (f) where reasonably necessary for the purpose of obtaining medical or surgical aid for any person on board the ship; or
- (g) where caused by the barratrous conduct of the master or crew, if barratry be one of the perils insured against.

(2) When the cause excusing the deviation or delay ceases to operate, the ship must resume her course, and prosecute her voyage, with reasonable dispatch.

Assignment of policy.

When and
how policy
is assignable.

50. (1) A marine policy is assignable unless it contains terms expressly prohibiting assignment. It may be assigned either before or after loss.

(2) Where a marine policy has been assigned so as to pass the beneficial interest in such policy, the assignee of the policy is entitled to sue thereon in his own name; and the defendant is entitled to make any defence arising out of the contract which he would have been entitled to make if the action had been brought in the name of the person by or on behalf of whom the policy was effected.

(3) A marine policy may be assigned by indorsement thereon or in other customary manner.

51. Where the assured has parted with or lost his interest in the subject matter insured, and has not, before or at the time of so doing, expressly or impliedly agreed to assign the policy, any subsequent assignment of the policy is inoperative:

Assured who
has no in-
terest cannot
assign.

Provided that nothing in this section affects the assignment of a policy after loss.

The premium.

52. Unless otherwise agreed, the duty of the assured or his agent to pay the premium, and the duty of the insurer to issue the policy to the assured or his agent, are concurrent conditions, and the insurer is not bound to issue the policy until payment or tender of the premium.

When
premium
payable.

53. (1) Unless otherwise agreed, where a marine policy is effected on behalf of the assured by a broker, the broker is directly responsible to the insurer for the premium, and the insurer is directly responsible to the assured for the amount which may be payable in respect of losses, or in respect of returnable premium.

Policy
effected
through
broker.

(2) Unless otherwise agreed, the broker has, as against the assured, a lien upon the policy for the amount of the premium and his charges in respect of effecting the policy; and, where he has dealt with the person who employs him as a principal, he has also a lien on the policy in respect of any balance on any insurance account which may be due to him from such person, unless when the debt was incurred he had reason to believe that such person was only an agent.

54. Where a marine policy effected on behalf of the assured by a broker acknowledges the receipt of the premium, such acknowledgment is, in the absence of fraud, conclusive as between the insurer and the assured, but not as between the insurer and broker.

Effect of
receipt on
policy.

Loss and abandonment.

55. (1) Subject to the provisions of this Ordinance, and unless the policy otherwise provides, the insurer is liable for any loss proximately caused by a peril insured against, but, subject as aforesaid, he is not liable for any loss which is not proximately caused by a peril insured against.

Included and
excluded
losses.

- (2) In particular—
- (a) the insurer is not liable for any loss attributable to the wilful misconduct of the assured, but, unless the policy otherwise provides, he is liable for any loss proximately caused by a peril insured against, even though the loss would not have happened but for the misconduct or negligence of the master or crew;
- (b) unless the policy otherwise provides, the insurer on ship or goods is not liable for any loss proximately caused by delay, although the delay be caused by a peril insured against;
- (c) unless the policy otherwise provides, the insurer is not liable for ordinary wear and tear, ordinary leakage and breakage, inherent vice or nature of the subject matter insured, or for any loss proximately caused by rats or vermin, or for any injury to machinery not proximately caused by maritime perils.

Partial and total loss.

56. (1) A loss may be either total or partial. Any loss other than a total loss, as hereinafter defined, is a partial loss.

(2) A total loss may be either an actual total loss, or a constructive total loss.

(3) Unless a different intention appears from the terms of the policy, an insurance against total loss includes a constructive, as well as an actual, total loss.

(4) Where the assured brings an action for a total loss and the evidence proves only a partial loss, he may, unless the policy otherwise provides, recover for a partial loss.

(5) Where goods reach their destination in specie, but by reason of obliteration of marks, or otherwise, they are incapable of identification, the loss, if any, is partial, and not total.

Actual total loss.

57. (1) Where the subject matter insured is destroyed, or so damaged as to cease to be a thing of the kind insured, or where the assured is irretrievably deprived thereof, there is an actual total loss.

(2) In the case of an actual total loss no notice of abandonment need be given.

Missing ship.

58. Where the ship concerned in the adventure is missing, and after the lapse of a reasonable time no news of her has been received, an actual total loss may be presumed.

Effect of transshipment, etc.

59. Where, by a peril insured against, the voyage is interrupted at an intermediate port or place, under such circumstances as, apart from any special stipulation in the contract of affreightment, to justify the master in landing and re-shipping the goods or other moveables, or

in transshipping them, and sending them on to their destination, the liability of the insurer continues notwithstanding the landing or transshipment.

60. (1) Subject to any express provision in the policy, there is a constructive total loss where the subject matter insured is reasonably abandoned on account of its actual total loss appearing to be unavoidable, or because it could not be preserved from actual total loss without an expenditure which would exceed its value when the expenditure had been incurred.

Constructive total loss defined.

(2) In particular, there is a constructive total loss—

(i) where the assured is deprived of the possession of his ship or goods by a peril insured against, and (a) it is unlikely that he can recover the ship or goods, as the case may be, or (b) the cost of recovering the ship or goods, as the case may be, would exceed their value when recovered; or

(ii) in the case of damage to a ship, where she is so damaged by a peril insured against that the cost of repairing the damage would exceed the value of the ship when repaired.

In estimating the cost of repairs, no deduction is to be made in respect of general average contributions to those repairs payable by other interests, but account is to be taken of the expense of future salvage operations and of any future general average contributions to which the ship would be liable if repaired; or

(iii) in the case of damage to goods, where the cost of repairing the damage and forwarding the goods to their destination would exceed their value on arrival.

61. Where there is a constructive total loss the assured may either treat the loss as a partial loss, or abandon the subject matter insured to the insurer and treat the loss as if it were an actual total loss.

Effect of constructive total loss.

62. (1) Subject to the provisions of this section, where the assured elects to abandon the subject matter insured to the insurer, he must give notice of abandonment. If he fails to do so the loss can only be treated as a partial loss.

Notice of abandonment.

(2) Notice of abandonment may be given in writing, or by word of mouth, or partly in writing and partly by word of mouth, and may be given in any terms which indicate the intention of the assured to abandon his insured interest in the subject matter insured unconditionally to the insurer.

(3) Notice of abandonment must be given with reasonable diligence after the receipt of reliable information of the loss, but where the information is of a doubtful character the assured is entitled to a reasonable time to make inquiry.

(4) Where notice of abandonment is properly given, the rights of the assured are not prejudiced by the fact that the insurer refuses to accept the abandonment.

(5) The acceptance of an abandonment may be either express or implied from the conduct of the insurer. The mere silence of the insurer after notice is not an acceptance.

(6) Where notice of abandonment is accepted the abandonment is irrevocable. The acceptance of the notice conclusively admits liability for the loss and the sufficiency of the notice.

(7) Notice of abandonment is unnecessary where, at the time when the assured receives information of the loss, there would be no possibility of benefit to the insurer if notice were given to him.

(8) Notice of abandonment may be waived by the insurer.

(9) Where an insurer has re-insured his risk, no notice of abandonment need be given by him.

Effect of abandonment.

63. (1) Where there is a valid abandonment the insurer is entitled to take over the interest of the assured in whatever may remain of the subject matter insured, and all proprietary rights incidental thereto.

(2) Upon the abandonment of a ship, the insurer thereof is entitled to any freight in course of being earned, and which is earned by her subsequent to the casualty causing the loss, less the expenses of earning it incurred after the casualty; and, where the ship is carrying the owner's goods, the insurer is entitled to a reasonable remuneration for the carriage of them subsequent to the casualty causing the loss.

Partial losses (including salvage and general average and particular charges).

Particular average loss.

64. (1) A particular average loss is a partial loss of the subject matter insured, caused by a peril insured against, and which is not a general average loss.

(2) Expenses incurred by or on behalf of the assured for the safety or preservation of the subject matter insured, other than general average and salvage charges, are called particular charges. Particular charges are not included in particular average.

Salvage charges.

65. (1) Subject to any express provision in the policy, salvage charges incurred in preventing a loss by perils insured against may be recovered as a loss by those perils.

(2) "Salvage charges" means the charges recoverable under maritime law by a salvor independently of contract. They do not include the expenses of services in the nature of salvage rendered by the

assured or his agents, or any person employed for hire by them, for the purpose of averting a peril insured against. Such expenses, where properly incurred, may be recovered as particular charges or as a general average loss, according to the circumstances under which they were incurred.

66. (1) A general average loss is a loss caused by or directly consequential on a general average act. It includes a general average expenditure as well as a general average sacrifice. General average loss.

(2) There is a general average act where any extraordinary sacrifice or expenditure is voluntarily and reasonably made or incurred in time of peril for the purpose of preserving the property imperilled in the common adventure.

(3) Where there is a general average loss, the party on whom it falls is entitled, subject to the conditions imposed by maritime law, to a rateable contribution from the other parties interested, and such contribution is called a general average contribution.

(4) Subject to any express provision in the policy, where the assured has incurred a general average expenditure, he may recover from the insurer in respect of the proportion of the loss which falls upon him; and, in the case of a general average sacrifice, he may recover from the insurer in respect of the whole loss without having enforced his right of contribution from the other parties liable to contribute.

(5) Subject to any express provision in the policy, where the assured has paid, or is liable to pay, a general average contribution in respect of the subject insured, he may recover therefor from the insurer.

(6) In the absence of express stipulation, the insurer is not liable for any general average loss or contribution where the loss was not incurred for the purpose of avoiding, or in connexion with the avoidance of, a peril insured against.

(7) Where ship, freight, and cargo, or any two of those interests, are owned by the same assured, the liability of the insurer in respect of general average losses or contributions is to be determined as if those subjects were owned by different persons.

Measure of indemnity.

67. (1) The sum which the assured can recover in respect of a loss on a policy by which he is insured, in the case of an unvalued policy to the full extent of the insurable value, or, in the case of a valued policy to the full extent of the value fixed by the policy, is called the measure of indemnity. Extent of liability of insurer for loss.

(2) Where there is a loss recoverable under the policy, the insurer, or each insurer if there be more than one, is liable for such proportion of the measure of indemnity as the amount of his subscription bears to the value fixed by the policy in the case of a valued policy, or to the insurable value in the case of an unvalued policy.

Total loss.

68. Subject to the provisions of this Ordinance and to any express provision in the policy, where there is a total loss of the subject matter insured—

- (1) if the policy be a valued policy, the measure of indemnity is the sum fixed by the policy;
- (2) if the policy be an unvalued policy, the measure of indemnity is the insurable value of the subject matter insured.

Partial loss of ship.

69. Where a ship is damaged, but is not totally lost, the measure of indemnity, subject to any express provision in the policy, is as follows—

- (1) where the ship has been repaired, the assured is entitled to the reasonable cost of the repairs, less the customary deductions, but not exceeding the sum insured in respect of any one casualty;
- (2) where the ship has been only partially repaired, the assured is entitled to the reasonable cost of such repairs, computed as above, and also to be indemnified for the reasonable depreciation, if any, arising from the unrepaired damage, provided that the aggregate amount shall not exceed the cost of repairing the whole damage, computed as above;
- (3) where the ship has not been repaired, and has not been sold in her damaged state during the risk, the assured is entitled to be indemnified for the reasonable depreciation arising from the unrepaired damage, but not exceeding the reasonable cost of repairing such damage, computed as above.

Partial loss of freight.

70. Subject to any express provision in the policy, where there is a partial loss of freight, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the proportion of freight lost by the assured bears to the whole freight at the risk of the assured under the policy.

Partial loss of goods, merchandise, etc.

71. Where there is a partial loss of goods, merchandise, or other moveables, the measure of indemnity, subject to any express provision in the policy, is as follows—

- (1) where part of the goods, merchandise or other moveables insured by a valued policy is totally lost, the measure of indemnity is such proportion of the sum fixed by the policy

as the insurable value of the part lost bears to the insurable value of the whole, ascertained as in the case of an unvalued policy;

- (2) where part of the goods, merchandise, or other moveables insured by an unvalued policy is totally lost, the measure of indemnity is the insurable value of the part lost, ascertained as in case of total loss;
- (3) where the whole or any part of the goods or merchandise insured has been delivered damaged at its destination, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the difference between the gross sound and damaged values at the place of arrival bears to the gross sound value;
- (4) "Gross value" means the whole sale price or, if there be no such price, the estimated value, with, in either case, freight, landing charges, and duty paid beforehand; provided that, in the case of goods or merchandise customarily sold in bond, the bonded price is deemed to be the gross value. "Gross proceeds" means the actual price obtained at a sale where all charges on sale are paid by the sellers.

72. (1) Where different species of property are insured under a single valuation, the valuation must be apportioned over the different species in proportion to their respective insurable values, as in the case of an unvalued policy. The insured value of any part of a species is such proportion of the total insured value of the same as the insurable value of the part bears to the insurable value of the whole, ascertained in both cases as provided by this Ordinance.

Apportionment of valuation.

(2) Where a valuation has to be apportioned, and particulars of the prime cost of each separate species, quality, or description of goods cannot be ascertained, the division of the valuation may be made over the net arrived sound values of the different species, qualities, or descriptions of goods.

73. (1) Subject to any express provision in the policy, where the assured has paid, or is liable for, any general average contribution, the measure of indemnity is the full amount of such contribution, if the subject matter liable to contribution is insured for its full contributory value; but, if such subject matter be not insured for its full contributory value, or if only part of it be insured, the indemnity payable by the insurer must be reduced in proportion to the under insurance, and where there has been a particular average loss which constitutes a deduction from the contributory value, and for which the insurer is liable, that amount must be deducted from the insured value in order to ascertain what the insurer is liable to contribute.

General average contributions and salvage charges.

(2) Where the insurer is liable for salvage charges the extent of his liability must be determined on the like principle.

Liabilities to third parties.

74. Where the assured has effected an insurance in express terms against any liability to a third party, the measure of indemnity, subject to any express provision in the policy, is the amount paid or payable by him to such third party in respect of such liability.

General provisions as to measure of indemnity.

75. (1) Where there has been a loss in respect of any subject matter not expressly provided for in the foregoing provisions of this Ordinance, the measure of indemnity shall be ascertained, as nearly as may be, in accordance with those provisions, in so far as applicable to the particular case.

(2) Nothing in the provisions of this Ordinance relating to the measure of indemnity shall affect the rules relating to double insurance, or prohibit the insurer from disproving interest wholly or in part, or from showing that at the time of the loss the whole or any part of the subject matter insured was not at risk under the policy.

Particular average warranties.

76. (1) Where the subject matter insured is warranted free from particular average, the assured cannot recover for a loss of part, other than a loss incurred by a general average sacrifice, unless the contract contained in the policy be apportionable; but, if the contract be apportionable, the assured may recover for a total loss of any apportionable part.

(2) Where the subject matter insured is warranted free from particular average, either wholly or under a certain percentage, the insurer is nevertheless liable for salvage charges, and for particular charges and other expenses properly incurred pursuant to the provisions of the suing and labouring clause in order to avert a loss insured against.

(3) Unless the policy otherwise provides, where the subject matter insured is warranted free from particular average under a specified percentage, a general average loss cannot be added to a particular average loss to make up the specified percentage.

(4) For the purpose of ascertaining whether the specified percentage has been reached, regard shall be had only to the actual loss suffered by the subject matter insured. Particular charges and the expenses of and incidental to ascertaining and proving the loss must be excluded.

Successive losses.

77. (1) Unless the policy otherwise provides, and subject to the provisions of this Ordinance, the insurer is liable for successive losses, even though the total amount of such losses may exceed the sum insured.

(2) Where, under the same policy, a partial loss, which has not been repaired or otherwise made good, is followed by a total loss, the assured can only recover in respect of the total loss:

Provided that nothing in this section shall affect the liability of the insurer under the suing and labouring clause.

78. (1) Where the policy contains a suing and labouring clause, the engagement thereby entered into is deemed to be supplementary to the contract of insurance, and the assured may recover from the insurer any expenses properly incurred pursuant to the clause, notwithstanding that the insurer may have paid for a total loss, or that the subject matter may have been warranted free from particular average, either wholly or under a certain percentage.

Suing and labouring clause.

(2) General average losses and contributions and salvage charges, as defined by this Ordinance are not recoverable under the suing and labouring clause.

(3) Expenses incurred for the purpose of averting or diminishing any loss not covered by the policy are not recoverable under the suing and labouring clause.

(4) It is the duty of the assured and his agents, in all cases, to take such measures as may be reasonable for the purpose of averting or minimizing a loss.

Rights of insurer on payment.

79. (1) Where the insurer pays for a total loss, either of the whole, or in the case of goods of any apportionable part, of the subject matter insured, he thereupon becomes entitled to take over the interest of the assured in whatever may remain of the subject matter so paid for, and he is thereby subrogated to all the rights and remedies of the assured in and in respect of that subject matter as from the time of the casualty causing the loss.

Right of subrogation.

(2) Subject to the foregoing provisions, where the insurer pays for a partial loss, he acquires no title to the subject matter insured, or such part of it as may remain, but he is thereupon subrogated to all rights and remedies of the assured in and in respect of the subject matter insured as from the time of the casualty causing the loss, in so far as the assured has been indemnified, according to this Ordinance, by such payment for the loss.

80. (1) Where the assured is over-insured by double insurance, each insurer is bound, as between himself and the other insurers, to contribute rateably to the loss in proportion to the amount for which he is liable under his contract.

Right of contribution.

(2) If any insurer pays more than his proportion of the loss, he is entitled to maintain an action for contribution against the other insurers, and is entitled to the like remedies as a surety who has paid more than his proportion of the debt.

Effect of
under
insurance.

81. Where the assured is insured for an amount less than the insurable value or, in the case of a valued policy, for an amount less than the policy valuation, he is deemed to be his own insurer in respect of the uninsured balance.

Return of premium.

Enforcement
of return.

82. Where the premium or a proportionate part thereof is, by this Ordinance, declared to be returnable—

- (a) if already paid, it may be recovered by the assured from the insurer; and
- (b) if unpaid, it may be retained by the assured or his agent.

Return by
agreement.

83. Where the policy contains a stipulation for the return of the premium, or a proportionate part thereof, on the happening of a certain event, and that event happens, the premium, or, as the case may be, the proportionate part thereof, is thereupon returnable to the assured.

Return for
failure of
consideration.

84. (1) Where the consideration for the payment of the premium totally fails, and there has been no fraud or illegality on the part of the assured or his agents, the premium is thereupon returnable to the assured.

(2) Where the consideration for the payment of the premium is apportionable and there is a total failure of any apportionable part of the consideration, a proportionate part of the premium is, under the like conditions, thereupon returnable to the assured.

(3) In particular—

- (a) where the policy is void, or is avoided by the insurer as from the commencement of the risk, the premium is returnable, provided that there has been no fraud or illegality on the part of the assured; but if the risk is not apportionable, and has once attached, the premium is not returnable;
- (b) where the subject matter insured, or part thereof, has never been imperilled, the premium, or, as the case may be, a proportionate part thereof, is returnable:

Provided that where the subject matter has been insured "lost or not lost" and has arrived in safety at the time when the contract is concluded, the premium is not returnable unless, at such time, the insurer knew of the safe arrival;

- (c) where the assured has no insurable interest throughout the currency of the risk, the premium is returnable, provided that this rule does not apply to a policy effected by way of gaming or wagering;
- (d) where the assured has a defeasible interest which is terminated during the currency of the risk, the premium is not returnable;
- (e) where the assured has over-insured under an unvalued policy, a proportionate part of the premium is returnable;
- (f) subject to the foregoing provisions, where the assured has over-insured by double insurance, a proportionate part of the several premiums is returnable:

Provided that, if the policies are effected at different times, and any earlier policy has at any time borne the entire risk, or if a claim has been paid on the policy in respect of the full sum insured thereby, no premium is returnable in respect of that policy, and when the double insurance is effected knowingly by the assured no premium is returnable.

Mutual insurance.

85. (1) Where two or more persons mutually agree to insure each other against marine losses there is said to be a mutual insurance.

(2) The provisions of this Ordinance relating to the premium do not apply to mutual insurance, but a guarantee, or such other arrangement as may be agreed upon, may be substituted for the premium.

(3) The provisions of this Ordinance, in so far as they may be modified by the agreement of the parties, may in the case of mutual insurance be modified by the terms of the policies issued by the association, or by the rules and regulations of the association.

(4) Subject to the exceptions mentioned in this section, the provisions of this Ordinance apply to a mutual insurance.

Modification
of Ordinance
in case of
mutual
insurance.

Supplemental.

86. Where a contract of marine insurance is in good faith effected by one person on behalf of another, the person on whose behalf it is effected may ratify the contract even after he is aware of a loss.

Ratification
by assured.

87. (1) Where any right, duty, or liability would arise under a contract of marine insurance by implication of law, it may be negatived or varied by express agreement, or by usage, if the usage be such as to bind both parties to the contract.

Implied
obligations
varied by
agreement
or usage.

(2) The provisions of this section extend to any right, duty, or liability declared by this Ordinance which may be lawfully modified by agreement.

Reasonable time, etc. a question of fact.

88. Where by this Ordinance any reference is made to reasonable time, reasonable premium, or reasonable diligence, the question what is reasonable is a question of fact.

Slip as evidence.

89. Where there is a duly stamped policy, reference may be made, as heretofore, to the slip or covering note, in any legal proceeding.

Interpretation of terms.

90. In this Ordinance, unless the context or subject matter otherwise requires—

“action” includes suit counter-claim and set-off;

“freight” includes the profit derivable by a shipowner from the employment of his ship to carry his own goods or moveables, as well as freight payable by a third party, but does not include passage money;

“moveables” means any moveable tangible property, other than the ship, and includes money, valuable securities, and other documents; and

“policy” means a marine policy.

Savings.

91. The rules of the common law including the law merchant, save in so far as they are inconsistent with the express provisions of this Ordinance, shall continue to apply to contracts of marine insurance.

Prohibition of gambling on loss by maritime perils.

92. (1) If—

(a) any person effects a contract of marine insurance without having any *bona fide* interest, direct or indirect, either in the safe arrival of the ship in relation to which the contract is made or in the safety or preservation of the subject matter insured, or a *bona fide* expectation of acquiring such an interest; or

(b) any person in the employment of the owner of a ship, not being a part owner of the ship, effects a contract of marine insurance in relation to the ship, and the contract is made “interest or no interest”, or “without further proof of interest than the policy itself”, or “without benefit of salvage to the insurer”, or subject to any other like term,

the contract shall be deemed to be a contract by way of gambling on loss by maritime perils, and the person effecting it shall be guilty of an offence, and shall be liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both such fine and imprisonment and in either case to forfeit to the Crown any money he may receive under the contract.

(2) Any broker or other person through whom, and any insurer with whom, any such contract is effected shall be guilty of an offence

and liable on conviction to the like penalties if he acted knowing that the contract was by way of gambling on loss by maritime perils within the meaning of this section.

(3) Proceedings under this section shall not be instituted without the consent of the Attorney General.

(4) Proceedings shall not be instituted under this section against a person (other than a person in the employment of the owner of the ship in relation to which the contract was made) alleged to have effected a contract by way of gambling on loss by maritime perils until an opportunity has been afforded him of showing that the contract was not such a contract as aforesaid, and any information given by that person for that purpose shall not be admissible in evidence against him in any prosecution under this section.

(5) If proceedings under this section are taken against any person (other than a person in the employment of the owner of the ship in relation to which the contract was made) for effecting such a contract, and the contract was made “interest or no interest”, or “without further proof of interest than the policy itself”, or “without benefit of salvage to the insurer”, or subject to any other like term, the contract shall be deemed to be a contract by way of gambling on loss by maritime perils unless the contrary is proved.

(6) For the purpose of giving jurisdiction under this section, every offence shall be deemed to have been committed either in the place in which the same actually was committed or in any place in which the offender may be.

(7) For the purposes of this section the expression “owner” includes charterer.

(8) Nothing in this section shall affect the operation of section 4 of this Ordinance.

SCHEDULE.

[s. 30.]

Form of Policy.

BE IT KNOWN THAT

as well in

Lloyd's S.G. Policy.

own name as for and in the name and names of all and every other person or persons to whom the same doth, may, or shall appertain, in part or in all doth make assurance and cause and them, and every of them, to be insured lost or not lost, at and from

Upon any kind of goods and merchandises, and also upon the body, tackle, apparel, ordnance, munition, artillery, boat, and other furniture, of and in the good ship or vessel called the whereof is master under God, for this present voyage, or whosoever else shall go for master in the said ship, or by whatsoever other name or names the said ship, or the master thereof, is or shall be named or called; beginning the adventure upon the said goods and merchandises from the