

Grounds for withdrawal of approval to be a manager.

26. (1) The Director may withdraw his approval of a person to be a manager—

- (a) on any ground specified in paragraph (a), (b), (c), (d), (g) or (h) of section 25 which applies to the person, whether or not such ground existed at the time when he was approved to be a manager;
- (b) if it appears to the Director that the person—
  - (i) has ceased to be a manager;
  - (ii) cannot perform satisfactorily or is not performing satisfactorily the duties of a manager;
- (c) if the person has been an office-bearer, as defined in section 2 of the Societies Ordinance, of any society which has had its registration or its exemption from registration cancelled under section 10 of that Ordinance or which has been dissolved under section 30 of that Ordinance;
- (d) if the person has contravened any provision of this Ordinance; or
- (e) if it appears to the Director that—
  - (i) any school of which the person is registered as a manager is not being managed satisfactorily;
  - (ii) in any school of which the person is registered as a manager, the education of the pupils is not being promoted in a proper manner; or
  - (iii) any pupil of a school of which the person is registered as a manager is not under proper supervision or control while on the school premises.

(2) The Director shall withdraw his approval of a person to be a manager at the written request of the person.

*Registration of managers of schools.*

27. No person shall act as a manager of a school unless he is registered as a manager of the school under subsection (1) of section 29.

28. An application for registration as a manager of a school shall be made to the Director by an approved manager in the prescribed form.

29. (1) On receiving an application in accordance with section 28, the Director shall make such inquiry as he considers necessary and shall determine the application—

- (a) by registering the applicant as a manager of the school in respect of which the application is made; or

Managers of schools to be registered.

Application for registration of manager.

Registration of manager.

(Cap. 151.)

- (b) by refusing under section 30 to register the applicant as a manager of the school in respect of which the application is made.

(2) On registering an applicant as a manager of a school under subsection (1), the Director shall issue to the applicant a certificate of registration in the prescribed form.

30. (1) The Director may refuse to register an applicant as a manager of a school if—

- (a) it appears to the Director that the applicant has not established that he has a special interest in the school;
- (b) it appears to the Director that the registration of the applicant as a manager of the school would result in an undue proportion of the management committee being registered by reason only of their special interests in the school;
- (c) the school has more than four registered managers; or
- (d) it appears to the Director that in making or in connexion with any application—
  - (i) for approval to be a manager;
  - (ii) for registration of a school;
  - (iii) for registration as a manager or a teacher; or
  - (iv) to employ a person as a permitted teacher in a school,

the applicant has made any statement or furnished any information which is false in any material particular or by reason of the omission of any material particular.

(2) The Director shall refuse to register an applicant as a manager of a school if it appears to the Director that the applicant is not acceptable as a manager of the school to the majority of the management committee.

31. (1) The Director may cancel the registration of a manager of a school—

- (a) on any ground specified in paragraph (c) of subsection (1) of section 26 which applies to the manager;
- (b) on any ground specified in paragraph (d) of subsection (1) of section 30 which applies to the manager, whether or not such ground existed at the time when he was registered as a manager of the school; or
- (c) if the manager was so registered by reason of a special interest in the school which has subsequently ceased.

Grounds for refusal to register manager.

Grounds for cancellation of registration of manager.

(2) The Director shall cancel the registration of a manager of a school—

- (a) if it appears to him that the manager is no longer acceptable as a manager of the school to the majority of the management committee; or
- (b) at the written request of the manager.

(3) The registration of a person as a manager of a school shall be deemed to be cancelled if, under any provision in this Ordinance, the Director withdraws his approval of the person to be a manager.

*Management committees.*

**32.** Every school shall be managed by its management committee.

**33.** The management committee of a school shall be responsible for ensuring—

- (a) that the school is managed satisfactorily;
- (b) that the education of the pupils is promoted in a proper manner; and
- (c) that this Ordinance is complied with.

*Supervisors.*

**34.** Subject to section 35, the Director shall approve as the first supervisor of a school the person who is recommended to be the supervisor by the applicant for registration of the school.

**35.** (1) The Director may refuse to approve a person as the supervisor of a school if the Director is not satisfied that the person is a fit and proper person to be the supervisor.

(2) The Director shall not approve a person as the supervisor of a school unless the person is a registered manager of the school.

**36.** The supervisor of a school shall hold office until—

- (a) he ceases to be a registered manager of the school;
- (b) he resigns;
- (c) the Director withdraws his approval of the supervisor under section 37; or
- (d) the Director approves another registered manager of the school as the supervisor under subsection (2) of section 38.

**37.** The Director may withdraw his approval of the supervisor of a school if it appears to the Director that the supervisor—

- (a) is no longer a fit and proper person to be the supervisor;
- (b) is not performing the duties of the supervisor satisfactorily;
- (c) has ceased to perform the duties of the supervisor; or
- (d) is no longer acceptable as such to the majority of the management committee.

**38.** (1) If in the case of any school which is registered or provisionally registered—

- (a) the Director refuses under section 35 to approve a person who has been recommended to be the supervisor;
- (b) the supervisor ceases under section 36 to hold office;
- (c) there is for any other reason no supervisor;
- (d) the supervisor ceases to perform the duties of the supervisor; or
- (e) the supervisor is no longer acceptable as such to the majority of the management committee,

the management committee shall within one month recommended for the approval of the Director another registered manager of the school to be the supervisor.

(2) Subject to section 35, the Director shall approve as the supervisor of the school the registered manager who is recommended under subsection (1).

**39.** (1) Subject to any other provision in this Ordinance, all correspondence between a school and the Director or any public officer concerning the management of the school shall be conducted on behalf of the school by the supervisor.

(2) The supervisor of a school shall within one month after the happening of such event give notice in writing to the Director if—

- (a) any person ceases to be a manager of the school;
- (b) the supervisor ceases to perform the duties of the supervisor;
- (c) the principal ceases to perform the duties of the principal;
- (d) any teacher commences to teach or is employed to teach at the school;
- (e) any teacher ceases to teach or ceases to be employed to teach at the school;

Grounds for withdrawal of approval of supervisor.

Approval of subsequent supervisors.

Duties of supervisor.

Management committee to manage school.

Responsibilities of management committee.

Approval of first supervisor of school.

Grounds for refusal to approve supervisor.

Tenure of office of supervisor.

- (f) the supervisor becomes aware of a change in any particulars furnished under this Ordinance with respect to any landlord or tenant of the premises in which the school is operated.
- (3) A notice under subsection (2) shall specify—
- (a) the full name and address of the person to whom the notice relates and, if he is a registered or permitted teacher, his registration number or permitted teacher reference number; and
- (b) the date of the event referred to in the notice.

**40.** Without prejudice to subsection (1) of section 38, if at any time there is no supervisor of a school, the duties of the supervisor under this Ordinance shall be performed by the management committee until a supervisor is approved by the Director, and in such case any notice which is to be served or which may be served under this Ordinance on the supervisor may be served on any registered manager of the school.

*Additional managers.*

- 41.** (1) If it appears to the Director—
- (a) that a school is not being managed satisfactorily or that the education of the pupils is not being promoted in a proper manner; or
- (b) that the composition of the management committee of a school is such that the school is not likely to be managed satisfactorily, or is such that the education of the pupils is not likely to be promoted in a proper manner,

he may appoint one or more persons to be additional managers of the school for such period as he thinks fit.

- (2) A person who is appointed by the Director under subsection (1) to be a manager of a school—
- (a) shall be deemed to be approved to be a manager under subsection (1) of section 24 and to be registered as a manager of the school under subsection (1) of section 29;
- (b) shall perform his functions in accordance with any directions given to him by the Director; and
- (c) may enter the school premises at all reasonable times.
- (3) Notwithstanding subsections (1) and (2), no person who is appointed by the Director under subsection (1) to be a manager of a school shall participate in any of the profits of the school or shall be liable for any financial obligations incurred by the management committee in respect of the operation of the school.

Duties of management committee in absence of supervisor.

Appointment of additional managers by Director.

**PART IV.**

**TEACHERS.**

*General.*

- 42.** (1) No person shall teach in a school unless he is—
- (a) a registered teacher; or
- (b) a permitted teacher.
- (2) No permitted teacher shall teach in a school otherwise than in accordance with the conditions or limitations specified in the permit to teach issued in respect of such teacher.

Teachers to be registered or permitted teachers.

- 43.** The Director may, before registering a person as a teacher or issuing a permit to teach in respect of any person, require such person to undergo a medical examination.

Director may require medical examination of proposed teacher.

*Registration of teachers.*

- 44.** An application for registration as a teacher shall be—
- (a) made to the Director in the prescribed form; and
- (b) accompanied by the documents specified in such form.
- 45.** (1) On receiving an application in accordance with section 44, the Director shall make such inquiry as he considers necessary and shall determine the application—
- (a) by registering the applicant as a teacher; or
- (b) by refusing under section 46 to register the applicant as a teacher.
- (2) On registering an applicant as a teacher under subsection (1), the Director shall issue to the applicant a certificate of registration in the prescribed form.

Application for registration as a teacher.

Registration of teacher.

- 46.** The Director may refuse to register an applicant as a teacher if it appears to him that the applicant—
- (a) is not a fit and proper person to be a teacher;
- (b) has been convicted of an offence punishable with imprisonment;
- (c) is a person in respect of whom a permit to teach has previously been cancelled;
- (d) is medically unfit;
- (e) does not possess the prescribed qualifications;
- (f) has attained the age of seventy years; or

Grounds for refusal to register teacher.

- (g) in making or in connexion with any application—
- (i) for approval to be a manager;
  - (ii) for registration as a manager or a teacher; or
  - (iii) to employ a person as a permitted teacher in a school,
- has made any statement or furnished any information which is false in any material particular or by reason of the omission of any material particular.

Grounds for cancellation of registration of teacher.

- 47.** The Director may cancel the registration of a teacher—
- (a) on any ground specified in section 46 which applies to the teacher, whether or not such ground existed at the time when he was registered as a teacher;
  - (b) if it appears to the Director that the teacher is incompetent;
  - (c) if the teacher has contravened any provision of this Ordinance;
  - (d) if it appears to the Director that the teacher has behaved in any manner which, in the opinion of the Director, constitutes professional misconduct; or
  - (e) if it appears to the Director that the teacher has behaved in any manner which, in the opinion of the Director, is prejudicial to the maintenance of good order and discipline in the school in which the teacher teaches.

*Permitted teachers.*

**48.** An application to employ a person as a permitted teacher in a school may only be made if the applicant is of the opinion that no suitable registered teacher is available for employment as a teacher in the school.

**49.** (1) An application to employ a person as a permitted teacher in a school shall be made to the Director—

- (a) in the case of a school which is registered or provisionally registered, by the supervisor; or
- (b) in the case of a proposed school, by the applicant for registration of the school.

(2) An application to employ a person as a permitted teacher in a school shall be made in the prescribed form.

Circumstances in which application to employ permitted teacher may be made.

Application to employ permitted teacher.

**50.** (1) On receiving an application in accordance with section 49, the Director shall make such inquiry as he considers necessary and shall determine the application—

Permit to teach.

- (a) by issuing to the supervisor of the school concerned a permit in the prescribed form; or
- (b) by refusing under section 51 to issue such a permit.

(2) A permit to teach issued under subsection (1) shall specify the school in which the permitted teacher may be employed, and may impose such other conditions in respect of the employment of the permitted teacher in the school as the Director thinks fit.

(3) The Director shall, if he issues a permit to teach under subsection (1), also issue a copy of the permit to the permitted teacher.

**51.** The Director may refuse to issue a permit to teach under subsection (1) of section 50 in respect of any person—

Grounds for refusal to issue permit to teach.

- (a) if in the opinion of the Director a suitable registered teacher is available for employment as a teacher in the school concerned;
- (b) on any ground specified in paragraph (a), (b), (c), (d) or (f) of section 46 which applies to the person in respect of whom the application is made;
- (c) if the person in respect of whom the application is made does not possess the prescribed qualification; or
- (d) if it appears to the Director that the applicant or the person in respect of whom the application is made has, in making or in connexion with any application—

- (i) for approval to be a manager;
- (ii) for registration as a manager or a teacher; or
- (iii) to employ a person as a permitted teacher in a school,

made any statement or furnished any information which is false in any material particular or by reason of the omission of any material particular.

**52.** (1) The Director may cancel a permit to teach—

- (a) on any ground specified in paragraph (b), (c) or (d) of section 51 on which he would have been entitled to refuse to issue a permit to teach, whether or not such ground existed at the time when the permit was issued; or

Grounds for cancellation of permit to teach.

- (b) on any ground specified in paragraph (b), (c), (d) or (e) of section 47 which applies to the permitted teacher.
- (2) A permit to teach shall be deemed to be cancelled—
  - (a) if the permitted teacher ceases to be employed in the school specified in the permit; or
  - (b) if the registration or provisional registration of the school specified in the permit is cancelled.

#### *Principals.*

**53.** (1) Within one month after the registration or provisional registration of a school, the management committee shall recommend for the approval of the Director a teacher of the school to be the principal.

(2) Subject to section 54, the Director shall approve as the principal of the school the teacher who is recommended under subsection (1).

**54.** The Director may refuse to approve a teacher as the principal of a school if the Director is not satisfied that the teacher is a fit and proper person to be the principal of the school.

**55.** The principal of a school shall hold office until—

- (a) he ceases to be registered as a teacher, or to be permitted to teach as a permitted teacher in the school;
- (b) he resigns;
- (c) the Director withdraws his approval of the principal under section 56; or
- (d) the Director approves another teacher of the school as the principal under subsection (2) of section 57.

**56.** The Director may withdraw his approval of the principal of a school if it appears to the Director that the principal—

- (a) is no longer a fit and proper person to be the principal;
- (b) is not performing the duties of the principal satisfactorily;
- (c) has ceased to perform the duties of the principal; or
- (d) is no longer acceptable as such to the majority of the management committee.

**57.** (1) If in the case of any school—

- (a) the Director refuses under section 54 to approve a teacher who has been recommended to be the principal;

Approval of first principal of school.

Grounds for refusal to approve principal.

Tenure of office of principal.

Grounds for withdrawal of approval of principal.

Approval of subsequent principals.

- (b) the principal ceased under section 55 to hold office;
- (c) the principal ceases to perform the duties of the principal; or
- (d) the principal is no longer acceptable as such to the majority of the management committee,

the management committee shall within one month recommend for the approval of the Director another teacher of the school to be the principal.

(2) Subject to section 54, the Director shall approve as the principal of the school the teacher who is recommended under subsection (1).

**58.** (1) The principal of a school shall, subject to the directions of the management committee, be responsible for the teaching and discipline of the school and for such purposes shall have authority over the teachers and pupils of the school.

(2) The Director may address the principal of a school on any matter relating to the teaching and discipline in the school, and in such case the principal shall conduct correspondence directly with the Director.

Functions of principal.

#### PART V.

##### APPEALS.

**59.** (1) For the purposes of this Part, there shall be an Appeals Board appointed in accordance with subsection (2).

(2) The Governor shall by notice in the *Gazette* appoint—

- (a) not less than nine persons as members of the Appeals Board, of whom at least three shall be registered teachers;
- (b) one of the persons appointed under paragraph (a) as chairman of the Appeals Board.

(3) A member of the Appeals Board shall hold office for such period as may be specified in such notice.

(4) Subject to subsection (5), five members of the Appeals Board shall be a quorum.

(5) The Appeals Board shall not hear or determine any appeal concerning the registration of a teacher or the cancellation of the registration of a teacher unless at least three of the members comprising the quorum are registered teachers.

The Appeals Board.

(6) The Appeals Board may—

- (a) subject to any other provision in this Part, regulate its own procedure and make standing orders for that purpose; and
- (b) appoint one of its members to act as chairman if the chairman is absent.

(7) The Appeals Board may at its request be assisted in the conduct of an appeal by a legal officer appointed by the Attorney General to act as legal assessor.

(8) The Governor shall appoint a person to be the secretary to the Appeals Board.

60. (1) Subject to subsection (2), if the Director has made a decision by exercising any power conferred on him under a provision specified in the First Column of the Table contained in this section, he shall serve notice in writing of his decision on the persons specified in relation thereto in the Second Column of the Table, stating the grounds for his decision, and shall supply to the person a copy of this Part.

Director to serve notice of decision on person adversely affected.

TABLE.

<i>First Column.</i>	<i>Second Column.</i>
Section 14.	Applicant.
Paragraph (b) of subsection (5) of section 20.	Supervisor.
Subsection (1) of section 22.	Supervisor.
Section 25.	Applicant.
Subsection (1) of section 26.	Approved manager concerned.
Subsection (1) of section 30.	Applicant.
Subsection (1) of section 31.	Registered manager concerned.
Subsection (1) of section 35.	Person recommended to be supervisor.
Section 37.	Manager ceasing to be supervisor.
Section 46.	Applicant.
Section 47.	Teacher concerned.
Section 51.	Supervisor.
Subsection (1) of section 52.	Supervisor.
Section 54.	Supervisor.
Section 56.	Supervisor.

(2) If an order is made under subsection (3) or (5) of section 9 exempting a school from section 10, subsection (1) of this section shall not apply in respect of—

- (a) a refusal by the Director under subsection (1) of section 30 to register any person as a manager of the school;
- (b) the cancellation by the Director under subsection (1) of section 31 of the registration of any manager of the school;
- (c) a refusal by the Director under subsection (1) of section 35 to approve any person as the supervisor of the school;
- (d) the withdrawal by the Director under section 37 of the approval of any supervisor of the school;
- (e) a refusal by the Director under section 51 to issue a permit to teach for the employment of any person as a permitted teacher in the school;
- (f) the cancellation by the Director under subsection (1) of section 52 of the permit to teach of any permitted teacher who is employed to teach in the school;
- (g) a refusal by the Director under section 54 to approve any teacher as the principal of the school; or
- (h) the withdrawal under section 56 of the approval of any principal of the school.

61. (1) A person on whom a notice is served under subsection (1) of section 60 may, within twenty-one days after the service of the notice, appeal to the Appeals Board against the decision of the Director referred to in the notice, by delivering in duplicate to the secretary of the Appeals Board a notice of appeal in accordance with subsection (2).

Right of appeal to Appeals Board.

(2) Every notice of appeal shall be in writing and shall specify—

- (a) the decision of the Director in respect of which the appeal is brought; and
- (b) the grounds on which the appeal is brought.

62. (1) On receiving a notice of appeal in accordance with section 61, the secretary of the Appeals Board shall—

Procedure on appeal.

- (a) forthwith forward one copy of the notice of appeal to the Director;
- (b) fix a time and place for the hearing of the appeal by the Appeals Board; and

(c) give the appellant and the Director not less than fourteen days notice of the time and place fixed for the hearing of the appeal.

(2) On receiving a copy of a notice of appeal under subsection (1), the Director shall forthwith forward to the secretary of the Appeals Board a copy of the notice which has been served on the appellant under subsection (1) of section 60.

(3) At the hearing of an appeal, the appellant or his authorized representative, and the Director or any person appointed by him for such purpose, shall be entitled to be present and to be heard on the appeal.

(4) The hearing of an appeal may at the discretion of the Appeals Board be open to the public or in camera, or partly open to the public and partly in camera.

(5) If the hearing of an appeal is adjourned, no person shall be present as a member of the Appeals Board when the hearing is resumed unless he has been present at all previous hearings of the appeal.

(6) The Appeals Board may hear and determine an appeal in the absence of the appellant or the Director if due notice of the hearing of the appeal has been given to both of the parties.

(7) The onus of proving that the grounds stated by the Director under subsection (1) of section 60 for his decision are not correct, or do not justify the decision, shall be upon the appellant.

(8) Except with the permission of the Appeals Board, neither the appellant nor the Director may rely at the hearing of an appeal on any grounds other than those stated by the Director in the notice served on the appellant under subsection (1) of section 60, and those specified by the appellant in the notice of appeal.

**63.** (1) For the purposes of hearing an appeal, the Appeals Board may—

- (a) subject to subsection (4), hear and examine witnesses on oath;
- (b) subject to subsection (4), summon any person to attend any hearing of the Appeals Board to give evidence or produce any document or other thing in his possession and examine him as a witness or require him to produce any document or other thing in his possession;
- (c) order an inspection of any premises;
- (d) enter and view any premises.

(2) A summons under subsection (1) shall be in such form as the chairman of the Appeals Board shall direct and shall be signed by the chairman and the secretary.

Witnesses and inspections.

(3) Subject to subsection (4), any person who—

- (a) being summoned under subsection (1) to attend any hearing of the Appeals Board to give evidence or to produce any document or other thing in his possession, refuses or neglects to do so; or
- (b) being examined under subsection (1) as a witness by or before the Appeals Board, refuses or neglects to answer any question put to him by or with the concurrence of the Appeals Board, or to produce any document or other thing in his possession when required to do so,

shall be guilty of an offence and shall be liable on conviction to a fine of five hundred dollars and to imprisonment for three months.

(4) Every person who appears as a witness before the Appeals Board shall be entitled to the same privileges in respect of the giving of evidence and the production of any document and other thing as he would be entitled to if appearing as a witness in civil proceedings before the Supreme Court.

(5) Any person who—

- (a) behaves in an insulting manner or uses any threatening or insulting expression to or in the presence of the Appeals Board; or
- (b) wilfully disrupts the proceedings of the Appeals Board,

shall be guilty of an offence and shall be liable on conviction to a fine of five hundred dollars and to imprisonment for three months.

**64.** (1) On the hearing of an appeal, the Appeals Board may confirm, reverse or vary the decision of the Director appealed against, and shall state its reasons for its decision.

Decision of Appeals Board.

(2) The secretary of the Board shall serve on the appellant and the Director notice in writing of the decision of the Appeals Board together with the reasons of the Board for its decision.

**65.** The Director or the appellant may within fourteen days after being served under subsection (2) of section 64 with a notice of the decision of the Appeals Board appeal by way of petition to the Governor in Council.

Further right of appeal to Governor in Council.

**66.** (1) Notwithstanding any other provision in this Ordinance, the Director may on such conditions, if any, as he thinks fit—

- (a) by notice in writing to the supervisor permit a school to continue to operate after the registration or provisional

Permission to operate school or to act pending appeal.

registration of the school has been cancelled under subsection (1) of section 22;

- (b) by notice in writing to a manager of a school permit him to continue to be a manager of the school after his registration as a manager of the school has been cancelled under subsection (1) of section 31, or is deemed to have been cancelled under subsection (3) of section 31 by reason of the decision of the Director to withdraw under subsection (1) of section 26 his approval of such person to be a manager;
  - (c) by notice in writing to a registered teacher permit him to continue to teach after his registration as a teacher has been cancelled under section 47; or
  - (d) by notice in writing to the supervisor of a school permit a permitted teacher to continue to be employed as a teacher in the school after the permit to teach issued in respect of such teacher has been cancelled under subsection (1) of section 52.
- (2) Any permission given by the Director under subsection (1) shall remain in force—
- (a) until—
    - (i) the expiry of the time specified in subsection (1) of section 61 for the bringing of an appeal to the Appeals Board against the decision of the Director; and
    - (ii) the determination of any appeal brought under section 61 to the Appeals Board against the decision of the Director; and
  - (b) if an appeal is brought under section 61 to the Appeals Board against the decision of the Director, until—
    - (i) the expiry of the time specified in section 65 for the bringing of a further appeal to the Governor in Council against the decision of the Appeals Board; and
    - (ii) the determination of any further appeal brought under section 65 to the Governor in Council against the decision of the Appeals Board; and
  - (c) in special circumstances, until such later date as the Director may specify.

## PART VI.

### ADDITIONAL PROVISIONS AS TO REGISTRATION, APPROVALS AND PERMITS TO TEACH.

- 67.** If an application is made for—
- (a) the registration of a school;
  - (b) approval to be a manager;
  - (c) registration as a manager or a teacher; or
  - (d) to employ a person as a permitted teacher in a school,
- the Director may require the applicant or the proposed permitted teacher—
- (i) to attend an interview with such person as the Director may specify; or
  - (ii) to make any declaration or to supply any further particulars that the Director considers necessary in connexion with the application.
- 68.** (1) Notwithstanding any other provision in this Ordinance, the Director may—
- (a) refuse to register any person as a teacher;
  - (b) cancel the registration of any person as a teacher;
  - (c) refuse to issue a permit to teach under subsection (1) of section 50 in respect of any person; or
  - (d) cancel a permit to teach issued in respect of any person,
- if the Director is satisfied that the environment in which the person has received any part of his education has been such as to make the person unsuitable as a teacher in Hong Kong.
- (2) The Director shall, if he refuses under paragraph (a) of subsection (1) to register any person as a teacher, or cancels under paragraph (b) of subsection (1) the registration of any person as a teacher, serve notice in writing of his decision on the person.
- (3) The Director shall—
- (a) if he refuses under paragraph (c) of subsection (1) to issue a permit to teach in respect of any person, serve notice in writing of his decision on the supervisor of the school in which the person was to be employed to teach; or
  - (b) if he cancels under paragraph (d) of subsection (1) a permit to teach, serve notice in writing of his decision on the supervisor of the school in which the permitted teacher is employed to teach.

Director may require interview or further information.

Additional powers of Director in respect of teachers.

(4) A person on whom a notice is to be served under subsection (2) or (3) may, within twenty-one days after the service of the notice on him, appeal by way of petition to the Governor.

(5) On consideration of an appeal under subsection (4), the Governor may—

- (a) reverse the decision of the Director; or
- (b) refer the appeal to the Governor in Council.

(6) On consideration of an appeal referred to him under subsection (5), the Governor in Council may confirm or reverse the decision of the Director.

(7) The Director may, if he cancels under paragraph (b) of subsection (1) the registration of any teacher, or cancels under paragraph (d) of subsection (1) a permit to teach, by notice in writing to the teacher whose registration is cancelled or to the supervisor of the school in which the permitted teacher is employed to teach, permit the teacher to continue to teach upon such conditions, if any, as the Director thinks fit until—

- (a) the expiry of the time specified in subsection (4) for the bringing of an appeal to the Governor; and
- (b) the determination of any appeal brought under subsection (4) to the Governor.

**69.** (1) Notwithstanding any other provision in this Ordinance, if it appears to the Governor in Council that it would be prejudicial to the public interest or the welfare of pupils or of education generally—

- (a) that—
  - (i) a school should be registered;
  - (ii) a person should be approved to be a manager;
  - (iii) a person should be registered as a teacher; or
  - (iv) a person should be a permitted teacher;
- (b) that a school should continue to be registered or provisionally registered;
- (c) that a person should continue to be an approved manager;
- (d) that a teacher should continue to be registered; or
- (e) that a person should continue to be a permitted teacher,

the provisions of this section shall apply.

Special powers  
of Governor  
in Council.

(2) The Governor in Council may cause a notice in writing, stating that it is made under this section, to be served—

- (a) in any case referred to in sub-paragraph (i), (ii) or (iii) of paragraph (a) of subsection (1), on the applicant, calling on him to show cause why the application should not be refused;
- (b) in the case referred to in sub-paragraph (iv) of paragraph (a) of subsection (1), on the supervisor of the school in which the person is to be employed to teach calling on him to show cause why the application should not be refused;
- (c) in any case referred to in paragraph (b) of subsection (1), on the supervisor of the school, calling on him to show cause why the registration or provisional registration of the school should not be cancelled;
- (d) in the case referred to in paragraph (c) of subsection (1), on the approved manager, calling on him to show cause why his approval to be a manager should not be withdrawn;
- (e) in the case referred to in paragraph (d) of subsection (1), on the registered teacher, calling on him to show cause why his registration as a teacher should not be cancelled; or
- (f) in the case referred to in paragraph (e) of subsection (1), on the supervisor of the school in which the permitted teacher is employed to teach, calling on the supervisor to show cause why the permit to teach issued in respect of the permitted teacher should not be cancelled.

(3) The Governor in Council may—

- (a) in any case referred to in paragraph (b) of subsection (1), suspend the registration or provisional registration of the school until the determination of the proceedings under this section;
- (b) in the case referred to in paragraph (c) of subsection (1), suspend the approval of the person to be a manager until the determination of the proceedings under this section;
- (c) in the case referred to in paragraph (d) of subsection (1), suspend the registration of the teacher until the determination of the proceedings under this section; or

- (d) in the case referred to in paragraph (e) of subsection (1), suspend the permit to teach issued in respect of the permitted teacher until the determination of the proceedings under this section,

by a statement to that effect in the notice served under subsection (2), and in such case the suspension shall take effect from the date of service of the notice and shall continue in effect until the proceedings under this section are determined.

(4) A person whose approval to be a manager has been suspended under subsection (3) shall, during the period of suspension, be deemed, if he is registered as a manager of any school, to have had such registration also suspended.

(5) A person who is served with a notice under subsection (2) shall be entitled to appear in person, and to hear the grounds on which it is proposed to take the course specified in the notice and to make such representations as he wishes against the course being taken.

(6) If, after opportunity for appearance and for making representations has been afforded under subsection (5), the Governor in Council is satisfied—

- (a) in any case referred to in paragraph (a) of subsection (1), that the application should be refused;
- (b) in any case referred to in paragraph (b) of subsection (1), that the registration or provisional registration of the school should be cancelled;
- (c) in the case referred to in paragraph (c) of subsection (1), that the approval of the person to be a manager should be withdrawn;
- (d) in the case referred to in paragraph (d) of subsection (1), that the registration of the teacher should be cancelled; or
- (e) in the case referred to in paragraph (e) of subsection (1), that the permit to teach issued in respect of the permitted teacher should be cancelled,

he shall order accordingly, and the order shall be put into effect by the Director.

(7) Notwithstanding subsection (2) of section 16, if the Governor in Council orders under subsection (6) that an applica-

tion for registration of a school be refused, and at the time when such order is made the school is already provisionally registered, the Director shall cancel the provisional registration of the school.

(8) The Governor may suspend the operation of an order made under subsection (6) for such period and on such conditions as he thinks fit.

(9) If under subsection (6)—

- (a) the approval of a person to be a manager is withdrawn;
- (b) the registration of a person as a teacher is cancelled; or
- (c) a permit to teach issued in respect of any person is cancelled,

the person shall not thereafter be approved to be a manager nor be registered as a manager or a teacher, nor shall a permit be issued under subsection (1) of section 50 in respect of such person.

(10) The Governor may waive the provisions of subsection (9) in a particular case on such conditions, if any, as he thinks fit.

70. (1) The Director shall, on cancelling the registration or provisional registration of a school under subsection (6) of section 69, also withdraw his approval of every registered manager of the school.

Effect of closure under section 69 on managers and teachers.

(2) Any registered manager whose approval is withdrawn under subsection (1) may appeal by way of petition to the Governor in Council within fourteen days of the making of the order under subsection (6) of section 69 cancelling the registration or provisional registration of the school.

(3) If—

- (a) the approval of any person to be a manager is withdrawn under subsection (1); or
- (b) the permit to teach issued in respect of any permitted teacher is deemed to be cancelled under subsection (2) of section 52 by reason of the cancellation of the registration or provisional registration of a school under subsection (6) of section 69,

the person shall not thereafter be approved to be a manager, nor be registered as a manager nor shall a permit to teach be issued in respect of such person unless an appeal under subsection (2) has been allowed against the withdrawal of the approval or the cancellation of the registration.

(4) The Governor may waive the provisions of subsection (3) in a particular case on such conditions, if any, as he thinks fit.

71. Notwithstanding any other provision in this Ordinance, if—

- (a) a school ceases to be registered or provisionally registered;
- (b) a person ceases to be approved to be a manager;
- (c) a person ceases to be registered as a manager or a teacher; or
- (d) a person ceases to be a permitted teacher,

every person who has in his possession any certificate or copy of a certificate relating to such registration, provisional registration or approval or, in the case referred to in paragraph (d), the permit to teach or a copy of the permit to teach issued in respect of the permitted teacher, shall within one month after being required to do so by the Director deliver such document to the Director.

72. (1) If the registration or provisional registration of a school has been cancelled under section 22 or subsection (6) of section 69, or is suspended under subsection (3) of section 69, no person who has at any time been a manager, teacher or pupil of the school shall enter or remain in any premises—

- (a) in which the school was operated; and
- (b) which are being used for the purposes of a school, without the permission in writing of the Director.

(2) No person shall, without the permission in writing of the Director, enter or remain in any school—

- (a) if at any time—
  - (i) he has been refused approval to be a manager, or having been so approved has had such approval withdrawn;
  - (ii) he has been refused registration as a manager or a teacher, or having been so registered has had his registration cancelled;
  - (iii) a permit to teach has been refused in respect of such person;
  - (iv) he has been a permitted teacher in respect of whom a permit to teach has been cancelled; or
  - (v) he has been refused approval as the supervisor of principal of a school, or having been so approved has had such approval withdrawn; or

Return of  
invalid cer-  
tificates and  
permits.

Restrictions  
on entry  
into school  
premises.

(b) while—

- (i) his approval to be a manager;
- (ii) his registration as a teacher; or
- (iii) a permit to teach issued in respect of such person, is suspended under subsection (3) of section 69.

(3) The Director may attach to any permission given under this section such conditions as he thinks fit.

## PART VII.

### POWER OF DIRECTOR TO ORDER ATTENDANCE AT PRIMARY SCHOOL.

73. In this Part—

“attendance order” means an order made under section 74;

“board” means the board of review established under section 75;

“child” means a child who has attained the age of six years but not the age of twelve years;

“parent” in relation to any child includes a guardian and the person having the actual custody of the child.

74. (1) Where it appears to the Director that a parent of a child is withholding the child from attending primary school without any reasonable excuse, the Director may, after making such inquiries as he considers necessary, serve upon a parent an attendance order in the prescribed form requiring him to cause the child to attend regularly as a pupil the primary school named in the attendance order.

(2) The Director may at any time, by notice in writing serve upon a parent of the child to whom an attendance order relates—

- (a) vary the order by substituting another primary school for that named in the order;
- (b) otherwise vary or withdraw the order,

and any variation of an attendance order shall take effect on the expiry of the period of fourteen days after the date of service of the notice in writing.

75. (1) For the purposes of this Part, there shall be a board of review, which shall consist of not less than five persons appointed by the Governor.

Interpretation  
of Part VII.

Power of  
Director  
to order  
attendance  
at primary  
school.

Board of  
review.

(2) The Governor may appoint a public officer to be the secretary of the board.

Powers of board.

76. (1) Subject to this Ordinance, the practice and procedure on a review by the board shall be such as the board may determine.

(2) For the purposes of a review the board shall have the following powers—

- (a) to hear and examine witnesses on oath; and
- (b) to summon any person to attend any hearing of the board to give evidence or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession.

(3) A witness summons shall be in such form as the chairman of the board shall direct and shall be signed by the chairman.

(4) Any person who, being summoned to attend as a witness or to produce any document or any other thing at a hearing of the board, refuses or neglects to do so or to answer any questions put to him by or with the concurrence of the board shall be guilty of an offence and shall be liable on conviction to a fine of five hundred dollars and to imprisonment for three months:

Provided that no person shall be bound to incriminate himself and every witness shall in respect of any evidence given by him before the board be entitled to the privileges to which he would be entitled if giving evidence before a court of justice.

(5) Any person—

- (a) who behaves in an insulting manner or uses any threatening or insulting expression to or in the presence of the board; or
- (b) wilfully disrupts the proceedings of the board,

shall be guilty of an offence and shall be liable on conviction to a fine of five hundred dollars and to imprisonment for three months.

Review by board.

77. (1) A parent aggrieved by—

- (a) an attendance order; or
- (b) any variation of an attendance order,

may within fourteen days of the date of the order or the notice in writing apply to the board for a review.

(2) An application under subsection (1) may be oral or in writing.

(3) Upon a review the board may either—

- (a) confirm the attendance order or the variation; or
  - (b) cancel the attendance order or the variation.
- (4) The decision of the board shall be final.

(5) The secretary of the board shall notify the parent of the decision of the board.

78. Any parent who without reasonable excuse fails to comply with an attendance order (as the same may be varied from time to time) shall be guilty of an offence and shall be liable on conviction to a fine of five hundred dollars and to imprisonment for three months:

Enforcement of order.

Provided that—

- (a) if an application for a review of an attendance order is made, no offence shall be committed until after the secretary of the board has notified the parent under subsection (5) of section 77 of the decision on the review;
- (b) if an application for a review of any variation of an attendance order is made, no offence shall be committed, by reason of a failure to comply with the variation, until after the secretary of the board has notified the parent under subsection (5) of section 77 of the decision on the review.

## PART VIII.

### INSPECTION OF SCHOOLS.

79. The Governor may by notice in the *Gazette* appoint by name or office—

Appointment of inspectors.

- (a) any officer of the Education Department to be an inspector of schools;
- (b) any Government medical officer to be a medical officer of schools; and
- (c) any health inspector to be a health inspector of schools.

80. The Director and any inspector of schools may inspect any school for the purposes of ascertaining whether this Ordinance is being complied with and whether the school is being conducted satisfactorily.

Inspection of schools.

Powers of inspectors.

**81.** The Director and any inspector of schools may, for the purposes of section 80—

- (a) at all reasonable times enter the premises of any school;
- (b) enter any premises in which he has reason to suspect that an offence against this Ordinance has been or is being committed;
- (c) require any manager or teacher of a school to produce any book, document or other article relating to the management of the school, or to the teaching in or any other activity of the school, or to furnish any information relating to such management, teaching or activity;
- (d) remove for further examination any book, document or other article which he has reason to suspect is evidence of the commission of an offence against this Ordinance, or is evidence of a ground for the withdrawal of the approval of any person to be a manager, or for the cancellation of the registration of any school, manager or teacher, or for the cancellation of the provisional registration of any school, or for the cancellation of any permit to teach; and
- (e) do such other things as are necessary for the inspection of a school.

Power of Director to direct remedial measures.

**82.** (1) The Director may, if it appears to him that—

- (a) a school is not being managed satisfactorily;
- (b) the education of the pupils of a school is not being promoted in a proper manner; or
- (c) any provision of this Ordinance is being or has been contravened in respect of a school,

by notice in writing give such directions as he thinks necessary in order that the school will be operated satisfactorily, or that the education of the pupils of the school will be promoted in a proper manner, or that such provision of this Ordinance will be complied with in respect of the school.

(2) Any notice under subsection (1)—

- (a) may be served on the supervisor and every other manager of the school concerned; and
- (b) may specify a period of time within which the directions shall be complied with.

Powers of Director to close school or give directions in cases of danger or misconduct.

**83.** (1) The Director may, if it appears to him that—

- (a) there is any danger or risk of danger to persons in any school premises;
- (b) the conduct of the managers, teachers or pupils of a school is or has been unsatisfactory; or
- (c) any provision of this Ordinance is being or has been contravened in respect of a school,

by order in writing served on any manager of the school—

- (i) close the school premises, or any part of the school premises, for such period as he thinks fit or until further notice;
- (ii) prohibit the use of any place for the purposes of a school for such period as he thinks fit or until further notice; or
- (iii) give such directions and make such requirements as he thinks necessary.

(2) The Director may, if any direction or requirement given or made by him under paragraph (iii) of subsection (1) has not been complied with to his satisfaction, by order in writing—

- (a) close the school premises, or any part of the school premises; or
- (b) prohibit the use of any place for the purposes of the school,

until the direction or requirement is so complied with.

(3) The Director may by order in writing close any premises of a school which is not registered or provisionally registered.

(4) The Director may, if a school is operated in any premises which are not specified in the certificate of registration or provisional registration of the school, by order in writing close such premises.

(5) An order made by the Director paragraph (i) or (ii) of subsection (1) or subsection (2), (3) or (4) shall be published in the *Gazette*.

(6) No person shall enter or remain in—

- (a) any premises or any part of any premises which have been closed by the Director under subsection (1), (2), (3) or (4); or
- (b) any place the use of which for the purposes of a school has been prohibited by the Director under subsection (1) or (2),

unless—

- (i) he is a public officer acting in the course of his duty; or
- (ii) the Director has given him permission in writing to do so.

## PART IX.

## GENERAL PROVISIONS.

Regulations.

84. (1) The Governor in Council may make regulations providing for—

- (a) the structure, hygiene and sanitation of school premises;
- (b) the precautions to be taken against fire or other peril likely to endanger the lives or health of pupils, and the authorizing of officers of the Fire Services Department to enter and inspect school premises and premises in which schools are situate and premises in the neighbourhood of schools;
- (c) the control of entrances to and exits from school premises;
- (d) the operation of schools in premises which, by reason of the loading for which they were designed and constructed, are unsuitable for the purposes of a school;
- (e) the health inspection of schools and school premises and standards of hygiene to be maintained by schools;
- (f) the medical examination of teachers and pupils and standards of medical fitness for teachers;
- (g) the temporary exclusion from any school of any teacher or pupil, and any other measures necessary or desirable to preserve; the health and well-being of teachers and pupils;
- (h) the size of school classes;
- (i) the control of instruction given by schools, including limitations on the subjects taught and the documents which may be upon school premises and which may be used by schools, and the preparation and contents of the syllabus to be used by any school or schools;
- (j) the methods and hours of instruction provided by schools;
- (k) the adequacy, suitability and use of school equipment, school laboratories and school workshops;
- (l) the control of activities of managers, teachers, pupils and other persons in schools, and of pupils' associations;
- (m) the prohibition of political, subversive or tendentious activities or propaganda in schools and amongst teachers and pupils;
- (n) the control of the use to which school premises may be put and of the persons who may enter school premises;

- (o) school holidays;
  - (p) the constitution and duties of management committees;
  - (q) the keeping of school registers, time-tables and books of account;
  - (r) the amount and methods of payment of fees and other charges made by schools and the prohibition of any further fees and charges and of any specified fees or charges;
  - (s) the amounts of inclusive fees which may be charged by schools and the notification of such fees in the *Gazette* and the prohibition or restriction of variations from such fees;
  - (t) general matters of school management;
  - (u) the duties of supervisors and principals;
  - (v) the giving by supervisors to the Director of such information concerning schools and pupils therein as may be required by the Director;
  - (w) the qualifications of registered teachers and permitted teachers, and the qualifications to be held by teachers of various classes and subjects;
  - (x) the control of salaries paid to teachers;
  - (y) discipline in schools and methods of enforcement of discipline, and the conduct and dress of teachers and pupils;
  - (z) anything which is to be prescribed under this Ordinance; and
  - (aa) the better carrying into effect of the provisions of this Ordinance in relation to any matter as to which it may be convenient to make regulations.
- (2) Any regulation made under this section may—
- (a) prohibit the performance of specified acts without the consent of the Director;
  - (b) authorize the Director to require or prohibit the performance of specified acts; and
  - (c) require specified acts to be performed to the satisfaction of the Director.
- (3) Regulations made under this section may provide that a contravention thereof shall be an offence punishable on conviction by a fine not exceeding five thousand dollars and a term of imprisonment not exceeding two years.

(4) The Director may by notice in writing to the supervisor of any school waive wholly or partly the requirements of any regulation in respect of the school.

Rules for  
provident  
funds.

**85.** (1) For the purpose of maintaining any provident fund (whether established before or after the commencement of this Ordinance) for the benefit of teachers employed by schools to which grants in aid or subsidies are made by the Government, the Governor in Council may make rules providing for—

- (a) the objects and method of control and management and investment of such fund;
- (b) the persons or classes of persons who shall be eligible for membership of such fund, and the persons or classes of persons who shall be compulsory contributors to such fund;
- (c) contributions to such fund, and the method of payment;
- (d) the method of dealing with any contribution which may be made by the Government to such fund;
- (e) the constitution of a reserve fund to meet fluctuations in the value of investments, and for the allocation to a reserve fund of any investment income of the provident fund;
- (f) the method of, conditions precedent for, and authority for withdrawals and benefits, and the permissible amount of withdrawals and benefits;
- (g) the appointment of any trustees who may be considered necessary, and the powers and duties of the trustees; and
- (h) generally for the purpose of the maintenance of such fund.

(2) Such sums as may be necessary to meet the contributions payable by the Government to any provident fund in accordance with rules made under subsection (1) shall be met from moneys provided by the Legislative Council.

(3) Subject to any rules made under subsection (1), no contribution or donation to or dividend or interest on a dividend from a provident fund shall be assignable or transferable or liable to be attached, sequestered or levied upon, for or in respect of any debt or claim whatsoever.

(4) On the death of a contributor to any provident fund, the first five thousand dollars payable out of such contributor's account in respect of his death shall be deemed to be an amount in respect of which the Accountant General, on being satisfied

of the expediency of dispensing with probate or administration, may under section 59 of the Probate and Administration Ordinance authorize payment to such person or persons as he may consider entitled thereto without requiring the production of probate or administration.

(Cap. 10.)

**86.** No person or school shall—

- (a) award a degree to a person; or
- (b) issue any document which could reasonably be taken as signifying the award of a degree to a person.

Prohibition  
of issue of  
degrees or  
documents  
resembling  
degrees.

**87.** (1) Any person who—

- (a) is an owner or a manager of or a teacher in a school which is not registered or registered provisionally;
- (b) is an owner or a manager of a school which is operated in contravention of subsection (1) of section 19;
- (c) contravenes section 27; or
- (d) obstructs—
  - (i) the Director or an inspector while the Director or inspector is carrying out an inspection of a school;
  - (ii) any manager appointed under subsection (1) of section 41 in the performance of his functions as a manager;
- (e) is an owner or a manager of a school which is operated while its registration or provisional registration is suspended under subsection (3) of section 69;
- (f) teaches in a school while its registration or provisional registration is suspended under subsection (3) of section 69;
- (g) manages a school while his registration as a manager of such school is deemed to be suspended under subsection (4) of section 69;
- (h) refuses to produce any book or document or other article or to furnish any information upon being so required under section 81, or furnishes information which is false in a material particular and which he knows or reasonably ought to know is false in such particular;
- (i) being a supervisor or any other manager of a school, fails to comply with any notice served on him under section 82;
- (j) contravenes subsection (6) of section 83; or
- (k) in or in connexion with any application under this Ordinance makes any statement or furnishes any information, whether such statement or information be verbal

Offences and  
penalties.

or written, which is false in any material particular and which he knows or reasonably ought to know is false in such particular,

shall be guilty of an offence and shall be liable on conviction to a fine of twenty-five thousand dollars and to imprisonment for two years.

- (2) Any person who—
- (a) is a member of any management committee which contravenes subsection (1) of section 38, or section 40;
  - (b) not being the supervisor of a school or a member of the management committee of a school acting under section 40, performs any function of the supervisor of the school;
  - (c) not being the principal of a school, performs any function of the principal of the school; or
  - (d) contravenes subsection (1) or (2) of section 72,

shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand dollars and to imprisonment for two years.

- (3) Any person who—
- (a) is an owner or manager of a school which is operated in any name other than its registered name;
  - (b) contravenes subsection (2) or (3) of section 18;
  - (c) contravenes subsection (2) of section 19;
  - (d) contravenes subsection (2) or (3) of section 39;
  - (e) contravenes subsection (1) or (2) of section 42;
  - (f) employs or permits any person to teach in a school in contravention of subsection (1) or (2) of section 42;
  - (g) is a member of a management committee which contravenes subsection (1) of section 53 or subsection (1) of section 57;
  - (h) teaches in a school while his registration as a teacher is suspended under subsection (3) of section 69;
  - (i) being a permitted teacher, teaches in a school while the permit to teach issued in respect of him is suspended under subsection (3) of section 69;
  - (j) employs or permits any registered teacher whose registration is suspended under subsection (3) of section 69 to teach in a school;
  - (k) employs or permits any permitted teacher to teach in a school while the permit to teach issued in respect of such teacher is suspended under subsection (3) of section 69;

- (l) contravenes section 71;
- (m) contravenes section 86; or
- (n) is an owner or a manager of a school which contravenes section 86,

shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for two years.

(4) If a registered manager of a school is charged with an offence by reason of being a member of a management committee which has contravened a provision of this Ordinance specified in paragraph (a) of subsection (2) or in paragraph (g) of subsection (3), it shall be a defence to the charge if he proves that—

- (a) the other members of the management committee contravened such provision without his knowledge or consent; or
- (b) he took all reasonable steps to prevent the other members of the management committee from contravening such provision.

**88.** In any prosecution for an offence against this Ordinance— Evidence.

- (a) if it is proved that any equipment, materials or documents of an educational nature or suitable for the purposes of a school were found at any place, it shall be presumed until the contrary is proved that a school was being operated at such place;
- (b) if it is proved that any person did any act in connexion with the organization or operation of a school, it shall be presumed until the contrary is proved that such person took part in the management of such school; and
- (c) if it is proved that any person was in charge of or issued instructions to any person under twenty-one years of age in any school premises, it shall be presumed until the contrary is proved that the first-mentioned person was teaching in that school.

**89.** (1) A magistrate may, if satisfied that—

- (a) a school which is not registered or provisionally registered is being operated in any premises; or
- (b) a school is being operated in any premises which are not specified in the certificate of registration or provisional registration of the school,

Liability of landlord and tenant of premises in which school is unlawfully operated.

order that a notice in writing of the fact shall be served on the landlord and the tenant of the premises or, if the landlord or

tenant is absent or under disability, on his attorney or agent or the rent collector of the landlord or, if the landlord or tenant is a corporation, on the secretary or manager of the corporation.

(2) A magistrate may at the request of any person on whom a notice has been served in accordance with subsection (1), make an order terminating as from the date of the order the tenancy of the premises in which the school is being operated, and on the making of the order the tenancy shall cease and determine for all purposes and any tenant or occupier (other than the landlord) may be treated as a trespasser.

(3) An order under subsection (2) shall be recognized and given effect to in any proceeding in any court.

(4) An order under subsection (2) shall be sufficient authority to any police officer to enter at any time between the hours of 9 a.m. and 5 p.m., by force if necessary, the premises in respect of which the order is made and to give possession of such premises to the landlord or his agent.

(5) The powers conferred by subsection (4) shall be in addition to and not in derogation of any power conferred by any other enactment.

(6) If, after a notice has been served in accordance with subsection (1) on any person—

- (a) a school which is not registered or provisionally registered is operated in the premises in respect of which the notice was given; or
- (b) a school is operated in the premises in respect of which the notice was given and such premises are not specified in the certificate of registration or provisional registration of the school,

the person on whom the notice has been served (and the landlord or the tenant of the premises, if the person on whom such service is made is an attorney, agent, rent collector, secretary or manager for and on behalf of the landlord or tenant) shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for two years, unless he proves to the satisfaction of the magistrate—

- (a) that a request has been made to a magistrate for an order under subsection (2); or
- (b) that he did not know and had no reasonable means of knowing that a school was being so operated on the premises.

(7) A person shall not be guilty of an offence under subsection (6) unless a reasonable time has elapsed, following the service of the notice in accordance with subsection (1) on him, during which a request could have been made to a magistrate for an order under subsection (2).

(8) In this section—

“landlord” includes the holder of any lease or tenancy who has sublet his holding or any part thereof;

“tenancy” includes any sub-tenancy;

“tenant” includes any sub-tenant.

90. (1) A magistrate may, if satisfied by information on oath that there is reasonable ground for suspecting that section 72 or subsection (6) of section 83 has been or is being contravened in respect of any premises or place, issue a search warrant authorizing any police officer named therein to enter at any time such premises or place and to search the premises or place and every person found therein and to remove therefrom any person who is or is reasonably suspected to be contravening section 72 or subsection (6) of section 83.

Powers of police officers to enter premises and remove suspected persons.

(2) A police officer may, if he reasonably suspects that section 72 or subsection (6) of section 83 has been or is being contravened in respect of any premises or place other than a dwellinghouse—

- (a) enter such premises or place without a warrant, if necessary by force;
- (b) search such premises or place and every person found therein; and
- (c) remove from such premises or place any person found therein who is or is reasonably suspected to be contravening section 72 or subsection (6) of section 83.

(3) Notwithstanding subsections (1) and (2), no person shall be searched under this section except by a person of the same sex.

91. (1) Where provision is made in this Ordinance for the Governor in Council or a public officer to serve a notice or to cause a notice to be served on a person, it shall be sufficient service if the notice is served—

Service of notices.

- (a) by causing it to be delivered personally to the person on whom it is to be served;
- (b) by causing it to be sent by registered post to the last known address of the person on whom it is to be served;

- (c) if the person on whom it is to be served is an owner, manager, supervisor, principal, teacher or pupil of a school, by causing it to be sent by registered post to any premises specified in the certificate of registration or provisional registration of the school, or any premises in which the school is operated; or
- (d) if the person on whom the notice is to be served is an owner, manager, supervisor, principal or teacher of a school, by causing the notice to be posted in a conspicuous place upon or in any premises specified in the certificate of registration or provisional registration of the school, or any premises in which the school is operated.
- (2) Without prejudice to the provisions of subsection (1), where a notice is to be served on a person under section 89, it shall be sufficient service if it is served by causing the notice to be posted in a conspicuous place upon the premises to which it relates.

## PART X.

### RECORDED SCHOOLS.

Application of Part X.

**92.** This Part applies only to schools which—

- (a) were in operation both on the 9th day of July 1971 and on the date of commencement of this Part;
- (b) have not been registered or provisionally registered;
- (c) have not been refused registration; and
- (d) are not exempted from the provisions of this Ordinance under section 9.

Interpretation of Part X.

**93.** In this Part—

“recorded school” means a school the existence of which has been recorded by the Director under section 95;

“request” means a request made under section 94 to the Director to record the existence of a school.

Application by school to be recorded.

**94.** (1) A manager of a school to which this Part applies may, at any time before the 31st day of March 1972, request the Director to record the existence of the school under section 95.

(2) Every request made under subsection (1) shall be—

- (a) in the prescribed form; and
- (b) accompanied by a plan, specifying dimensions, of every premises in which the school is operated.

**95.** (1) On receiving a request in accordance with section 94, the Director shall—

- (a) record the existence of the school referred to in the request; and
- (b) issue to the applicant a written statement in the prescribed form and sufficient copies of the statement so that the statement or a copy may be exhibited in each of the premises specified in the request.

(2) The statement or any copy thereof issued under subsection (1) in respect of a recorded school shall be exhibited at all times in a conspicuous place in each of the premises specified in the request to record the existence of the school.

**96.** Subject to sections 97 and 98, a recorded school and the owners, managers, teachers and pupils of the school shall be exempt from the provisions of this Ordinance other than section 3 (which deals with the interpretation of words and expressions used in this Ordinance), section 91 (which provides for the service of notices) and this Part, and shall be deemed to have been so exempted at all times prior to the date on which the existence of the school was recorded under section 95.

**97.** (1) Section 96 shall, subject to the provisions of this section and section 98, cease to apply to a recorded school and to the owners, managers, teachers and pupils of the school on the 1st day of August 1974.

(2) Notwithstanding the provisions of subsection (1), the Director may, by notice in writing to the manager of any recorded school, permit section 96 to continue to apply to the school for such period after the 1st day of August 1974 as may be stated in such notice and subject to such conditions as the Director may specify therein.

(3) Notwithstanding subsections (1) and (2), section 96 shall cease to apply to a recorded school and to the owners, managers, teachers and pupils of the school if—

- (a) the school is registered or provisionally registered;
- (b) the Director notifies any manager of the school in writing that he is of the opinion that, without his permission—
- (i) the school has been operated in any name not specified in the request as the name in which the school is operated;
- (ii) the school has been operated in any premises not specified in the request as premises in which the school was operated;

Director to record school on receipt of completed application.

Recorded school to be exempt from Ordinance.

Duration of exemption.

(iii) any person not specified in the request as an owner of the school has become an owner of the school;

(iv) any person not specified in the request as a manager of the school has become a manager of the school;

(v) the school has provided any type of education not specified in the request; or

(vi) subsection (2) of section 95 has been contravened, at any time since the date on which the existence of the school was recorded under section 95; or

(c) the Director notifies any manager of the school in writing that he is of the opinion that the school is not being managed satisfactorily or the education of the pupils is not being promoted in a proper manner.

Director may prohibit use of dangerous premises by recorded school.

**98.** (1) The Director of Fire Services or the Building Authority may, if he is of the opinion that the condition of any premises of a recorded school is such that the lives of persons using the premises are endangered, deliver a notice to that effect to the Director.

(2) On receipt of a notice under subsection (1), the Director may, by notice in writing served on any manager of the recorded school, order that the premises shall no longer be used by the school.

(3) If a notice is served on a manager of a recorded school under this section, section 96 shall cease to apply to the school, and to the owners, managers, teachers or pupils of the school, in respect of the operation of or any activity of or in connexion with the school in the premises to which the notice relates.

## PART XI.

### REPEAL, SAVING AND TRANSITIONAL PROVISIONS.

**99.** (1) The Education Ordinance is repealed.

(2) Notwithstanding the repeal of the Education Ordinance, any appointment which has been made under either of the repealed Ordinances and which was in effect immediately prior to the commencement of this Part, shall continue to have effect as if, at the date when it was made, such appointment had been made under this Ordinance.

Repeal and saving.  
(Cap. 279.)

**100.** (1) Notwithstanding the repeal of the Education Ordinance (hereinafter in this subsection referred to as Chapter 279), any application or appeal made under Chapter 279 which has not been finally determined before the commencement of this Part shall be—

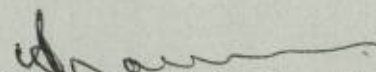
Transitional provisions.  
(Cap. 279.)

(a) determined in accordance with Chapter 279 as if this Ordinance had not been enacted; and

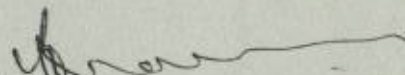
(b) deemed to have been determined under Chapter 279 immediately prior to its repeal by this Ordinance.

(2) Notwithstanding any other provision in this Ordinance, a person who was registered as a manager of a school under either of the repealed Ordinances and whose registration is in effect immediately prior to the commencement of this Part shall be deemed to have been approved to be a manager under subsection (1) of section 24 of this Ordinance on the date on which he was so registered as a manager.

Passed by the Hong Kong Legislative Council this 1st day of September, 1971.

  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

**HONG KONG**

No. 53 OF 1971.



I assent.

*Church*

Governor.

7th October, 1971.

An Ordinance to amend the Law Amendment (Miscellaneous Provisions) Ordinance, and to make consequential amendments.

[1st November, 1971.]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Law Amendment (Miscellaneous Provisions) (Amendment) Ordinance 1971 and shall come into operation on the 1st November 1971.

Short title and commencement.

2. Sections 10 and 11 of the principal Ordinance and their heading "*Mercantile Law Amendment.*" are repealed and replaced by the following—

Repeal and replacement of sections 10 and 11. (Cap. 23.)

*"Contracts and other Instruments.*

Contracts for sale, etc. of land to be in writing. 1925 c. 20, s. 40.

10. (1) No action shall be brought upon any contract for the sale or other disposition of land or any interest in land, unless the agreement upon which such action is brought, or some memorandum or note thereof, is in writing, and signed by the party to be charged or by some other person thereunto by him lawfully authorized.

(2) This section applies to contracts whether made before or after the 1st November 1971 and does not affect the law relating to part performance, or sales by the court.

Certain instruments relating to land etc. required to be in writing. 1925 c. 20, s. 53.

**11.** (1) Subject to section 12—

- (a) no interest in land can be created or disposed of except by writing signed by the person creating or conveying the same, or by his agent thereunto lawfully authorized in writing or by will, or by operation of law;
- (b) a declaration of trust respecting land or any interest therein shall be manifested and proved by some writing signed by some person who is able to declare such trust or by his will;
- (c) a disposition of an equitable interest or trust subsisting at the time of the disposition, shall be in writing signed by the person disposing of the same, or by his agent thereunto lawfully authorized in writing or by will.

(2) This section does not affect the creation or operation of resulting, implied or constructive trusts.

Creation of interest in land by parol. 1925 c. 20, s. 54.

**12.** (1) All interests in land created by parol and not put in writing and signed by the persons creating the same, or by their agents thereunto lawfully authorized in writing, have, notwithstanding any consideration having been given for the same, the force and effect of interests at will only.

(2) Nothing in section 10 or 11 or in subsection (1) of this section shall affect the creation by parol of leases taking effect in possession for a term not exceeding three years (whether or not the lessee is given power to extend the term) at the best rent which can be reasonably obtained without a fine.

Savings in regard to sections 11 and 12. 1925 c. 20, s. 55.

**13.** Nothing in section 11 or 12 shall—

- (a) invalidate dispositions by will; or
- (b) affect any interest validly created before the 1st November 1971; or
- (c) affect the right to acquire an interest in land by virtue of taking possession; or
- (d) affect the operation of the law relating to part performance.

No action against executors upon a special promise, or upon any agreement, unless agreement in writing. 1677 c. 3, s. 4.

**14.** No action shall be brought whereby to charge—

- (a) any executor or administrator upon any special promise to answer damages out of his own estate; or
- (b) any defendant upon any special promise to answer for the debt, default or miscarriage of another person; or
- (c) any person upon any agreement made upon consideration of marriage; or
- (d) any person upon any agreement that is not to be performed within the space of one year from the making thereof,

unless the agreement upon which such action is brought, or some memorandum or note thereof, is in writing, and signed by the party to be charged or some other person thereunto by him lawfully authorized.

Action not maintainable on representations of character etc. unless in writing. 1828 c. 14, s. 6.

**15.** No action shall be brought whereby to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any person, to the intent or purpose that such other person may obtain credit, money or goods thereupon, unless such representation or assurance is made in writing, signed by the party to be charged therewith.

Consideration for guarantee need not appear by writing. 1856 c. 97, s. 3.

**16.** No special promise made by any person to answer for the debt, default or miscarriage of another person, being in writing, and signed by the party charged therewith or some other person by him thereunto lawfully authorized, shall be deemed invalid to support an action, suit or other proceeding to charge the person by whom such promise has been made, by reason only that the consideration for such promise does not appear in writing or by necessary inference from a written document.

Right of surety who discharges liability to assignment of all securities held by creditor.  
1856 c. 97, s. 5.

17. (1) Every person who, being surety for the debt or duty of another or being liable with another for any debt or duty, pays such debt or performs such duty, shall be entitled to have assigned to him, or to a trustee for him, every judgment, specialty, or other security which is held by the creditor in respect of such debt or duty, whether such judgment, specialty, or other security is or is not deemed at law to have been satisfied by the payment of the debt or performance of the duty.

(2) Such person shall be entitled to stand in the place of the creditor, to use all the remedies, and, if need be and upon a proper indemnity, to use the name of the creditor, in any action or other proceeding at law or in equity, in order to obtain from the principal debtor or any co-surety, co-contractor or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person who has so paid such debt or performed such duty, and such payment or performance so made by such surety shall not be a bar to any such action or other proceeding by him.

(3) No co-surety, co-contractor, or co-debtor, shall be entitled to recover from any other co-surety, co-contractor, or co-debtor, by the means aforesaid, more than the just proportion to which, as between those parties themselves, such last mentioned person is justly liable."

Repeal and replacement of section 25.

3. Section 25 of the principal Ordinance and its heading "*Execution of Instruments under Seal by Foreign Corporations.*" are repealed and replaced by the following—

*"Instruments under Seal by Foreign Corporations.*

Validity of instruments under seal executed by persons not appointed under seal.

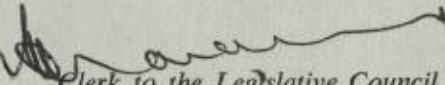
25. The fact that a power of attorney or document of authorization given by a foreign corporation to or in favour of any person is not under seal shall not, if such power of attorney or document of authorization is valid as a power of attorney or document of authorization in accordance with the laws of the state under which such corporation is incorporated, affect, for any purpose intended to be effected within Hong Kong, the validity or effect of any instrument under seal executed on behalf of such corporation by such person, which shall for all such purposes be as valid as if such authority had been under seal.

(2) In this section, "foreign corporation" means any corporate body duly incorporated in accordance with the laws of any foreign state, and "foreign state" does not include any British protectorate."

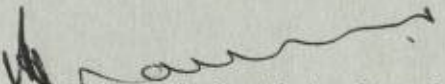
4. The Schedule to the Application of English Law Ordinance is amended by deleting items 16 and 55.

Amendment of Cap. 88.

Passed by the Hong Kong Legislative Council this 6th day of October, 1971.

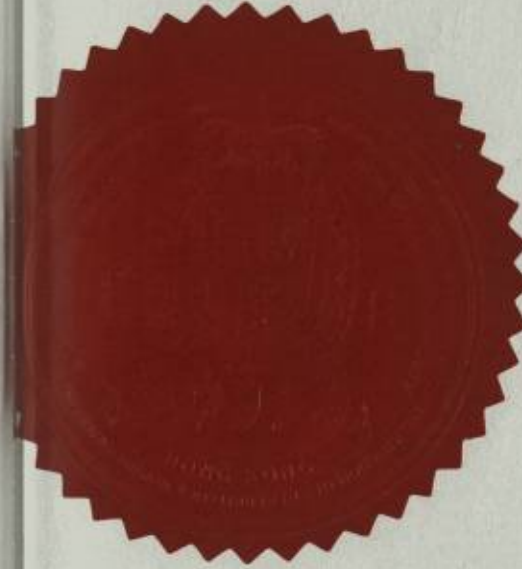
  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

**HONG KONG**

NO. 54 OF 1971.



I assent.

*Church*

*Governor.*

*7th October, 1971.*

An Ordinance to amend the Tramway Ordinance.

[8th October, 1971.]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Tramway (Amendment) Ordinance 1971.

Short title.

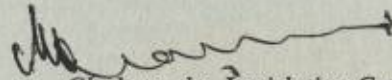
2. Section 49 of the principal Ordinance is amended by adding after subsection (2) the following new subsections—

Amendment of section 49. (Cap. 107.)


“(3) The Legislative Council may, by resolution, amend the rate of royalty specified in subsection (1) payable by the Company for any calendar year and any resolution under this subsection may have retrospective effect to the 1st day of January of the year in which the resolution is passed.

(4) Notwithstanding subsections (1) and (3) no royalty shall be payable by the Company for the year commencing on the 1st day of January 1971.”

Passed by the Hong Kong Legislative Council this 6th day of October, 1971.

  
Clerk to the Legislative Council.


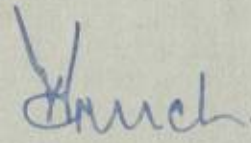
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

**HONG KONG**

No. 55 of 1971.

I assent.

  
  
Governor.

14th October, 1971.

An Ordinance to consolidate and amend the law relating to immigration and deportation.

[ ]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

**PART I.**

**PRELIMINARY.**

1. This Ordinance may be cited as the Immigration Ordinance 1971, and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*. Short title and commencement.

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

“alien” means a person who is not a British subject, a British protected person or a citizen of the Republic of Ireland;

“approved immigration anchorage” means a place designated as an approved immigration anchorage by order under section 60;

"approved landing place" means a place designated as an approved landing place by order under section 60;

(1948, c. 56.)

"British protected person" has the same meaning as it has in the British Nationality Act 1948;

"British subject by naturalization in Hong Kong" means—

(a) in relation to a person naturalized after the commencement of the British Nationality Act 1948, a British subject to whom a certificate of naturalization has been granted by the Governor; and

(b) in relation to a person naturalized before the commencement of that Act—

(1914, c. 17.)

(i) a British subject to whom a certificate of naturalization was granted by the Government under section 8 of the British Nationality and Status of Aliens Act 1914; and

(ii) a British subject who became such by reason of the fact that his name was included under section 5 of the British Nationality and Status of Aliens Act 1914 in a certificate of naturalization granted by the Government;

"captain" means master (of a ship) and commander (of an aircraft);

"child" means a legitimate or legitimated child, a stepchild and a child adopted in a manner recognized by law;

"Chinese resident" means an immigrant who—

(a) is wholly or partly of Chinese race; and

(b) has at any time been ordinarily resident in Hong Kong for a continuous period of not less than seven years;

"crew", in relation to a ship or aircraft, means all persons actually employed in the working or service of the ship or aircraft, including the captain, and "member of the crew" shall be construed accordingly;

"deportation order" means an order under section 20;

"detention warrant" means a warrant issued under section 29(1) or (2);

"Director" means the Director of Immigration, the Deputy Director of Immigration and any assistant director of immigration;

"empowered" means empowered by or under this Ordinance;

"entry permit" means an entry permit issued under this Ordinance;

"examination" includes a further examination under section 4(1), and "examine" shall be construed accordingly;

"Hong Kong believer" means—

(a) a British subject who was born in Hong Kong;

(b) a British subject by naturalization in Hong Kong;

(c) a British subject by registration in Hong Kong under section 7(2) of the British Nationality Act 1948;

(d) a British subject who is or has been married to, or is the child of, a person mentioned in paragraph (a), (b) or (c);

"identity card" means a card of identity issued under the Registration of Persons Ordinance; (Cap. 177.)

"immigrant" means a person who is not a Hong Kong believer;

"immigration officer" means any member of the Immigration Service of or above the rank of assistant immigration officer;

"land" means—

(a) enter by land or disembark from a ship or aircraft; and

(b) in the case of a person who arrives in Hong Kong otherwise than by land or in a ship or aircraft, land in Hong Kong;

"limit of stay" means a condition of stay limiting the period during which a person may remain in Hong Kong;

"owner", in relation to a ship or aircraft, includes any charterer to whom the ship or aircraft is demised;

"passenger" means any person carried in a ship or aircraft other than a member of the crew;

"re-entry permit" means a re-entry permit issued under this Ordinance;

"removal order" means an order under section 19(1);

"resident United Kingdom believer" means a United Kingdom believer who has at any time been ordinarily resident in Hong Kong for a continuous period of not less than seven years;

"serviceman" means a person, not being locally engaged, who is a serving member of Her Majesty's regular naval, military or air force service;

"specified country" means a country or territory—

(a) of which a person who is to be removed from Hong Kong is a national or a citizen;

(b) in which that person has obtained a travel document;

(c) in which that person embarked for Hong Kong; or

(d) to which an immigration officer has reason to believe that that person will be admitted;

"travel document" means a passport furnished with a photograph of the holder, or some other document establishing to the satisfaction of an immigration officer the identity and nationality of the holder;

"United Kingdom believer" means a person who is a citizen of the United Kingdom and Colonies by reason of his birth, adoption, naturalization or registration in the United Kingdom and the wife and child of any such person.

(2) References in this Ordinance to landing in Hong Kong unlawfully are references to landing in or entering Hong Kong in contravention of this Ordinance, the repealed Immigration (Control and Offences) Ordinance or the repealed Immigrants Control Ordinance.

(3) References in this Ordinance to an offence under this Ordinance include references to an offence under section 90(1) of the Criminal Procedure Ordinance where the arrestable offence which a person has committed is an offence under this Ordinance.

(4) For the purposes of this Ordinance, a person shall not be treated as ordinarily resident in Hong Kong—

- (a) during any period after the commencement of this Ordinance in which he remains in Hong Kong—
  - (i) without the authority of the Director, after landing unlawfully; or
  - (ii) in contravention of a limit of stay; or
- (b) during any period, whether before or after the commencement of this Ordinance, of imprisonment or detention pursuant to the sentence or order of any court.

## PART II.

### IMMIGRATION PROCEDURE.

3. (1) Subject to subsections (2) and (6), the captain of a ship shall, on the arrival of the ship in Hong Kong—

- (a) anchor or moor the ship at an approved immigration anchorage and keep the ship in such anchorage as long as may be necessary for the purposes of this Ordinance; and
- (b) hoist the prescribed immigration examination signal and keep the same hoisted until an immigration officer permits him to lower it.

(2) An immigration officer may, on the arrival of a ship in Hong Kong, require the captain—

- (a) to anchor or moor the ship at such place as he may specify, being a place at which the captain considers that the ship may safely be moored or anchored;

(Cap. 221.)

Arriving ships and aircraft.

- (b) to keep the ship in such place so long as may be necessary for the purposes of this Ordinance,

but a requirement under this subsection shall cease to have effect if the captain is required by or under any other Ordinance to move the ship to another place.

(3) Except with the permission of the Director, no person other than a pilot or health officer in the course of his duty shall—

- (a) board or leave a ship which has arrived in Hong Kong; or
- (b) be within thirty yards of any such ship, otherwise than on a wharf or pier,

until the immigration examination signal is lowered.

(4) Except with the permission of the Director, nothing shall be removed from or taken or placed on board a ship which has arrived in Hong Kong until the immigration examination signal is lowered.

(5) The captain of an aircraft arriving in Hong Kong shall not land the aircraft except at an approved landing place.

(6) The Director of Immigration may exempt from subsection (1) the captains of such ships, or of ships of such class or description as he thinks fit.

4. (1) For the purposes of this Ordinance, an immigration officer may—

- (a) subject to subsection (2), examine any person on his arrival in or prior to his departure from Hong Kong;
- (b) examine a person at any time if he has reasonable cause for believing that such person is committing or has committed an offence under section 38(1)(b) or section 41,

and a person who is so examined may be required by an immigration officer to submit to further examination.

(2) A person who satisfies an immigration officer that he is a serviceman shall not be examined further under subsection (1)(a) on his arrival in or prior to his departure from Hong Kong.

5. (1) The Director may require—

- (a) the owner of a ship or aircraft or his agent; or
- (b) the captain of a ship or aircraft,

Examination of persons.

Powers of Director and requirements in relation to examinations under section 4.

to produce in such manner as the Director may specify for examination under section 4(1)(a)—

- (i) the passengers arriving or departing in that ship or aircraft; and
  - (ii) the members of the crew of that ship or aircraft.
- (2) A requirement under subsection (1)—
- (a) may relate to all or any of the passengers or all or any of the members of the crew or to all or any of both;
  - (b) may be made generally for all occasions or, without prejudice to any general requirement which may be in force, for any particular occasion.
- (3) An immigration officer may require a person to proceed to such place as he may specify for the purpose of examination under section 4(1).
- (4) Any person of or over the age of sixteen years, other than a serviceman, being examined under section 4(1)(a) shall—
- (a) produce a valid travel document, entry permit or re-entry permit; and
  - (b) subject to subsection (9), furnish an arrival or departure card in the prescribed form, duly completed.
- (5) Where a person being examined under section 4(1)(a) is of or over the age of seven years and under the age of sixteen years and—
- (a) is accompanied by an adult, the adult shall—
    - (i) produce a valid travel document, entry permit or re-entry permit relating to such person; and
    - (ii) subject to subsection (9), furnish in respect of such person an arrival or departure card in the prescribed form, duly completed;
  - (b) having arrived or being about to depart in a ship or aircraft, is not accompanied by an adult, the owner of the ship or aircraft shall—
    - (i) produce a valid travel document, entry permit or re-entry permit relating to such person; and
    - (ii) subject to subsection (9), furnish in respect of such person an arrival or departure card in the prescribed form, duly completed.
- (6) An immigration officer may require any person, other than a serviceman, being examined under section 4(1) to—
- (a) declare whether or not he is in possession of any documents of any description specified by that officer, being

a description relevant for the purposes of the examination; and

- (b) produce to the officer any such documents which are in his possession.

(7) An immigration officer may require a person being examined under section 4(1) to furnish to him such information as he may require for the purposes of this Ordinance.

(8) An immigration officer may give such directions as he considers necessary for preventing any person from evading examination under section 4(1).

(9) The Director of Immigration may exempt from subsection (4)(b), (5)(a)(ii) or (5)(b)(ii) any person or any class or description of persons.

6. (1) Subject to subsection (5), the captain of a ship shall, on the arrival of the ship in Hong Kong—

- (a) furnish to an immigration officer—
  - (i) three copies of a notice containing the prescribed particulars of the crew; and
  - (ii) two copies of a notice containing the prescribed particulars of the passengers; and
- (b) if so required by an immigration officer, produce the ship's papers.

(2) Subject to subsection (5), the captain of a ship shall, immediately before the departure of the ship from Hong Kong—

- (a) furnish to an immigration officer—
  - (i) two copies of a notice containing the prescribed particulars of the crew; and
  - (ii) two copies of a notice containing the prescribed particulars of the passengers; and
- (b) if so required by an immigration officer, produce the ship's papers.

(3) An immigration officer may, on the arrival of an aircraft in Hong Kong and immediately prior to the departure of an aircraft therefrom, require the captain of the aircraft to furnish to him a notice containing the names and nationalities of the crew and a notice containing the prescribed particulars of the passengers.

(4) A passenger on board a ship or aircraft arriving in or departing from Hong Kong shall furnish to the captain of the ship or aircraft any information required by him for the purpose of furnishing a notice under this section.

Returns to be furnished by captains of ships and aircraft, etc.

(5) The Director of Immigration may exempt from this section the captains of such ships, or of ships of such class or description, as he thinks fit.

### PART III.

#### CONTROL OF IMMIGRATION.

General provision as to immigration control.

7. A person may not land in Hong Kong without the permission of an immigration officer unless—

- (a) he has the right to land in Hong Kong by virtue of section 8; or
- (b) he may land in Hong Kong without such permission by virtue of section 9(1) or section 10(1).

Right to land in Hong Kong and to remain free of conditions of stay.

8. (1) The following persons shall have the right to land in Hong Kong, that is to say—

- (a) Hong Kong belongers;
- (b) resident United Kingdom belongers but subject to section 20(6); and
- (c) Chinese residents but subject to section 20(6).

(2) A condition of stay, whenever imposed, shall have no effect in respect of a person who has the right to land in Hong Kong by virtue of subsection (1).

Special provisions as to members of crew of aircraft.

9. (1) Where a person who does not have the right to land in Hong Kong by virtue of section 8(1) arrives in Hong Kong as a member of the crew of an aircraft under an engagement requiring him to leave within seven days on that or another aircraft as a member of its crew, then unless—

- (a) a deportation order is in force in respect of him;
- (b) he has at any time been refused permission to land in Hong Kong and has not since then been given permission to land in Hong Kong; or
- (c) he is examined under section 4(1)(a) otherwise than for the purpose of establishing that he is such a member of the crew of an aircraft,

he may land in Hong Kong without the permission of an immigration officer and remain until the departure of the aircraft on which he is required by his engagement to leave.

(2) For the purposes of this Ordinance, any such person who, having lawfully landed in Hong Kong without the permission of an immigration officer by virtue of subsection (1)—

- (a) seeks permission to remain in Hong Kong beyond the time allowed by subsection (1); or

- (b) remains in Hong Kong without the permission of an immigration officer beyond the time so allowed or is reasonably suspected by an immigration officer of intending to do so,

shall thereupon be deemed to be a person seeking to land in Hong Kong; and an immigration officer may examine him under section 4(1)(a) within twenty-eight days thereafter or, if at that time he is detained in pursuance of the sentence or order of any court, within twenty-eight days after his discharge from detention.

(3) Any such person who, having lawfully landed in Hong Kong without the permission of an immigration officer by virtue of subsection (1)—

- (a) remains in Hong Kong without the permission of an immigration officer beyond the time allowed by subsection (1); and
- (b) does not submit himself to examination under section 4(1)(a) within the period during which in accordance with subsection (2) he may be examined by an immigration officer under that section,

shall on the expiry of that period be deemed for the purposes of this Ordinance to have landed in Hong Kong without the permission of an immigration officer.

10. (1) A serviceman may land in Hong Kong without the permission of an immigration officer.

Special provisions as to servicemen.

(2) For the purposes of this Ordinance, any such person who ceased to be a serviceman shall thereupon, unless he is a person who has the right to land in Hong Kong by virtue of section 8, be deemed to be a person seeking to land in Hong Kong; and an immigration officer may examine him under section 4(1)(a) within twenty-eight days after—

- (a) he ceased to be a serviceman; or
- (b) if at the time he ceased to be a serviceman he was detained in pursuance of the sentence or order of any court, his discharge from detention.

(3) Any such person who does not submit himself to examination under section 4(1)(a) within the period during which in accordance with subsection (2) he may be examined by an immigration officer under that section shall on the expiry of that period be deemed for the purposes of this Ordinance to have landed in Hong Kong without the permission of an immigration officer.

Permission to land and conditions of stay.

11. (1) An immigration officer may, on the examination under section 4(1)(a) of a person who by virtue of section 7 may not land in Hong Kong without the permission of an immigration officer, give such person permission to land in Hong Kong or refuse him such permission.

(2) Where permission is given to a person to land in Hong Kong, an immigration officer may impose—

- (a) a limit of stay; and
- (b) such other conditions of stay as an immigration officer thinks fit, being conditions of stay authorized by the Director, either generally or in a particular case.

(3) Subject to subsection (9), the permission given to a person to land in Hong Kong shall be deemed to be subject to the prescribed conditions of stay in addition to any conditions of stay imposed under subsection (2).

(4) In the case of a person who is a member of a party in the charge of a responsible person, notice of any condition of stay shall be deemed to be given to such person if it is given in writing to the person in charge of the party.

(5) The Director may at any time by notice in writing to any person other than a person who has the right to land in Hong Kong by virtue of section 8(1)—

- (a) cancel any condition of stay or vary any condition of stay (other than a limit of stay) in force in respect of such person;
- (b) impose any condition of stay (other than a limit of stay) in respect of such person;
- (c) vary any limit of stay in force in respect of such person by enlarging the period during which such person may remain in Hong Kong.

(6) The Governor may at any time vary any limit of stay in force in respect of any person by curtailing the period during which such person may remain in Hong Kong, and the Director shall in writing notify such person of any such variation.

(7) The Governor may by order applying to all persons or to any class or description of persons, other than persons who have the right to land in Hong Kong by virtue of section 8(1)—

- (a) cancel or vary any condition of stay in force in respect of such persons;
- (b) impose any condition of stay (other than a limit of stay) in respect of such persons.

(8) Whenever a condition of stay is in force in respect of a person, the Director may—

- (a) require such person; or
- (b) if such person is a member of the crew of a ship or aircraft, require the captain of the ship or aircraft or the owners or agents of the ship or aircraft,

to enter into a recognizance in the prescribed form in such amount and with such number of sureties as the Director may reasonably require.

(9) The Director of Immigration may exempt any person or any class or description of persons from compliance with all or any of the prescribed conditions of stay.

12. An immigration officer may permit an immigrant who is a member of the crew of a ship and does not have the right to land in Hong Kong by virtue of section 8(1) to land in Hong Kong notwithstanding that he has not been examined under section 4(1)(a); and in any such case notice of any condition of stay imposed in respect of such person shall be deemed to have been given to that person if it is given to the captain of the ship or the owners or agents of the ship.

Special provisions as to giving of permission to land to members of ship's crew.

13. The Director may at any time authorize a person who landed in Hong Kong unlawfully to remain in Hong Kong, subject to such conditions of stay as he thinks fit, whether or not such person has been convicted of that offence, and section 11(5) and (6) shall apply in the case of any such person as it applies to a person who has been given permission to land in Hong Kong under section 11(1).

Authority for illegal immigrant to remain.

#### PART IV.

##### SUPPLY OF PARTICULARS BY ALIENS AND BY PERSONS STAYING IN HOTELS OR OTHER LODGING PLACES.

14. (1) Subject to subsection (2), an alien within Hong Kong who—

- (a) attains the age of sixteen years; or
- (b) having previously been exempted from this subsection or section 5(4)(b), (5)(a)(ii) or (5)(b)(ii) (otherwise than by reason of his age), ceases to be so exempted,

shall within one month thereafter furnish to the Director in the prescribed form the particulars required thereby.

(2) The Director of Immigration may exempt from subsection (1) any person or any class or description of persons.

Aliens to furnish particulars.

Powers to require alien to produce photographs.

15. (1) Subject to subsection (2), an immigration officer may require an alien within Hong Kong who is over the age of fifteen years to furnish the prescribed photographs of himself.

- (2) A requirement shall not be made under subsection (1)—
- (a) unless the alien has been in Hong Kong for at least fourteen days; or
  - (b) if the alien has furnished such photographs to the Director within the preceding three years.

Changes in furnished particulars.

16. (1) Subject to subsection (2), an alien who is over the age of fifteen years shall within seven days notify the Director of any change in—

- (a) any of the particulars furnished in an arrival card;
- (b) any of the particulars furnished in the prescribed form pursuant to section 14(1);
- (c) any particulars notified pursuant to this subsection; or
- (d) the address at which he resides.

(2) The Director of Immigration may exempt from subsection (1) any person or any class or description of persons.

Record of visitors to hotels, etc.

17. (1) A person over the age of fifteen years who intends to stay at any premises to which this section applies shall on arriving at the premises inform the keeper of the premises of his full name and nationality.

- (2) Any such person who is an alien shall also—
- (a) on arriving at the premises, inform the keeper of the premises of the date of his arrival in Hong Kong, the name of the ship or airline (if any) by which he arrived and his occupation; and
  - (b) on or before his departure from the premises, inform the keeper of the premises of the place to which he is going and, if he is departing from Hong Kong, of the ship or airline (if any) by which he will depart.
- (3) The keeper of any premises to which this section applies shall—
- (a) require all persons who stay at the premises to comply with their obligations under this section; and
  - (b) keep for at least twelve months a record in writing of the information given to him by any such person pursuant to this section.

(4) An immigration officer or police officer may inspect at any time the record kept by the keeper of any premises pursuant to subsection (3).

(5) Any information required by this section to be given by or to any person may be given by or to any other person acting on his behalf.

(6) This section applies to any premises, whether furnished or unfurnished, where lodging or sleeping accommodation is provided for reward.

(7) In this section—

“keeper” includes any person who receives another person to stay in premises, whether on his own behalf or on behalf of any other person;

“stay” means lodge or sleep, for one night or more, in accommodation provided for reward.

## PART V.

### POWER TO REMOVE OR DEPORT.

18. (1) Subject to subsection (2), an immigration officer may remove from Hong Kong in accordance with section 24—

- (a) a person who is refused permission to land in Hong Kong; and
- (b) a person who, having arrived in Hong Kong on board a ship in which he was a member of the crew and been given permission to land in Hong Kong subject to a condition of stay requiring him to leave Hong Kong—
  - (i) in a specified ship; or
  - (ii) within a specified period in accordance with arrangements for his repatriation,

contravenes or is reasonably suspected by an immigration officer of intending to contravene that condition.

(2) A person who is refused permission to land in Hong Kong may not be removed from Hong Kong under subsection (1)(a) after the expiry of two months beginning with the date on which he was refused such permission.

19. (1) Subject to subsection (2), the Governor may make a removal order against a person, requiring him to leave Hong Kong, if it appears to the Governor that such person is—

- (a) a person who might have been removed from Hong Kong under section 18(1) if the time limited by section 18(2) had not passed;

Removal of persons refused permission to land and of members of ship's crew who contravene certain conditions of stay.

Power of Governor to order removal.

- (b) a person who has committed or is committing an offence under section 38(1) or section 41, whether or not he has been convicted of that offence; or
- (c) an undesirable immigrant who has been ordinarily resident in Hong Kong for less than three years.

(2) A removal order shall not be made under subsection (1)(b) against a person who has the right to land in Hong Kong by virtue of section 8(1).

(3) A removal order shall not be made under subsection (1)(c) against an immigrant who is a United Kingdom believer except after consideration by the Governor of the report of a Deportation Tribunal under section 23, unless the Governor certifies that the departure of the immigrant from Hong Kong is necessary in the interest of the security of Hong Kong or for political reasons affecting the relations of Her Majesty's Government in the United Kingdom with another country.

(4) A removal order made against a person shall invalidate any permission or authority to land or remain in Hong Kong given to that person before the order is made or while it is in force.

Power to  
deport.

20. (1) The Governor in Council may make a deportation order against an immigrant, other than a Chinese resident, a United Kingdom believer or a resident United Kingdom believer, if—

- (a) the immigrant has been found guilty in Hong Kong of an offence punishable with imprisonment for not less than two years; or
- (b) the Governor in Council deems it to be conducive to the public good.

(2) Subject to subsection (3), the Governor in Council may make a deportation order against a Chinese resident or a United Kingdom believer, other than a resident United Kingdom believer, if—

- (a) such person has been found guilty in Hong Kong of an offence punishable with imprisonment for not less than two years; or
- (b) the Governor in Council deems it to be conducive to the public good.

(3) The Governor in Council shall not make a deportation order against a Chinese resident or a United Kingdom believer under subsection (2) except—

- (a) on the recommendation of a court under section 21;

- (b) after consideration of the report of a Deportation Tribunal under section 23; or
- (c) where the Governor certifies that the case concerns the security of Hong Kong or the relations of Her Majesty's Government in the United Kingdom with another country.

(4) The Governor in Council may make a deportation order against a resident United Kingdom believer if the Governor in Council deems it to be conducive to the public good on the ground that the departure of such person from Hong Kong is necessary in the interest of the security of Hong Kong or for political reasons affecting the relations of Her Majesty's Government in the United Kingdom with another country.

(5) A deportation order shall require the person against whom it is made to leave Hong Kong and shall prohibit him from being in Hong Kong at any time thereafter or during such period as may be specified in the order.

(6) If a deportation order is in force against a person who has the right to land in Hong Kong by virtue of section 8(1), such right shall cease while the deportation order is in force.

(7) A deportation order made against a person shall invalidate any permission or authority to land or remain in Hong Kong given to that person before the order is made or while it is in force.

(8) For the purposes of this section and section 21, the question whether an offence is one for which a person is punishable with imprisonment shall be determined without regard to any Ordinance restricting the imprisonment of young offenders.

21. (1) Where an adult United Kingdom believer who is liable to deportation under section 20(2) or an adult Chinese resident has been found guilty of an offence punishable with imprisonment for not less than two years, any court having power to sentence him for that offence may recommend that a deportation order be made against him.

Recommendation by court for deportation.

(2) A court shall not recommend that a deportation order be made against a person unless that person has been given not less than seven days notice in writing stating that such person will be given an opportunity to make to the court representations with respect to the making of such a recommendation; and, for the purpose of enabling a notice to be given under this subsection or, if a notice was given less than seven days previously, for the purpose of enabling the required seven days to elapse, the court

may adjourn the proceedings and, if such person is not detained pursuant to the sentence or order of any court, may remand such person in custody.

(3) In determining whether or not to recommend that a deportation order be made against any person, a court shall have regard to any representations which may be made by or on behalf of such person and in particular to any evidence which such person may adduce as to his character or circumstances.

(4) Notwithstanding any rule of practice restricting the matters which ought to be taken into account in dealing with an offender who is sentenced to imprisonment, a recommendation for deportation may be made in respect of an offender who is sentenced to imprisonment for life.

(5) A recommendation that a deportation order be made against a person shall be treated as a sentence for the purpose of any Ordinance providing an appeal against sentence; and where a court recommends or purports to recommend that a deportation order be made against a person, the validity of the recommendation shall not be called in question except on an appeal against the recommendation or the finding of guilty on which it was made.

(6) A deportation order shall not be made on the recommendation of a court so long as an appeal or further appeal is pending against the recommendation or against the finding of guilty on which it was made; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiry of the time for bringing that appeal.

(7) A person shall be treated as an adult for the purposes of this section if he is of or over the age of sixteen years.

22. (1) Where it is proposed that—

- (a) a removal order should be made under section 19(1)(c) against an immigrant who is a United Kingdom believer; or
- (b) a deportation order should be made against a United Kingdom believer or a Chinese resident,

and the Governor has not certified that the departure from Hong Kong of such person is necessary in the interest of the security of Hong Kong or for political reasons affecting the relations of Her Majesty's Government in the United Kingdom with another

Appointment  
of Deportation  
Tribunal.

country, the Chief Justice shall, on application by the Attorney General, appoint a Deportation Tribunal to hold an inquiry under section 23.

(2) Every Deportation Tribunal shall consist of a judge or a district judge, who shall be the president of the Tribunal, and two other members selected by the Chief Justice from the panel appointed under subsection (3).

(3) The Governor may appoint such person as he thinks fit to be members of a panel for the purposes of this section.

23. (1) A person in whose case a Deportation Tribunal is to hold an inquiry under this section shall, not less than seven days before the day appointed for the holding of the inquiry, be served with a notice in writing—

- (a) notifying him that a Deportation Tribunal is to hold such inquiry and of the day on which it will be held; and
- (b) containing a statement of the ground on which it is proposed that a removal order or a deportation order should be made.

(2) Every inquiry under this section shall be held in chambers and the practice and procedure on the inquiry shall be such as may be prescribed.

(3) The Deportation Tribunal shall, after inquiry in accordance with this section, make a report to the Governor setting out its findings of fact and, if it sees fit, stating whether or not in its opinion a removal order or a deportation order should be made.

## PART VI.

### SUPPLEMENTARY PROVISIONS AS TO REMOVAL AND DEPORTATION.

24. (1) Where a person is to be removed from Hong Kong under section 18 in a ship or aircraft, an immigration officer may give directions—

- (a) to the captain of the ship or aircraft in which that person arrived in Hong Kong requiring him to remove that person from Hong Kong in that ship or aircraft;
- (b) to the owners or agents of the ship or aircraft in which that person arrived in Hong Kong requiring them to remove that person from Hong Kong in any ship or aircraft specified or indicated in the directions, being a ship or aircraft of which they are the owners or agents;

Inquiry by  
Deportation  
Tribunal.

Removal by  
immigration  
officer under  
section 18.

- (c) to the said owners or agents requiring them to make arrangements for the removal of that person from Hong Kong in any ship or aircraft specified or indicated in the directions to a specified country;
- (d) to the owners or agents of any ship or aircraft requiring them to make arrangements for the removal of that person from Hong Kong in any ship or aircraft specified or indicated in the directions to a specified country, notwithstanding that such person did not arrive in Hong Kong in a ship or aircraft of which they are the owners or agents or in any ship or aircraft.
- (2) A person in respect of whom directions are given under subsection (1) may be placed under the authority of an immigration officer on board any ship or aircraft in which he is to be removed in accordance with the directions.
- (3) Where the ship in which a person arrived in Hong Kong is a ship not exceeding five hundred gross tons—
- (a) the captain of that ship may be required under subsection (1)(a) to remove that person from Hong Kong forthwith in that ship; and
- (b) an immigration officer may take such steps as he thinks necessary to procure the immediate departure of that ship from Hong Kong.
- (4) A person may be removed from Hong Kong under section 18 by land to a specified country; and for that purpose may be taken in the custody of an immigration officer or police officer to the place at which he is to be removed.
- (5) The expenses of or incidental to the removal from Hong Kong of a person who is removed in accordance with directions under subsection (1)(d) shall be met from moneys provided by the Legislative Council, but save as aforesaid the expenses of or incidental to the removal from Hong Kong of a person who is removed in accordance with directions under subsection (1) shall be met by the owners of the ship or aircraft.

25. (1) A person in respect of whom a removal order or a deportation order is in force may be removed from Hong Kong in accordance with this section.

(2) The Director may give directions—

- (a) to the captain of any ship or aircraft about to leave Hong Kong requiring him to remove such person from Hong Kong to a specified country;

Removal pursuant to removal order or deportation order.

- (b) to the owners or agents of any ship or aircraft requiring them to make arrangements for the removal of such person from Hong Kong in a ship or aircraft specified or indicated in the directions to any such country.
- (3) A person in respect of whom directions are given under subsection (2) may be placed under the authority of an immigration officer or police officer on board any ship or aircraft in which he is to be removed in accordance with the directions.
- (4) A person in respect of whom a removal order or a deportation order is in force may be removed by land to a specified country, and for that purpose may be taken in the custody of an immigration officer or police officer to the place at which he is to be removed.
- (5) The Colonial Secretary may apply in or towards payment of the expenses of or incidental to—
- (a) the voyage from Hong Kong of a person in respect of whom a removal order or a deportation order is in force; or
- (b) the maintenance until departure of such a person and his dependants, if any,
- any money belonging to that person; and except so far as they are paid as aforesaid the expenses of or incidental to the removal from Hong Kong of a person in respect of whom a removal order or a deportation order is in force shall be met from moneys provided by the Legislative Council.

## PART VII.

### DETENTION.

26. Without prejudice to any other provision of this Ordinance—

- (a) where any member of the Immigration Service of or above the rank of chief immigration officer or any police officer of or above the rank of assistant superintendent is satisfied—

(i) that inquiry for the purposes of this Ordinance, other than the provisions relating to deportation, is necessary in the case of any person; and

(ii) that such person may abscond if he is not detained,

such person may be detained for not more than forty-eight hours; and

Power to detain for inquiry.

- (b) where any member of the Immigration Service of or above the rank of principal immigration officer or any police officer of or above the rank of assistant commissioner of police is so satisfied, such person may be detained for not more than a further five days.

Detention pending examination and decision as to landing.

27. A person who may be examined under section 4(1)(a) or is required to submit to further examination following an examination under section 4(1)(a) may be detained under the authority of an immigration officer—

- (a) for not more than twenty-four hours pending the examination; and  
(b) for not more than a further twenty-four hours pending a decision to give or refuse him permission to land.

Detention pending determination of objection.

28. A person who has lodged an objection under section 53(1) may be detained under the authority of the Director pending the determination of the objection.

Detention for inquiry as to deportation.

29. (1) If it appears to the Governor—

- (a) that there are reasonable grounds for inquiry as to whether a person ought to be deported under section 20; and  
(b) that such person should be detained for the purposes of or during such inquiry,

he may issue a warrant in the prescribed form authorizing the detention of such person for a period of fourteen days.

(2) If it appears to the Governor that it is desirable that a person detained under a detention warrant should be further detained—

- (a) for the purposes referred to in subsection (1);  
(b) for the purpose of inquiries into activities, whether of that person or another person, which are prejudicial to the security of Hong Kong, being inquiries which in the opinion of the Governor should be conducted before the proceedings for the deportation of such person are completed; or

(c) while proceedings for his deportation are completed,

the Governor may from time to time issue further warrants in the prescribed form authorizing the detention of such person for periods of seven days.

(3) Any police officer may arrest a person in respect of whom a detention warrant is in force.

(4) The Governor may at any time direct that a person detained under a detention warrant be released.

30. Where a court has recommended that a deportation order be made against a person, and such person is not detained pursuant to the sentence or order of any court, he may, unless the court by which the recommendation is made otherwise directs, be detained for not more than twenty-eight days pending the decision of the Governor in Council as to whether or not a deportation order should be made against him.

Power to detain following recommendation of court for deportation.

31. (1) If—

- (a) a person who is in Hong Kong in contravention of a deportation order in force in respect of him is to be removed from Hong Kong under section 25; and  
(b) it appears to the Governor—

Detention of deportee for inquiries.

(i) that the continued presence of such person in Hong Kong is necessary for the time being in connexion with inquiries being carried on into activities, whether of that person or another person, which are prejudicial to the security of Hong Kong; and

(ii) that such person may abscond if he is not detained,

the Governor may issue a warrant in the prescribed form authorizing the detention of such person for a period of fourteen days.

(2) If it appears to the Governor that a person detained under a warrant issued under subsection (1) or this subsection should be further detained for such purpose, he may from time to time issue further warrants in the prescribed form authorizing the detention of such person for periods of seven days.

(3) The Governor may at any time direct that a person detained under a warrant issued under subsection (1) or subsection (2) be no longer detained thereunder.

32. (1) A person who is to be removed from Hong Kong under section 18—

- (a) may be detained until he is so removed, and may be so detained for not more than forty-eight hours under the authority of an immigration officer and thereafter under the authority of the Director; and  
(b) may, if he is on board a ship or aircraft, be removed therefrom under the authority of an immigration officer for detention under this subsection.

Detention pending removal or deportation.

(2) A person may be detained under the authority of the Colonial Secretary—

- (a) for not more than fourteen days pending the making of an application for a removal order in respect of that person; and
- (b) for not more than a further fourteen days pending the decision of the Governor as to whether or not a removal order should be made in respect of that person.

(3) A person in respect of whom a removal order or a deportation order is in force may be detained under the authority of the Colonial Secretary pending his removal from Hong Kong under section 25.

**33.** (1) The captain of a ship or aircraft shall, if so required by an immigration officer or police officer, take such steps as may be necessary for preventing—

- (a) a person who arrived in the ship or aircraft and has been refused permission to land in Hong Kong; or
- (b) a person placed on board the ship or aircraft under section 24(2) or section 25(3),

from landing from the ship or aircraft before it leaves Hong Kong.

(2) For the purpose of preventing any such person from landing from the ship or aircraft, the captain of the ship or aircraft may detain that person in custody on board the ship or aircraft.

**34.** A person who is arrested under section 54(3) may be detained—

- (a) by any police officer for the purpose of inquiries for not more than forty-eight hours; and
- (b) under the authority of the Colonial Secretary for not more than a further twenty-eight days pending the decision of the Governor in Council as to whether or not the suspension of the deportation order made against him should be rescinded.

**35.** (1) Save as otherwise provided in this Ordinance, persons required or authorized to be detained by or under this Ordinance may be detained in such places as the Governor may by order direct; and the Governor may by order provide for the treatment of persons so detained.

(2) The Governor may direct that—

- (a) a person required or authorized to be detained by or under this Ordinance; or

Detention of persons on board ships or aircraft.

Detention of person arrested under section 54(3).

General provisions as to detained persons.

- (b) persons of such class or description as he may specify, being persons required or authorized to be detained by or under this Ordinance,

may be detained in such other place as he may specify, and—

- (i) a person in respect of whom such a direction has been given; or
- (ii) a person of any class or description in respect of which such a direction has been given,

may be detained in such place.

(3) Without prejudice to any other Ordinance—

- (a) any person detained by virtue of this Ordinance; and
- (b) any person who, being detained in pursuance of the sentence or order of a court, would otherwise be liable to be detained by virtue of this Ordinance,

may be taken in the custody of an immigration officer or police officer to and from any place where his attendance is required for any purpose of this Ordinance.

(4) Any person required or authorized to be detained by or under this Ordinance may be arrested without warrant by an immigration officer or police officer; and any person who is—

- (a) detained by virtue of this Ordinance;
- (b) being removed from one place in which he is detained by virtue of this Ordinance to another place in which he may be so detained; or
- (c) being taken to any place in the custody of an immigration officer or police officer in accordance with this Ordinance,

shall be deemed to be in lawful custody.

**36.** (1) An immigration officer and any police officer may require a person—

- (a) who is detained under section 27, 28, 30, 32 or 34; or
- (b) who, being liable to be detained under any of those sections, is not for the time being so detained,

to enter into a recognizance in the prescribed form in such amount and with such number of sureties as the Director or such police officer may reasonably require; and where a person who is so detained enters into such a recognizance he may be released.

(2) A person may be detained under section 27, 28, 30, 32 or 34 notwithstanding that he has entered into a recognizance pur-

Recognizance as alternative to detention.

suant to a requirement under subsection (1); and where such person is so detained otherwise than in consequence of or following a breach of the recognizance, the recognizance shall thereupon cease to have effect.

Recovery of cost of maintaining person detained under section 32(1).

37. If a person who is detained under section 32(1) pending his removal from Hong Kong under section 18 arrived in Hong Kong in a ship or aircraft, the Director of Immigration may require the owner of the ship or aircraft or his agent to pay to the Government the expense incurred by it in maintaining that person during his detention.

## PART VIII.

### OFFENCES AND FORFEITURE.

Prohibition of landing and remaining without permission, and penalty for carrying illegal immigrant.

38. (1) Subject to subsection (2), a person who—

- (a) being a person who by virtue of section 7 may not land in Hong Kong without the permission of an immigration officer, lands in Hong Kong without such permission; or
- (b) having landed in Hong Kong unlawfully, remains in Hong Kong without the authority of the Director,

shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for three years.

(2) A person may land in Hong Kong, without the permission of an immigration officer, for the purpose of examination under section 4(1)(a) in accordance with arrangements in that behalf approved by the Director, and if he submits himself forthwith to such examination shall be deemed for the purposes of subsection (1) not to have landed unless and until permission to land is granted to him.

(3) The Governor may by order provide that subsection (1) shall not apply to an immigrant who lands from a ship or aircraft in such circumstances as may be specified in the order.

(4) If a person lands from a ship in contravention of subsection (1)(a)—

- (a) the captain of the ship; and
- (b) the owner of the ship and his agent,

shall be guilty of an offence and shall be liable—

- (i) on conviction on indictment, to a fine of one hundred thousand dollars and to imprisonment for seven years; and

(ii) on summary conviction, to a fine of one hundred thousand dollars and to imprisonment for three years, unless he proves that all reasonable steps had been taken to ensure that persons did not land from the ship in contravention of subsection (1).

39. If a person on board a ship is seeking to land from the ship in contravention of section 38(1)(a), the captain of the ship shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment, to a fine of one hundred thousand dollars and to imprisonment for seven years; and
- (b) on summary conviction, to a fine of one hundred thousand dollars and to imprisonment for three years,

unless he proves that he did not know and had no reason to suspect that such person was seeking to land in contravention of section 38(1)(a).

40. If a passenger who arrives in Hong Kong in an aircraft does not have a valid travel document, the owner of the aircraft and his agent shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars.

41. Any person who contravenes a condition of stay in force in respect of him shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for two years.

42. (1) Any person who makes or causes to be made—

- (a) to an immigration officer or any other person lawfully acting under or in the execution of Part II, III or IV of this Ordinance;
- (b) in any document furnished to the Director or any other immigration officer pursuant to this Ordinance or a requirement made thereunder; or
- (c) for the purpose of obtaining, whether for himself or any other person, any travel document, entry permit or re-entry permit,

any statement or representation which he knows to be false or does not believe to be true shall be guilty of an offence.

(2) Any person who—

- (a) alters without lawful authority or forges any travel document, entry permit or re-entry permit or any document whatsoever issued, kept or made under or for the purposes of Part II, III or IV of this Ordinance;

Liability of captain of ship carrying persons seeking to land unlawfully.

Aircraft passengers arriving without valid travel document.

Breach of condition of stay.

False statements, forgery of documents and use and possession of forged documents.

- (b) uses for the purposes of Part II, III or IV of this Ordinance any forged, false or unlawfully obtained or altered travel document, entry permit, re-entry permit or other document;
- (c) has in his possession—
- (i) any forged, false or unlawfully obtained or altered travel document, entry permit or re-entry permit; or
  - (ii) any forged, false or unlawfully altered document whatsoever intended for use for the purposes of Part II, III or IV of this Ordinance,

shall be guilty of an offence.

(3) A travel document, entry permit or re-entry permit shall be deemed to be unlawfully obtained for the purposes of this section if any person made a false statement or representation for the purposes of or in connexion with an application for the issue or renewal of the same.

(4) Any person who is guilty of an offence under this section shall be liable—

- (a) on conviction on indictment, to a fine of ten thousand dollars and to imprisonment for seven years; and
  - (b) on summary conviction, to a fine of five thousand dollars and to imprisonment for two years.
- (5) In this section, "false" means false in a material particular.

Breach of deportation order, and landing from ship or aircraft in which removal to be effected.

43. (1) Subject to subsection (2), if—
- (a) any person in respect of whom a deportation order is in force is in Hong Kong in contravention of the order; or
  - (b) any person who has been placed on board a ship or aircraft under section 25(3) lands from the ship or aircraft before it leaves Hong Kong,

he shall be guilty of an offence and shall be liable—

- (i) on conviction on indictment, to imprisonment for seven years; and
  - (ii) on summary conviction, to imprisonment for three years.
- (2) A person who has not been given notice—
- (a) of a deportation order made against him;
  - (b) of the rescission of a suspension of the deportation order made against him,

shall not be guilty of an offence under subsection (1)(a).

44. Any person who without reasonable excuse knowingly contravenes—

Miscellaneous offences.

- (a) section 3(1), (3), (4) or (5), section 5(4) or (5), section 6(1), (2) or (4), section 14(1), section 16(1), section 17(1), (2) or (3) or section 33(1);
- (b) any requirement made under section 3(2), section 5(1), (3), (6) or (7), section 6(3), section 11(8) or section 15(1);
- (c) any directions given under section 5(8), section 24(1) or section 25(2); or
- (d) any condition imposed under section 13,

shall be guilty of an offence and shall be liable on conviction to a fine of twenty thousand dollars.

45. Where a person is convicted of an offence under section 44 consisting of a contravention of section 14(1) and the contravention continues after the conviction, then, unless he has a reasonable excuse for the continuance of the contravention, he shall be guilty of a further offence under section 44 and shall be liable on conviction to be punished accordingly.

Continuance of an offence.

46. A complaint may be made or an information laid in respect of an offence under this Ordinance punishable only on summary conviction within two years from the time when the matter of such complaint or information respectively arose.

Limitation of time for prosecution of summary offences.

47. (1) Where the captain of a ship not exceeding to hundred and fifty gross tons is guilty of an offence under section 38(4) or section 39, the ship shall be liable to forfeiture, whether or not the captain is convicted in respect of such offence.

Forfeiture of ships and vehicles.

- (2) Any vehicle which has been used in the commission of—
- (a) an offence under section 38(1); or
  - (b) an offence under section 90(1) of the Criminal Procedure Ordinance where the arrestable offence which a person has committed is an offence under section 38(1) of this Ordinance,

shall be liable to forfeiture, whether or not any person has been convicted in respect of such offence.

(3) Within twenty-one days of the seizure of any ship or vehicle which appears to him to be liable to forfeiture under subsection (1) or subsection (2), the Director may serve notice of such seizure on the owner of the ship or vehicle:

Provided that where there is more than one owner of a ship or vehicle it shall be sufficient for the purposes of this subsection to give notice to one of the owners.

(4) A notice under subsection (3) shall be deemed to have been duly served if—

- (a) it is delivered to the person on whom it is to be served;
- (b) it is sent by registered post addressed to such person at the place of residence or business of such person, if any, known to the Director; or
- (c) where it cannot be served in accordance with paragraph (a) or (b), the notice is exhibited in the Immigration Department in a place to which the public have access for a period of not less than seven days commencing within twenty-one days of the seizure of the ship or vehicle.

(5) Within seven days after the service under subsection (3) of a notice of seizure, notice of the seizure of the ship or vehicle shall be published—

- (a) in the *Gazette*; and
- (b) in one newspaper published in Hong Kong in the English language and in one newspaper so published in the Chinese language.

(6) Where a notice of seizure has been served under subsection (3), any person who has a claim (hereinafter referred to as the claimant) may within thirty days after—

- (a) the date of the notice, if it was served under subsection 4(a) or (b); or
- (b) the first day on which the notice was exhibited, if it was served under subsection 4(c),

give notice in writing to the Director that he claims that the ship or vehicle is not liable to forfeiture.

(7) If, on the expiry of the appropriate period of time specified in subsection (6) for the giving of a notice of claim, no such notice has been given in writing to the Director, the ship or vehicle shall be forfeited forthwith to the Crown.

(8) A person has a claim for the purposes of this section and section 48 if—

- (a) he is the owner of the ship or vehicle or the agent of the owner; or
- (b) he was in possession of the ship or vehicle at the time it was seized.

48. (1) Where a notice of claim is given under section 47(6), the Director shall apply in the prescribed form to a magistrate for the forfeiture of the ship or vehicle and shall state in the application the name and address of the claimant as specified in the notice of claim.

Determination  
of applications  
for forfeiture.

(2) When any such application is made to a magistrate, the magistrate shall issue a summons in the prescribed form to the claimant, requiring him to appear before a magistrate on the hearing of the application, and shall cause a copy of the summons to be served on the Director.

(3) If, on the hearing of an application under this section—

- (a) neither the claimant nor any other person appears before the magistrate to make a claim and the magistrate is satisfied that the summons was duly served; or
- (b) neither the claimant nor any other person satisfies the magistrate that he has a claim,

and the magistrate is satisfied that the ship or vehicle is liable to forfeiture, the magistrate shall order that the ship or vehicle be forfeited to the Crown.

(4) If, on the hearing of an application under this section—

- (a) a person satisfies the magistrate that he has a claim; and
- (b) the magistrate is satisfied that the ship or vehicle is liable to forfeiture,

the magistrate may order that the ship or vehicle be—

- (i) forfeited to the Crown; or
- (ii) delivered to the owner thereof or his agent.

(5) If, on the hearing of an application under this section, the magistrate is not satisfied that the ship or vehicle is liable to forfeiture, he shall order that it be delivered to the owner thereof or his agent.

(6) On the hearing of an application under this section—

- (a) a certified true copy of the record of the proceedings, including the decision of the court, in any proceedings in respect of the offence under section 38(1) or (4) or section 39 of this Ordinance or section 90(1) of the Criminal Procedure Ordinance shall be admissible in evidence; and

(b) a certificate purporting to be signed by the Director of Marine and—

(i) certifying that the gross tonnage of a ship does not exceed two hundred and fifty tons; or

(ii) specifying the gross tonnage of a ship,

shall be admitted in evidence on its production by or on behalf of the Director without further proof, and—

(iii) until the contrary is proved, it shall be presumed that the certificate is signed by the Director of Marine; and

(iv) such certificate shall be *prima facie* evidence of all matters contained therein.

(7) Subject to the provisions of this Ordinance, an application under this section shall be deemed for the purposes of the Magistrates Ordinance to be a complaint to which section 8 of that Ordinance applies.

(Cap. 227.)

Security in lieu of detention where application made for forfeiture of ship or vehicle.

49. (1) Where an application has been made under section 48, a magistrate may, on payment into court by way of security of a sum of money not less in amount than the value of the ship as assessed by the Director of Marine or the value of the vehicle as assessed by the Director, order that the ship or vehicle be delivered to the claimant, subject to a condition that it be re-delivered into the custody of the Director before the date of hearing of the application.

(2) If a ship or vehicle which has been delivered to a claimant under subsection (1) is not re-delivered to the Director before the date of hearing of the application under section 48, the magistrate hearing the application may, in lieu of ordering that the ship or vehicle be forfeited to the Crown, order that the money paid into court under subsection (1) be forfeited to the Crown.

(3) Save as provided in subsection (2), the magistrate hearing the application shall, at the conclusion of the proceedings, order that the amount of the money paid into court under subsection (1) shall be repaid to the person who paid it into court.

50. (1) The owner of any ship or vehicle forfeited to the Crown under section 47 or section 48 or his agent or the person by whom money forfeited to the Crown under section 49 was paid into court may within six weeks after—

(a) the ship, vehicle or money was forfeited to the Crown; or

(b) the determination of any appeal against the order for its forfeiture,

Claims for return of forfeited ships, vehicles or money.

give notice in writing to the Director of his intention to submit to the Governor a moral claim in respect of the forfeited ship, vehicle or money.

(2) Where the owner of a forfeited ship or vehicle or the person by whom forfeited money was paid into court has given notice in writing to the Director under subsection (1) and has submitted a moral claim to the Governor by lodging it with the Colonial Secretary within one month from the date of such notice, the Governor may—

(a) order the return of the forfeited ship or vehicle to the owner or his agent or the return of the forfeited money to the person by whom it was paid into court, as the case may be; or

(b) direct that the claim be referred to the Governor in Council.

(3) The Governor in Council, on considering a claim referred to him under subsection (2), may—

(a) order the return of the forfeited ship or vehicle to the owner or his agent or the return of the forfeited money to the person by whom it was paid into court, as the case may be; or

(b) reject the claim.

## PART IX.

### MISCELLANEOUS.

51. (1) The Governor may give such directions as he thinks fit (either generally or in any particular case) with respect to the exercise or performance by any public officer, not being a judge, a district judge or a magistrate, of any powers, functions or duties under this Ordinance.

Public officers to be subject to Governor's directions.

(2) Any public officer shall, in the exercise or performance of any powers, functions or duties under this Ordinance, comply with any directions given by the Governor under subsection (1).

52. (1) The Director of Immigration may give such directions as he thinks fit (either generally or in any particular case) with respect to the exercise or performance by any other immigration officer of any powers, functions or duties under this Ordinance.

Immigration officers to be subject to directions of Director of Immigration.

(2) Any immigration officer shall, in the exercise or performance of any powers, functions or duties under this Ordinance,

comply with any directions given by the Director of Immigration under subsection (1) in addition to complying with directions given by the Governor under section 51(1).

(3) Directions given under subsection (1) shall not be inconsistent with directions given by the Governor under section 51(1).

Review of  
decisions of  
public officers.

53. (1) Any person aggrieved by a decision, act or omission of any public officer taken, done or made in the exercise or performance of any powers, functions or duties under this Ordinance may by notice in writing lodged with the Colonial Secretary within the time prescribed in subsection (2) object to that decision, act or omission.

(2) An objection under subsection (1) shall be lodged within the period hereinafter specified after the person aggrieved was informed of the decision, act or omission or the same became known to him (whichever is the earlier), that is to say—

- (a) within twenty-four hours, in the case of a person who, having committed an offence under section 38(1) (whether or not he has been convicted of that offence), has been in Hong Kong in the opinion of the Director for less than ten days;
- (b) within fourteen days, in any other case.

(3) An objection under subsection (1) by a person referred to in subsection (2)(a) shall be considered by the Governor; any other objection under subsection (1) shall be considered by the Governor in Council.

(4) On consideration of an objection under subsection (1), the Governor or the Governor in Council, as the case may be, may confirm, vary or reverse the decision, act or omission of the public officer or substitute therefor such other decision or make such other order as he thinks fit.

(5) The Governor in Council may at any time of his own motion vary or reverse any decision, act or omission of any public officer taken, done or made in the exercise or performance of any powers, functions or duties under this Ordinance or substitute therefor such other decision or make such other order as he thinks fit.

(6) Nothing in this section entitles a person to object under this section to any decision, act or omission of the Governor, the Governor in Council or any court or entitles the Governor in Council to review any decision, act or omission of a court.

(7) For the removal of doubt, it is hereby declared that the lodging of an objection does not give the person by whom or on

whose behalf it is lodged any right to land or remain in Hong Kong pending the decision on the objection of the Governor or the Governor in Council.

54. (1) The Governor may suspend the deportation order made against any person on such conditions as he thinks fit, and during the continuance of the suspension the deportation order shall not be in force.

Suspension of  
deportation  
orders.

(2) The Governor in Council may rescind the suspension of a deportation order, whereupon the deportation order shall again be in force in respect of the person against whom it was made.

(3) Any police officer who has reason to suspect that a person has contravened any condition subject to which the deportation order made against that person is suspended may arrest such person.

(4) If a person who has been arrested under subsection (3) is charged with any offence, he shall be brought before a magistrate within forty-eight hours after his arrest.

55. (1) The Governor in Council may rescind the deportation order made against any person, but the rescission of the deportation order shall not affect the power of the Governor in Council to make another such order against that person.

Rescission of  
deportation  
orders.

(2) In lieu of making a police supervision order under section 3(2) of the Police Supervision Ordinance, the Governor in Council may, on rescinding the deportation order made against any person, require that person to enter into a recognizance in the prescribed form in such amount and with such sureties as the Governor in Council may specify.

(Cap. 224.)

(3) A requirement under subsection (2) shall be deemed for the purposes of the provisions of the Magistrates Ordinance relating to recognizances to be an order under section 61(1) of that Ordinance.

(Cap. 227.)

56. (1) For the purposes of this Ordinance, an immigration officer may—

Miscellaneous  
powers of  
immigration  
officers.

- (a) board and search any ship, aircraft, vehicle or train which has arrived in Hong Kong (not being a ship of war or a military aircraft);
- (b) search any person being examined under section 4(1), other than a person who has the right to land in Hong Kong by virtue of section 8(1), and any property belonging to such person or under his control;

- (c) detain for not more than seven days any document—
- (i) produced pursuant to a requirement under section 5(6)(b); or
  - (ii) found on any person searched under paragraph (b) of this subsection;
- (d) arrest and detain any person if he has reason to suspect that such person has committed an offence under this Ordinance;
- (e) seize, remove and detain any thing which may be forfeited under this Ordinance or which is or contains evidence of the commission of an offence under this Ordinance;
- (f) board and search any ship, aircraft, vehicle or train (not being a ship of war or a military aircraft), or enter and search any premises or place, if he has reason to suspect that there is therein—
- (i) any person who may be arrested under this Ordinance; or
  - (ii) any thing which may be seized under this Ordinance;
- (g) search any person who is or has been or may be arrested or detained under this Ordinance and any property belonging to him or under his control.
- (2) For the purposes of this Ordinance, any public officer may—
- (a) break open any outer or inner door of or in any premises or place which he is empowered to enter and search;
  - (b) stop and forcibly board any ship, aircraft, vehicle or train which he is empowered to board and search;
  - (c) stop any person whom he is empowered to search;
  - (d) remove by force any person or thing obstructing any arrest, boarding, entry, search, seizure, removal or detention which he is empowered to make;
  - (e) detain every person found in any premises or place which he is empowered to search until the same has been searched;
  - (f) detain every person on board any ship, aircraft, vehicle or train which he is empowered to search, and prevent any person from approaching or boarding such ship, aircraft, vehicle or train until it has been searched.

(3) No female shall be searched under this section except by a female and no person shall be searched under this section in a public place if he objects to being so searched.

(4) Where a document is detained under subsection (1)(c), the person by whom it was produced or on whom it was found shall be supplied with a photographic copy of such document if he so requests and makes payment therefor, and the copy so supplied to a person shall be made in his presence.

57. (1) Any police officer authorized in writing by the Commissioner of Police may exercise the powers conferred on an immigration officer by section 3(2), section 4(1), section 5(3), (6) or (7), section 11(1) or (2), section 18(1)(a), section 24(1)(a) or (3), section 27, section 32(1) or section 56(1).

Exercise by police officers of certain powers of immigration officer.

(2) An authorization given by the Commissioner of Police under subsection (1) may be given to a police officer by name or may be given to any police officer holding such rank or performing such duties as the Commissioner may specify, and may extend to all the powers specified in subsection (1) or to such of those powers as the Commissioner may specify.

(3) The Commissioner of Police may, after consultation with the Director of Immigration, give such directions as the Director may specify to police officers authorized under this section to exercise any of the powers of an immigration officer.

(4) A police officer shall, in the exercise of any powers which he is authorized under this section to exercise, comply with any directions given by the Commissioner of Police under subsection (3) in addition to complying with directions given by the Governor under section 51(1).

(5) Directions given under subsection (3) shall not be inconsistent with directions given by the Governor under section 51(1).

(6) In this section, "Commissioner of Police" includes any deputy commissioner of police, senior assistant commissioner of police or assistant commissioner of police.

58. (1) For the purposes of this Ordinance, the officer in command of any of Her Majesty's ships of war and any person under his command may board and search any ship, not exceeding five hundred gross tons and not being a ship of war, which is proceeding through the waters of Hong Kong.

Powers of Her Majesty's naval officers.

(2) Where the officer in command of one of Her Majesty's ships of war has reason to suspect that any ship not exceeding five hundred gross tons is being or has been used in the commis-

sion of an offence under section 38(1) or that any person on board such a ship is seeking to land in contravention of section 38(1)(a), such officer and any person under his command may—

- (a) seize the ship and detain it until it can be delivered to an immigration officer or police officer; and
- (b) detain any person found on the ship until he can be delivered into the custody of an immigration officer or police officer;
- (3) Any such officer and any person under his command may—
  - (a) stop and forcibly board any ship which he is empowered to board and search;
  - (b) remove by force any person or thing obstructing any boarding, search, seizure or detention which he is empowered to make;
  - (c) detain any person found on any ship which he is empowered to search until it has been searched.

Power to make regulations.

59. The Governor in Council may make regulations for all or any of the following purposes—

- (a) providing for any matter or thing which is to be or may be prescribed under this Ordinance;
- (b) the issue, in such form as the Director of Immigration may determine, of certificates of identity, emergency passports, entry permits, re-entry permits and other documents;
- (c) the fees payable in respect of the issue or renewal of documents issued by or on behalf of the Director of Immigration or in respect of visas or any other matters arising under this Ordinance;
- (d) generally for the better carrying out of the purposes of this Ordinance.

Designation of approved immigration anchorages and approved landing places.

60. The Governor may by order designate the places which shall be approved immigration anchorages and approved landing places for the purposes of this Ordinance.

Travel document to bear visa.

61. (1) Subject to subsection (2) and without prejudice to any other provision of this Ordinance, a travel document shall not be valid for the purposes of this Ordinance unless it bears a visa which was issued by or on behalf of the Director of Immigration and is in force on the date on which the person to whom the travel document relates arrives in Hong Kong.

(2) The Director of Immigration may exempt from subsection (1) any person or any class or description of person.

62. (1) For any of the purposes of this Ordinance, if a person who by virtue of section 7 may not land in Hong Kong without the permission of an immigration officer does not produce an identity card relating to himself when required to do so by an immigration officer or police officer, such person shall be deemed, until the contrary is proved, to have landed in Hong Kong unlawfully.

Presumptions.

(2) For any of the purposes of this Ordinance, if a person who by virtue of section 7 may not land in Hong Kong without the permission of an immigration officer is on board a ship proceeding through the waters of Hong Kong, such person shall be deemed to be seeking to land in contravention of section 38(1)(a) unless it is proved that—

- (a) he was a member of the crew of the ship;
- (b) he was ordinarily resident in Hong Kong;
- (c) he was in possession of a travel document, entry permit or re-entry permit; or
- (d) the ship was leaving Hong Kong.

63. (1) Any document purporting to be—

- (a) a removal order or a deportation order signed by the Governor or the Clerk of Councils; or
- (b) a copy of a removal order or a deportation order certified by the Colonial Secretary or the Clerk of Councils to be a true copy of the removal order or deportation order,

Evidence of certain acts under Ordinance.

shall be admitted in evidence in any proceedings on its production without further proof, and until the contrary is proved it shall be presumed that the removal order or deportation order was made against the person named and on the date specified therein.

(2) A certificate purporting to be made for the purposes of this subsection and to set out—

- (a) a requirement made in writing under section 5(1), (3) or (7), section 6(3) or section 15(1);
- (b) directions given in writing under section 5(8) or section 24(1); or
- (c) any exemption granted under section 5(9), section 11(9) or section 14(2) to any class or description of persons,

and purporting to be signed by the Director of Immigration shall be admitted in evidence in any proceedings on its production without further proof, and—

- (i) until the contrary is proved, it shall be presumed that the certificate was signed by the Director of Immigration and that the requirement was made or the directions given to the person named and on the date specified in the certificate or that the exemption was granted and was in force on the date so specified, as the case may be; and
- (ii) the certificate shall be *prima facie* evidence of the requirement, directions or exemption.

(3) A certificate purporting to be made for the purposes of this subsection and to set out directions given in writing under section 25(2) and purporting to be signed by the Director of Immigration shall be admitted in evidence in any proceedings on its production without further proof, and—

- (a) until the contrary is proved, it shall be presumed that the certificate was signed by the Director of Immigration and that the directions were given to the person named and on the date specified in the certificate; and
- (b) the certificate shall be *prima facie* evidence of the directions.

64. If—

- (a) in any proceedings for an offence under this Ordinance or in any other proceedings under this Ordinance; or
- (b) in any proceedings with reference to any act done or proposed to be done under this Ordinance,

a person claims that he—

- (i) is a Hong Kong believer;
- (ii) is not an alien;
- (iii) is a United Kingdom believer;
- (iv) is a resident United Kingdom believer;
- (v) is a Chinese resident;
- (vi) has been ordinarily resident in Hong Kong for three years or more than three years;
- (vii) is exempt from any provision of this Ordinance or belongs to a class or description of persons who are exempt from any provision of this Ordinance;
- (viii) is an alien to whom section 14(1) or section 16(1) does not apply;

Burden of proving certain matters.

(ix) is a person to whom section 38(1)(a) does not apply by virtue of an order under subsection (3) of that section, the onus of proving the same shall lie on that person.

65. Any sum of money due under a recognizance entered into in accordance with a requirement under section 11(8) or section 36(1) may be recovered in the District Court as a debt due to the Crown.

Recovery of moneys due under recognizance.

66. The Ordinances specified in the First Schedule are amended in the manner specified therein.

Repeals and amendments. First Schedule.

67. The Second Schedule shall have effect for the purposes of transition to the provisions of this Ordinance from the provisions of the Ordinances hereby repealed.

Transitional provisions. Second Schedule.

#### FIRST SCHEDULE. [s. 66.]

##### REPEALS AND AMENDMENTS.

Chapter.	Ordinance.	Repeal or amendment.
136	Mental Health Ordinance.	Section 53(2) is amended by deleting paragraph (f) and substituting the following— “(f) detained in any place by virtue of the Immigration Ordinance 1971.”.
177	Registration of Persons Regulations.	Regulation 20 is revoked.
224	Police Supervision Ordinance.	1. Section 2 is amended by inserting the following definition after the definition of “court”— ““deportation order” means a deportation order under the Immigration Ordinance 1971;” 2. Section 3 is amended by deleting subsections (1) and (2) and substituting the following— “(1) Where the Governor in Council is satisfied that a deportation order may be made against any person, he may, in lieu of making the deportation order, make a police supervision order against that person.