

"ship" means any vessel used in navigation other than a vessel propelled by oars or a junk;

"signal station" means a signal station so specified by regulations made under this Ordinance;

"tidal water" means any part of the sea or of a river within the ebb and flow of the tide at ordinary spring tides;

"tons" and "tonnage" mean tons and tonnage as calculated according to British measurement of registered tonnage;

"vessel" includes—

- (a) any ship, junk, boat, dynamically supported craft, seaplane, or any other description of vessel used in navigation; and
- (b) any other description of vessel in the waters of Hong Kong not used in navigation or not constructed or adapted for use in navigation;

"waters of Hong Kong" means all tidal waters, navigable or not, within the boundaries of Hong Kong specified in the Second Schedule to the Interpretation and General Clauses Ordinance.

(Cap. 1.)

Application.

3. (1) This Ordinance shall, except where otherwise specially provided, apply to all vessels within the waters of Hong Kong, including vessels for the time being used by the Hong Kong Government and all warships and ships for the time being used by Her Majesty's Government or the Government of any State.

(2) Nothing in this Ordinance shall derogate from the provisions of any other law.

PART II

PORT FACILITIES

Installation of Government port facilities.

4. The Director may lay, place, erect and maintain under his control in the waters of Hong Kong such port facilities as he thinks fit.

Use of port facilities.

5. (1) Subject to any other provision of this Ordinance, no person shall use a port facility otherwise than for the purpose for which it is provided.

(2) Any person who contravenes subsection (1) commits an offence and is liable to a fine of \$5,000.

Restriction on installation of private port facilities, etc.

6. (1) Subject to subsection (2), except with the written permission of the Director, no person shall lay, place, erect or maintain a port facility or any floating or other structure in the waters of Hong Kong.

(2) The Director may, by notice in the *Gazette*, specify any area of the waters of Hong Kong in which any floating or other structure specified in the notice may be laid, placed, erected or maintained without the permission of the Director.

(3) Any person who contravenes subsection (1) commits an offence and is liable to a fine of \$5,000.

(4) Without prejudice to the liability for an offence under subsection (3), the Director may give such directions as he thinks fit for the removal, moving or modification of a port facility or any floating or other structure laid, placed, erected or maintained in contravention of subsection (1).

7. (1) Any person who wilfully or negligently—

(a) removes, alters, damages, destroys, or interferes with, any aid to navigation or mooring; or

(b) makes fast to any aid to navigation,

commits an offence and is liable to a fine of \$5,000.

(2) If an offence under subsection (1) is committed by a person on or in respect of a vessel, then, in addition to that person, the owner and the master of the vessel commit an offence and each of them is liable to a fine of \$5,000.

Damage, etc., to aids to navigation.

8. (1) Where any damage is caused by a vessel to any port facility, pier, breakwater or other property owned by the Government, the owner and the master of the vessel shall, without prejudice to the liability for an offence under this Ordinance, be jointly and severally liable for any loss arising out of the damage to the extent that such loss is attributable to any fault on the part of the vessel or to any wilful or negligent act of any person on the vessel.

Liability for damage to port facilities, etc.

(2) Such loss may be recovered by the Director as a civil debt.

9. The Director may direct an owner or his agent or the master of any vessel, or any person who appears to him to be the owner or occupier of a place on land, at or from which there is exhibited a light or illuminated sign which, in the opinion of the Director—

Power to require removal of unauthorized lights and signs.

(a) obscures, restricts or interferes with, or is likely to obscure, restrict or interfere with, the functions or use of any signal station or aid to navigation;

(b) is likely to be mistaken for a light or signal proceeding from any signal station or aid to navigation; or

(c) in any way interferes with, or is likely to interfere with, the safe navigation of vessels in the waters of Hong Kong,

to remove the light or illuminated sign or to extinguish or screen it in the manner specified in the direction.

PART III

CONTROL OVER VESSELS AND PORTS

10. (1) The international regulations for preventing collisions at sea shall apply to all vessels within the waters of Hong Kong, subject to any special provision in or under this Ordinance relating to any requirement contained in such regulations.

Application of the international regulations for preventing collisions at sea.

(2) If a contravention of the international regulations for preventing collisions at sea as applied under subsection (1) is caused within the waters of Hong Kong by the wilful default of the master of a vessel, the master commits an offence and is liable to a fine of \$10,000.

[cf. 1894 c. 60, s. 419(2).]

(3) If an injury to a person or damage to property arises within the waters of Hong Kong from a contravention of the international regulations for preventing collisions at sea as applied under subsection (1), the injury or damage shall be deemed to have been caused by the wilful default of the person in charge of the deck of the vessel at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulations necessary.

[cf. 1894 c. 60, s. 419(3).]

Refusal of permission to enter or leave.

11. (1) Notwithstanding any other provision of this Ordinance, the Director may, if he is satisfied that there is reason for doing so, refuse permission for a vessel, or class, type or description of vessel, to enter or leave the waters of Hong Kong.

(2) Where a vessel is refused permission under subsection (1) to leave the waters of Hong Kong, the Director shall inform the owner or his agent or the master of the vessel of the grounds on which the permission has been refused.

(3) Where a vessel which is refused permission under subsection (1) to enter or leave the waters of Hong Kong so enters or leaves, as the case may be, the owner and the master of the vessel commit an offence and each of them is liable to a fine of \$20,000 and to imprisonment for one year.

(4) This section does not apply to any warship or other ship for the time being used by Her Majesty's Government other than for commercial purposes.

Power to detain vessels.

12. (1) Where—

- (a) a vessel is refused permission to leave the waters of Hong Kong under section 11; or
- (b) it is provided in this Ordinance that under specified conditions a vessel shall not leave any port or the waters of Hong Kong,

the Director may take such steps as are necessary to detain the vessel in such port or waters.

(2) If the Director incurs any cost in detaining a vessel under subsection (1), he may recover the cost—

- (a) as a civil debt from the owner or master of the vessel; or
- (b) under section 55 as if the cost represented port dues payable in respect of the vessel.

(3) Where any foreign vessel is detained under subsection (1), notice thereof shall be given to the consular officer for the State to which the vessel belongs, and if there is no such consular officer to the master of the vessel, and such notice shall specify the grounds on which the vessel has been detained.

Penalty for taking detained vessel to sea.

13. (1) If a vessel which is detained under section 12 proceeds to sea the master, and the owner or his agent if he is party or privy to such action, commit an offence and each of them is liable to a fine of \$50,000 and to imprisonment for 2 years.

(2) Where a vessel proceeds to sea in contravention of subsection (1) whilst having on board a public officer who is acting in the execution of his duty—

- (a) the master and the owner or his agent, in addition to committing an offence under subsection (1), commit an offence under this subsection and each of them is liable to a fine of \$20,000 and to imprisonment for 6 months, and to an additional fine of \$1,000 for each day during the period from the date on which the vessel proceeded to sea until the date on which the officer is returned to Hong Kong or, if he does not return directly to Hong Kong, would have returned if he had travelled by the quickest practicable route; and

- (b) the master and the owner and his agent shall be jointly and severally liable to pay all expenses incidental to the taking of the officer to sea and to securing his return to Hong Kong, and all such expenses may be recovered in the same manner as a fine.

14. (1) When a ship arrives within the waters of Hong Kong, the master of the ship shall allow and assist the Director to board the ship as soon as he comes alongside the ship and shall give to the Director such information as he may be required to give under this Ordinance.

Director to be allowed to board.

(2) Any master or officer of a ship who—

- (a) fails to allow, or fails to assist, the Director to board the ship; or
- (b) delays or impedes the Director from boarding the ship,

commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

15. (1) Subject to subsection (2), no vessel shall proceed to sea unless there is in relation to the vessel a valid port clearance in writing obtained in the prescribed manner.

Port clearance to be obtained before departure.

(2) Subsection (1) shall not apply—

- (a) to any warship or other ship for the time being used by Her Majesty's Government or the Government of any State for other than commercial purposes;
- (b) to any vessel for the time being used by the Hong Kong Government;
- (c) to any vessel of a class that is exempted by the Director by notice in the *Gazette* from the operation of this section;
- (d) to any vessel that is obliged to leave any port or the waters of Hong Kong due to weather conditions, or other circumstances beyond the control of its master, in the interests of safety of the vessel, its cargo, crew or passengers.

(3) If subsection (1) is contravened, the master commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

16. The Director may give to an owner or his agent or to a master of, or other person who appears to the Director to be in control over, a vessel such directions as he thinks fit in any particular case—

Power to give directions.

- (a) for controlling the vessel when entering or leaving the waters of Hong Kong;
- (b) for controlling the navigation and movement of the vessel in the waters of Hong Kong;
- (c) as to the place and manner in which the vessel shall be berthed, moored, anchored or secured;
- (d) for the removal of the vessel from any berth, mooring or anchorage to another berth, mooring or anchorage;
- (e) prohibiting the berthing, mooring or anchoring of the vessel in any particular place;
- (f) for ensuring the safety of, or preventing the outbreak of fire on, the vessel.

Ships to anchor in ports.

17. (1) Subject to subsection (2), no ship or junk shall, except with the permission of the Director, anchor at any place in the waters of Hong Kong other than in a port.

(2) Subsection (1) shall not apply where a ship or junk anchors at any place in the waters of Hong Kong, other than in a place in which anchoring is expressly restricted or prohibited under this Ordinance, because of stress of weather or other sufficient cause.

(3) If subsection (1) is contravened, the master commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

Dead ships.

18. (1) No dead ship shall, except with the permission of the Director, enter, or be brought into, the waters of Hong Kong.

(2) Subject to subsection (4), no dead ship shall, except with the written permission of the Director, be berthed, moored or anchored at any place in the waters of Hong Kong.

(3) Subject to subsection (4), no owner, agent or master of a ship which is within the waters of Hong Kong shall, except with the written permission of the Director, carry out, or cause to be carried out, any maintenance or repair work on the ship which will result in the ship becoming a dead ship.

(4) Subsections (2) and (3) do not apply to a dead ship which is drydocked or within the precincts of, or berthed or moored alongside, a dockyard.

(5) Without prejudice to section 64(5), a permission granted under this section may be withdrawn or cancelled by the Director at any time if the dead ship becomes, or is likely to become, a danger to life, other vessels, port facilities or other property.

(6) If without reasonable excuse subsection (1), (2) or (3) is contravened, the owner or his agent and the master commit an offence and each of them is liable to a fine of \$10,000 and to imprisonment for 6 months.

Laid-up vessels.

19. (1) Subject to subsection (2), no laid-up vessel shall, except with the written permission of the Director, be berthed, moored or anchored at any place in the waters of Hong Kong.

(2) Subsection (1) does not apply to a laid-up vessel which is drydocked or within the precincts of, or berthed or moored alongside, a dockyard.

(3) If without reasonable excuse subsection (1) is contravened, the owner or his agent and the master commit an offence and each of them is liable to a fine of \$10,000 and to imprisonment for 6 months.

Beaching, etc. of vessels.

20. (1) Where a vessel—

- (a) is on fire;
- (b) has suffered damage by fire, explosion or collision; or
- (c) is disabled, stranded or out of control because of damage, bad weather or mechanical failure,

the Director may, if he has reasonable grounds to believe that any of the circumstances specified in subsection (2) prevail, direct the owner or master of the vessel—

- (i) to beach the vessel;
- (ii) to take the vessel outside the limits of a port; or
- (iii) to take such other action as the Director thinks fit.

(2) The circumstances for the purposes of subsection (1) are that the vessel—

- (a) is, or is likely to become, a danger to life, other vessels, aircraft or navigation;
- (b) is causing, or is likely to cause, pollution of the waters of Hong Kong;
- (c) is causing, or is likely to cause, damage to port facilities or other property.

(3) If without reasonable excuse any direction given under subsection (1) is not complied with, the owner or master to whom the direction is given commits an offence and is liable to a fine of \$20,000 and to imprisonment for one year.

21. (1) The Director may give to an owner or master of, or other person who claims or appears to the Director to exercise control over, a vessel which is stranded, abandoned or sunk in the waters of Hong Kong such directions as he thinks fit in respect of the removal, movement, anchoring, mooring, securing, raising or destruction of the vessel.

Removal, etc. of stranded, abandoned or sunken vessels.

(2) If without reasonable excuse any direction given under subsection (1) is not complied with, the person to whom the direction is given commits an offence and is liable to a fine of \$20,000 and to imprisonment for one year.

(3) The Director may seize and detain a vessel referred to in subsection (1) together with any cargo and other things on board if—

- (a) a direction given under subsection (1) is not complied with;
- (b) after reasonable inquiry he is unable to ascertain the ownership of the vessel or to trace the owner or master of the vessel; or
- (c) no person claims or appears to the Director to exercise control over the vessel.

(4) For the purposes of seizing a vessel, cargo or other things under subsection (3), the Director may take, or cause to be taken, any action that is necessary including the employment of pilots and the use of tugs and equipment to remove, move, anchor, moor, secure or raise the vessel, cargo and other things.

(5) The Director shall publish in the *Gazette* and in one English language and one Chinese language newspaper circulating in Hong Kong a notice of a seizure effected under subsection (3) and the notice shall specify—

- (a) the names (if known to the Director) of the persons whom the Director believes to be the owner and the master of the vessel;
- (b) the name (if known to the Director) of the person whom the Director believes to be the owner or otherwise entitled to the possession of any cargo or other things on board;
- (c) a description of the vessel and the place at which it was seized;
- (d) a description of the cargo or other things on board; and

(e) a reasonable period within which and the place at which a claim shall be submitted to the Director for the release of the vessel, cargo or other things on board.

(6) If a valid claim to a vessel, cargo or other things seized under subsection (3) is submitted at any time before a notice is published under subsection (5) or within the period specified in a notice published under that subsection, the Director shall, on payment to him of all expenses involved in the seizure and custody of the vessel, cargo or other things, as the case may be, release the vessel, cargo or other things to the claimant.

(7) If the release of a vessel, cargo or other things is not obtained in pursuance of subsection (6), the Director may sell, or otherwise dispose of in such manner as he thinks fit, the vessel, cargo or other things, as the case may be, and in the case of sale the proceeds, after deducting all expenses payable under subsection (6) and any reasonable expense incurred in the sale, shall be paid to the person making a valid claim thereto within one year after the date of sale or forfeited to the Crown if not claimed within that period.

22. (1) Where the owner of a vessel which is stranded, abandoned or sunk in the waters of Hong Kong sells the vessel, or otherwise parts with the ownership of the vessel, he shall forthwith notify the Director in writing of the name and address of the new owner of the vessel.

(2) Any owner who contravenes subsection (1) commits an offence and is liable to a fine of \$10,000.

23. Where—

(a) a foreign vessel is stranded, abandoned or sunk in the waters of Hong Kong; or

(b) a foreign vessel which is stranded, abandoned or sunk near the coast of Hong Kong, or any part of such vessel or cargo or other thing belonging thereto, is brought into Hong Kong,

and the owner or master of the vessel, or the owner of the cargo or other thing, as the case may be, is not in Hong Kong—

(i) the consular officer of the country to which the vessel, or in the case of cargo or other thing to which its owner, may have belonged; or

(ii) the consular officer of that country authorized in that behalf by any treaty or arrangement with that country,

shall be deemed to be the agent of the owner of the vessel, cargo or other thing so far as relates to its custody and disposal.

PART IV

LICENSED VESSELS

24. In this Part, unless the context otherwise requires—

"certificate of competency" means a certificate of competency issued under this Part;

"crew" means the master and any other person employed or engaged in any capacity on board a vessel on the business of the vessel;

"licence", in relation to any vessel to which this Part applies, means a licence granted under the regulations made under this Part;

"master" means the person having for the time being command or charge of the vessel; but where there is no such person or the vessel is in command or charge of a person under the age of 16, the person whose name appears as the licensee in the licence granted in respect of that vessel shall be deemed to be the master thereof;

"passenger" means any person carried in a vessel other than the crew.

25. (1) Without prejudice to any other provision of this Ordinance, and subject to subsection (3) and section 35(3), this Part applies to—

- (a) any vessel regularly employed in trading, or going, within river trade limits;
- (b) any vessel employed in sea fishing;
- (c) any vessel used for pleasure purposes;
- (d) any other description of vessel, whether self-propelled or not, used in navigation solely within the waters of Hong Kong; and
- (e) any other description of vessel in the waters of Hong Kong not used in navigation or not constructed or adapted for use in navigation.

(2) This Part shall apply to a vessel specified in subsection (1) whether or not the vessel is provided with a certificate of registry or certificate of foreign registry for the purposes of the Merchant Shipping Ordinance. (Cap. 281.)

(3) This Part shall not apply to—

- (a) any trawler to which Part XII of the Merchant Shipping Ordinance applies;
- (b) any vessel which is for the time being used for any purpose by Her Majesty's Government, the Hong Kong Government or any State; and
- (c) any vessel authorized by virtue of a Passenger and Safety Certificate to carry passengers within river trade limits.

26. (1) Subject to section 35, every vessel to which this Part applies shall be licensed in accordance with the regulations made under this Part. Licensing of vessels.

(2) If subsection (1) is contravened, the owner and the master commit an offence and each of them is liable to a fine of \$10,000 and to imprisonment for 6 months.

(3) Without prejudice to the liability for an offence under this section, the Director may, in the case of—

- (a) a vessel which is not licensed, require the owner of the vessel to pay, in addition to the prescribed licence fee for the issue of a licence, the prescribed licence fees which would have become payable if the vessel had been licensed from the date the vessel has been in use without a licence;
- (b) a vessel the licence of which is not renewed from the date of expiry of the previous licence, require the owner of the vessel to pay, in addition to the prescribed licence fee for the renewal of the licence, the prescribed licence fees which would have become payable if the licence had been renewed from the date of expiry of the previous licence.

Notice of change of ownership of stranded, abandoned or sunken vessels.

Foreign vessels, etc.

Interpretation.

(4) The owner of a vessel may be required to pay the additional licence fees payable under subsection (3) in respect of a period prior to the issue or renewal of a licence whether or not he was the owner of the vessel during that entire period.

(5) The additional licence fees under subsection (3) shall not be payable in respect of—

- (a) any continuous period exceeding 6 months during which the vessel has not been in use if the owner of the vessel produces evidence to that effect to the satisfaction of the Director; or
- (b) any period during which the licence of the vessel was terminated by notice to the Director.

27. (1) No unlicensed vessel shall carry any passenger.

(2) No licensed vessel shall carry any passenger unless the conditions of its licence permit the carriage of passengers.

(3) No licensed vessel shall carry more passengers and crew than may lawfully be carried under the conditions of its licence.

(4) If without reasonable excuse subsection (1) or (2) is contravened, the owner or his agent and the master commit an offence and each of them is liable to a fine of \$50,000 and to imprisonment for 2 years, and to an additional fine of \$5,000 in respect of each passenger carried on the vessel in contravention of the subsection.

(5) If without reasonable excuse subsection (3) is contravened, the owner or his agent and the master commit an offence and each of them is liable to a fine of \$20,000 and to imprisonment for one year, and to an additional fine of \$2,000 in respect of each person carried in excess of the number that may lawfully be carried.

28. (1) Any person who places on any safety valve of a vessel a pressure greater than that allowed under the conditions of its licence, or would have been allowed if the vessel had been licensed, commits an offence and is liable to a fine of \$50,000 and to imprisonment for 2 years.

(2) Any owner or master of a vessel who permits the vessel to operate while in an unseaworthy or unsafe condition, whether by reason of overloading or from any other cause whatsoever, commits an offence and is liable to a fine of \$50,000 and to imprisonment for 2 years.

(3) Without prejudice to any other penalty, the owner or master who commits a breach of any condition of the licence commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

29. (1) The Director shall cause examinations to be conducted for the grant of certificates of competency required to be held by persons employed as masters or deck or engineering crew on vessels, and shall appoint examiners for that purpose.

(2) The Director may make rules prescribing or providing for—

- (a) the standards of competency to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the rules) by candidates for any examination conducted under subsection (1);
- (b) the procedure for and the method of conducting any such examination;
- (c) the subjects to be taken at any such examination, or the manner in which those subjects are to be specified;

Offences in relation to the carrying of passengers.

Offences in respect of vessels.

Certificates of competency for persons employed as masters, etc.

(d) fees and forms in relation to any such examination;

(e) the issue of certificates of competency to successful candidates at any such examination and the issue of copies of such certificates.

(3) The Director may publish any rules made under subsection (2) in such manner as he thinks fit, and shall, on payment of such charge as the Director may determine, provide a copy of the rules to any person.

(4) The Director may grant a certificate of competency as a master or deck or engineering crew to a person without requiring him to undergo the appropriate examination prescribed in the rules made under subsection (2) if the person produces to the Director suitable documentary evidence of competence for the grant of such a certificate of competency.

30. (1) The Director may cancel, or suspend for any period, any certificate of competency, if it is proved to his satisfaction after due inquiry that the holder of the certificate has been guilty of incompetence, misconduct or negligence in the performance of his duties.

(2) A person aggrieved by a decision of the Director under subsection (1) may, within 14 days after being informed of the decision, by notice in writing delivered to the Registrar of the Supreme Court, appeal to such judge, District Judge, or magistrate as the Chief Justice may nominate; and on hearing the appeal the judge, District Judge, or magistrate may make such order confirming, varying, or setting aside the decision of the Director as he considers just.

(3) A copy of the notice of appeal delivered under subsection (2) shall be served on the Director who shall be entitled to be heard as respondent at the hearing of the appeal.

31. (1) Any person who—

- (a) makes, assists in making or procures to be made any false representation for the purpose of procuring, either for himself or for any other person, a certificate of competency;
- (b) fraudulently uses a certificate of competency or copy of a certificate of competency which has been forged, altered, cancelled or suspended or to which he is not entitled; or
- (c) fraudulently lends his certificate of competency or allows it to be used by any other person,

commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

(2) Where a person is convicted of an offence under subsection (1) the Director may cancel, or suspend for any period, the certificate of competency in respect of which the offence is committed.

32. If, on the cancellation or suspension of a certificate of competency under section 30 or 31, the holder of the certificate, or any person in possession of it, without reasonable excuse fails to deliver it to the Director on being required by him to do so, he commits an offence and is liable to a fine of \$5,000.

33. (1) Without prejudice to the power to make regulations under section 80, and without prejudice to the application of regulations made under that section (except so far as they are inconsistent with regulations made under this section), the Governor in Council may make regulations in respect of vessels to which this Part applies for all or any of the following matters—

- (a) the regulation, control and use of vessels;

Cancellation or suspension of certificates of competency on grounds of incompetence, etc.

Offences relating to certificates of competency.

Surrender of certificates of competency.

Regulations.

- (b) the licensing of vessels and the renewal of licences, and in the case of vessels that have, contrary to the regulations made under this section, not been licensed for any period, for the payment of licence fees or penalty in respect of the period during which the vessels were not licensed;
 - (c) the cancellation or suspension of licences;
 - (d) the design and construction of vessels, the equipment required to be carried on board vessels and matters incidental thereto;
 - (e) the accommodation for passengers and crew, and means for their safety and escape;
 - (f) the life-saving appliances and fire-fighting apparatus to be provided on vessels, and the training of the crew in the use of such appliances or apparatus;
 - (g) the survey or inspection of vessels and the issue (and cancellation) of certificates of survey or inspection;
 - (h) the classification of vessels;
 - (i) the application of the international regulations for preventing collisions at sea;
 - (j) the employment on vessels of a master and deck and engineering crew who possess certificates of competency;
 - (k) the number and grade of crew to be employed on vessels;
 - (l) the engagement and discharge of crew, their conditions of employment, and their hours of work and rest periods;
 - (m) the duties of owners and crew;
 - (n) regulating the noise, vibration and smoke which may be caused by vessels;
 - (o) regulating the hiring of vessels, the carriage of passengers and the plying limits;
 - (p) empowering the Director to provide anchorages and mooring areas for vessels, and to control and regulate their use;
 - (q) the use of piers and the embarkation and disembarkation of persons;
 - (r) the inquiry into charges of incompetency, misconduct or negligence of or by masters or deck or engineering crew and prescribing the procedure at such inquiries;
 - (s) the registration of persons dwelling in any specified type or class of vessels;
 - (t) the fees and charges payable under the regulations;
 - (u) empowering the Director to amend any Schedule to the regulations;
 - (v) generally for the better carrying out of the provisions and purposes of this Part.
- (2) Any regulations made under this section may provide that a contravention of specified provisions thereof is an offence and may prescribe penalties therefor not exceeding a fine of \$20,000 and imprisonment for one year.

Recovery of
penalty by
sale of vessels.

34. (1) Where an owner or master of a vessel who is convicted of an offence under this Part or under regulations made under section 33 fails to pay any fine imposed in respect of the offence, the Director may sell the vessel in respect of which the offence was committed and apply

the proceeds in payment of the fine, and the balance (if any), after deducting any reasonable expense incurred in the sale, shall be paid to the owner of the vessel if claimed within 6 months after the date of the sale or forfeited to the Crown if not claimed within that period.

(2) Not less than 14 days before a vessel is sold under subsection (1), the Director shall give to the owner of the vessel notice in writing of the intended sale, but notice under this subsection shall not be necessary where there is no such owner or the Director is unable to find the owner.

(3) Any vessel sold under this section shall be transferred to the purchaser thereof, at the expense of the purchaser, by a bill of sale from the Director which shall confer upon such purchaser an absolute title to such vessel.

35. (1) For the avoidance of doubt, it is hereby declared that, notwithstanding the repeal, under section 81, of Parts XIII and XIV of the Merchant Shipping Ordinance, the following regulations (hereinafter referred to as the specified regulations)—

Saving of
certain
regulations.
(Cap. 281.)

(a) the Merchant Shipping (Launches and Ferry Vessels) Regulations;

(Cap. 281,
sub. leg.)

(b) the Merchant Shipping (Miscellaneous Craft) Regulations; and

(Cap. 281,
sub. leg.)

(c) the Merchant Shipping (Pleasure Vessels) Regulations,

(Cap. 281,
sub. leg.)

shall, save in so far as they are inconsistent with any of the provisions of this Ordinance or any regulations made thereunder and subject to any amendment thereof made by section 81, continue in operation until such time as they are replaced by regulations made under section 33 which are expressed to be in substitution of the specified regulations, and shall be deemed for all purposes to have been made under section 33 and to be liable to amendment thereby or thereunder.

(2) The Governor in Council may by regulation amend those provisions of the Merchant Shipping (Fees) Regulations which relate to launches, ferry vessels, miscellaneous craft and pleasure vessels.

(Cap. 281,
sub. leg.)

(3) For the purposes of this section, the vessels to which this Part applies include launches, ferry vessels, miscellaneous craft and pleasure vessels to which the specified regulations apply.

PART V

REPAIRS OR BREAKING UP OF VESSELS AND CARGO HANDLING

36. In this Part, unless the context otherwise requires—

Interpretation.

"inspector" means a person appointed under section 38 to be an inspector;

"lifting appliance" means a crane, winch, hoist, derrick boom, sheer legs, fork lift truck or other self-propelled machine, and any other description of lifting appliance, derrick and mast bands, goose-necks, eye-bolts, and all other permanent attachments to a derrick, mast or deck, used on a vessel for the purposes of hoisting or lowering in connexion with cargo handling;

"lifting gear" includes a chain sling, rope sling, canvas sling, net, tray, board, box, bull rope, snotter, can hook or other means of supporting cargo and attachments thereto including a ring, link, hook, plate, clamp, shackle, swivel, eyebolt, bridle, beam, spreader, rope and wire, used on a vessel in connexion with cargo handling;

"machinery, equipment or appliance", in the case of—

- (a) repairs to a vessel, means any machinery, equipment or appliance provided or used for that purpose;
- (b) the breaking up of a vessel, means any machinery, equipment or appliance provided or used for that purpose; and
- (c) cargo handling, means any lifting appliance or lifting gear provided or used for that purpose;

"person in charge of works" means—

- (a) the owner or master of, or other person having control over, the vessel on or to which any works are to be, or are being, carried out; or
- (b) a principal contractor or sub-contractor, if any, who contracts to carry out, or who carries out, any works;

"principal contractor" means a person who enters into a contract directly with the owner or master of, or other person having control over, the vessel to carry out any works;

"repairs", in relation to—

- (a) any vessel, means any repairs, alterations or maintenance works on or to the vessel carried out by any person other than a member of the crew or master of the vessel or that involve or are likely to involve the safety of any person other than a member of the crew or the master; and
- (b) any vessel carrying dangerous goods, means any repairs, alterations or maintenance works on or to the vessel capable of providing an ignition source, including those that involve welding, burning or the use of blow lamps, braziers or other devices using combustible materials;

"sub-contractor" means—

- (a) any person who enters into a contract, express or implied, with a principal contractor to perform all or any part of the works which the principal contractor has contracted to perform; and
- (b) any other person who enters into a contract, express or implied, to perform all or any part of the works which a sub-contractor within the meaning of paragraph (a) has contracted to perform;

"works" means—

- (a) repairs to any vessel;
- (b) the breaking up of a vessel; or
- (c) cargo handling on a vessel.

Application.

37. (1) Subject to subsection (2), this Part shall not apply to repairs to, or the breaking up of, a vessel which is—

- (a) 50 metres or less in length;
- (b) in a dock other than a floating dock; or
- (c) on a slip or mechanical lift.

(2) The Director may, in the case of any vessel referred to in subsection (1)(a), give written notification to the person in charge of works that this Part applies to that vessel.

Appointment of inspectors.

38. The Director shall appoint such persons as he thinks fit to be inspectors for the purposes of this Part.

39. (1) The Director and an inspector shall have power—

Powers of Director and inspectors.

- (a) at any reasonable time (or, in a situation which in the opinion of the Director or an inspector is or may be dangerous, at any time) to board any vessel within the waters of Hong Kong which he has reason to believe it is necessary to board for the purposes of this Part, and for the purpose of boarding any such vessel which is floating alongside any premises at a seawall or pier, to enter such premises;
- (b) to take with him such persons as may be necessary to assist him in the exercise of his powers, or performance of his duties, under this Part;
- (c) to inspect and examine any vessel on or to which any works are being carried out;
- (d) to make such examination and inquiry as may be necessary to ascertain that safe working conditions obtain and that the provisions of this Part are complied with;
- (e) to investigate any accident involving any works or injury to any person arising out of or in the course of carrying out any works;
- (f) to require the production of any register, certificate or other document required to be kept in pursuance of this Part and to inspect and copy any of them or any entry in them; and
- (g) to require the posting of any notice in pursuance of this Part or any notice related to works, machinery, equipment or appliances, or the safety of persons employed in carrying out any works.

(2) An owner or master of, or other person having control over, a vessel shall furnish such safe means required by the Director or an inspector as are necessary for the purposes of boarding, inspection, examination, investigation, or otherwise for the exercise of his powers under this Part.

(3) Any person who—

- (a) without reasonable excuse fails to comply with any requirement of the Director or an inspector in pursuance of this section;
- (b) without reasonable excuse fails to produce any register, certificate or other document which he is required in pursuance of this Part to produce;
- (c) without reasonable excuse withholds any information as to who is the owner or master of, or person having control over, the vessel, or the owner of any machinery, equipment or appliance provided or used for the carrying out of any works,

commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

40. (1) Subject to subsection (2), no owner or master of, or other person having control over, a vessel shall, except with the written permission of the Director, carry out, or cause to be carried out, any repairs to, or break up, the vessel.

Restriction on carrying out repairs or breaking up of vessels.

(2) The Director may by notice in the *Gazette* specify any type of repairs to a vessel in respect of which permission under subsection (1) is not required.

(3) Any person who without reasonable excuse contravenes subsection (1) commits an offence and is liable to a fine of \$50,000 and to imprisonment for 2 years.

Safe atmosphere.

41. (1) Where a vessel is being repaired or broken up, the person in charge of works shall not—

- (a) provide or use, or cause to be provided or used, any machinery, equipment or appliance that is capable of providing an ignition source; or
- (b) carry out, or cause to be carried out, any works that involve welding or burning, the use of blow lamps, braziers or other devices using combustible materials,

in an atmosphere containing flammable vapours, flammable gases or explosive dusts.

(2) A person in charge of works who contravenes subsection (1) commits an offence and is liable to a fine of \$20,000 and to imprisonment for one year.

Directions regarding repairs or breaking up of vessels.

42. (1) The Director may direct any person who, in the opinion of the Director, is the owner or master of a vessel, or who claims or appears to the Director to exercise control over a vessel, that is to be repaired or broken up or is being repaired or broken up, or who is in charge of the repairs or the breaking up of a vessel—

- (a) to remove the vessel to a position or place within the waters of Hong Kong specified by the Director;
- (b) to comply with such safety requirements as may be specified by the Director generally or in any particular case;
- (c) to comply with any other requirements which may be specified by the Director in respect of the manner in which the vessel may be repaired or broken up;
- (d) in the case of the breaking up of a vessel, to give security, in cash or otherwise, in such amount as the Director may consider necessary to ensure the effective breaking up and complete removal of the vessel.

(2) Any person who fails to comply with any direction given to him under subsection (1) commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months, and to an additional fine of \$1,000 for each day during which such failure to comply continues after notice requiring compliance with the direction has been served by the Director on such person.

Prohibition against use of dangerous equipment, etc.

43. (1) A person in charge of works shall not provide or use, or cause to be provided or used, any machinery, equipment or appliance for the carrying out of the works if the machinery, equipment or appliance is in such a condition or so constructed that it cannot be used without unnecessary risk of accident or bodily injury.

(2) If the Director or an inspector has reasonable grounds to believe that any machinery, equipment or appliance provided or used for the carrying out of any works is in such a condition or so constructed that it cannot be used without unnecessary risk of accident or bodily injury, the Director or inspector may give directions to the person in charge of works—

- (a) prohibiting the use of the machinery, equipment or appliance, or if it is capable of repair or alteration, prohibiting its use until it is repaired or altered as specified in the directions; or
- (b) requiring him to take such other steps as may be specified in the directions for remedying the unnecessary risk of accident or bodily injury.

(3) A person in charge of works who—

- (a) contravenes subsection (1) commits an offence and is liable to a fine of \$20,000 and to imprisonment for one year;
- (b) fails to comply with any direction given to him under subsection (2) commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months, and to an additional fine of \$1,000 for each day during which such failure to comply continues after notice requiring compliance with the direction has been served by the Director or an inspector on such person.

44. (1) A person in charge of works shall not carry out, or cause to be carried out, any works in a condition or manner that does not provide adequately against unnecessary risk of accident or bodily injury.

Prohibition against carrying out works in dangerous conditions.

(2) If the Director or an inspector has reasonable grounds to believe that any works are being carried out in a condition or manner that does not provide adequately against unnecessary risk of accident or bodily injury, the Director or inspector may give directions to the person in charge of the works requiring him to take such steps as may be specified in the directions for remedying the unnecessary risk of accident or bodily injury.

(3) A person in charge of works who—

- (a) contravenes subsection (1) commits an offence and is liable to a fine of \$20,000 and to imprisonment for one year;
- (b) fails to comply with any direction given to him under subsection (2) commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months, and to an additional fine of \$1,000 for each day during which such failure to comply continues after notice requiring compliance with the direction has been served by the Director or an inspector on such person.

PART VI

POLLUTION OF WATER

45. (1) In this Part—

"mixture containing oil" means any mixture of oil with water or with any other substance, and any waste consisting of or arising from oil;

"occupier", in relation to—

- (a) a place on land, if it has no occupier, means the owner thereof; and
- (b) a vehicle, means the person in charge of the vehicle and not the occupier of the land on which the vehicle stands;

"oil" means oil of any description, spirit produced from oil of any description and coal tar.

46. (1) If any oil or mixture containing oil is discharged into the waters of Hong Kong, then the following commit an offence—

- (a) the person by whom the oil or mixture containing oil is so discharged or caused to be discharged; and
- (b) whether or not the person referred to in paragraph (a) has been charged with an offence—

(i) if the discharge is from a vessel, the owner and the master of the vessel, unless the owner or master, as the case may be,

Interpretation.
[cf. 1971 c. 60,
s. 29.]

Discharge of oil into the waters of Hong Kong.
[cf. 1971 c. 60,
s. 2.]

proves that the discharge took place and was caused as mentioned in sub-paragraph (ii);

(ii) if the discharge is from a vessel but takes place in the course of a transfer of oil to or from another vessel or a place on land and is caused by the act or omission of any person in charge of any apparatus in that other vessel or that place, the owner and the master of that other vessel or, as the case may be, the occupier of that place;

(iii) if the discharge is from a place on land, the occupier of that place, unless he proves that the discharge was caused by the act of a person who is in that place without the permission (express or implied) of the occupier;

(iv) if the discharge takes place otherwise than as mentioned in sub-paragraph (i), (ii) or (iii) and is the result of any operations for the exploration of the seabed and subsoil or the exploration of their natural resources, the person carrying on the operations.

[cf. 1971 c. 60, s. 29(3).]

(2) Reference in subsection (1) to the discharge of oil or mixture containing oil, or to its being discharged, from a vessel or place on land includes a reference to the escape of the oil or mixture containing oil, or (as the case may be) to its escaping, from that vessel or place on land.

(3) Any person who commits an offence under this section is liable to a fine of \$200,000.

Defences under section 46, 1971 c. 60, s. 5.

47. (1) Where a person is charged with an offence under section 46 as the owner or master of a vessel it shall be a defence to prove that the oil or mixture containing oil was discharged for the purpose of—

- (a) securing the safety of the vessel;
- (b) preventing damage to the vessel or its cargo; or
- (c) saving life,

unless the court is satisfied that the discharge of the oil or mixture containing oil was not necessary for that purpose or was not a reasonable step to take in the circumstances.

(2) Where a person is charged as mentioned in subsection (1) it shall also be a defence to prove—

- (a) that the oil or mixture containing oil escaped in consequence of damage to the vessel and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing, the escape of the oil or mixture containing oil; or
- (b) that the oil or mixture containing oil escaped by reason of leakage, that neither the leakage nor any delay in discovering it was due to want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

Duty to report discharge of oil into Hong Kong waters, 1971 c. 60, s. 11.

48. (1) If any oil or mixture containing oil—

- (a) is discharged from a vessel into the waters of Hong Kong;
- (b) is found to be escaping or to have escaped from a vessel into any such waters; or
- (c) is found to be escaping or to have escaped into any such waters from a place on land,

the owner or master of the vessel, or the occupier of the place on land, as the case may be, shall forthwith report the occurrence to the Director.

(2) A report made under subsection (1) by the owner or master of the vessel shall state whether the occurrence falls within paragraph (a) or (b) of that subsection.

(3) Any person who fails to make a report as required by this section commits an offence and is liable to a fine of \$5,000.

PART VII

POLLUTION OF AIR

49. In this Part, unless the context otherwise requires—
"smoke" includes soot, ash, grit and gritty particles emitted in smoke or steam.

Interpretation.

50. (1) Subject to subsection (2), no vessel in the waters of Hong Kong shall emit smoke in such quantity as to be a nuisance.

Emission of smoke from vessels.

(2) Subsection (1) shall not apply to the emission of smoke in circumstances affecting the safety of life or of the vessel.

(3) If subsection (1) is contravened, the owner and master of the vessel commit an offence and each of them is liable for a first offence to a fine of \$10,000 and for a second or subsequent offence to a fine of \$20,000.

51. (1) The Governor in Council may make regulations for all or any of the following purposes—

Regulations.

- (a) specifying periods during which emission of smoke from vessels may be permitted in any class of case and subject to limitations;
- (b) the adoption of precautions against the emission of smoke from vessels;
- (c) generally for effectively controlling the emission of smoke from vessels.

(2) Any regulations made under this section may provide that a contravention of specified provisions thereof is an offence and may prescribe penalties therefor not exceeding a fine of \$5,000.

PART VIII

PORT DUES

52. (1) Subject to subsection (2), the owner, his agent and the master of every vessel which enters any port or other part of the waters of Hong Kong, or which uses any port facility, shall be jointly and severally liable to pay in respect of the vessel such port dues as may be prescribed.

Port dues and remissions.

(2) Subsection (1) shall not apply to any vessel for the time being used by the Hong Kong Government or to any warship or ship for the time being used by Her Majesty's Government or the Government of any State for other than commercial purposes.

(3) The Director, Deputy Director of Marine or an Assistant Director of Marine may refund or waive the payment of, in whole or in part, any port dues in respect of any vessel, or class, type or description of vessel, used for other than commercial purposes.

Payment of
port dues.

53. (1) Port dues shall be paid to the Director on demand made by him.

(2) The Director may require the payment of port dues in advance in the case of any specified vessel, or specified class, type or description of vessel.

(3) The Director may in any particular case or class of case permit the port dues to be paid in arrear, subject to such conditions as to security or time for payment as he thinks fit.

Failure to pay
port dues.

54. (1) If any port dues are not paid on demand—

(a) where payment is required to be made in advance under section 53(2), the Director may refuse permission for the vessel to enter the waters of Hong Kong;

(b) where payment is required to be made before a vessel leaves the waters of Hong Kong, the Director may refuse permission for the vessel to leave the waters of Hong Kong;

(c) the port dues payable may be recovered as a civil debt from the owner, his agent and the master of the vessel either jointly or severally.

(2) Without prejudice to subsection (1)(c), a master of a vessel who leaves any port or other part of the waters of Hong Kong without paying any port dues which he is required by the Director to pay commits an offence and is liable to a fine of \$5,000.

(Cap. 227.)

(3) Notwithstanding anything in the Magistrates Ordinance, proceedings in respect of an offence under this section may be brought at any time within 2 years next after the commission of the offence.

Recovery of
port dues by
seizure.

55. (1) If the owner or his agent or the master of a vessel fails on demand to pay any port dues payable in respect of the vessel, the Director may, without prejudice to section 54, board the vessel and seize the goods, tackle, or any thing belonging to, or on board, the vessel, and detain such goods, tackle or thing until the port dues are paid.

(2) If payment of the port dues is not made within the 3 days following the seizure, the Director may, at any time during the continuance of the non-payment, cause the goods, tackle or thing seized to be appraised by 2 persons (other than public officers) appointed for that purpose by the Director, and thereupon sell the same and apply the proceeds in payment of the port dues and all reasonable expenses incurred by him under this section, and pay the balance (if any) on demand to the owner or master of the vessel.

PART IX

MISCELLANEOUS PROVISIONS

Power to
declare ports.

56. The Governor may, by order published in the *Gazette*, declare any area of the waters of Hong Kong to be a port.

Power of
Governor to
give directions.

57. (1) The Governor may give to the Director and to any public officer such directions as he thinks fit, either generally or in any particular case, with respect to the performance or exercise of their respective duties or powers under this Ordinance.

(2) A person to whom a direction is given by the Governor under subsection (1) shall, in the performance or exercise of his duties or powers under this Ordinance, comply with that direction.

58. (1) Subject to subsection (3), the Director may, either generally or in any particular case, delegate to any other public officer the performance or exercise on his behalf of any of the functions, duties or powers imposed or conferred upon him under this Ordinance. Delegation
by Director.

(2) Where any function, duty or power imposed or conferred on the Director under this Ordinance is performed or exercised by any other public officer, the Director shall, unless the contrary is proved, be deemed to have delegated to the public officer under subsection (1) the performance or exercise of the function, duty or power.

(3) No delegation under subsection (1) shall be made of powers under sections 52(3) and 63 and of any power to amend a Schedule to the regulations made under this Ordinance.

59. (1) Without prejudice to any other provision of this Ordinance, an authorized officer may, at any time of day or night, stop and board any vessel in the waters of Hong Kong, other than a warship, for the purpose of— Powers of
authorized
officers.

- (a) inspecting or searching the vessel or any part thereof;
- (b) investigating any occurrence specified in section 67(1), whether or not such occurrence has been reported to the Director under that section;
- (c) making such examination and investigation as may be necessary where any provision of this Ordinance or any other enactment has been contravened in respect of the vessel or by any person on board the vessel, or where an authorized officer has reasonable grounds for suspecting that such contravention has taken place;
- (d) directing the conduct of any other authorized officer who may be on board the vessel;
- (e) observing, inspecting or searching any person—
 - (i) for the time being on board the vessel;
 - (ii) employed, engaged or dwelling on board the vessel; or
 - (iii) employed or engaged in loading or unloading the vessel; or
- (f) taking any action which he considers necessary—
 - (i) to provide against fire or accident on board the vessel;
 - (ii) to preserve peace and good order on board the vessel; or
 - (iii) to prevent or detect any offence under this Ordinance or any other enactment in respect of the vessel or by any person on board the vessel.

(2) Any police officer of or above the rank of Station Sergeant may—

- (a) take into custody and remove from any vessel in the waters of Hong Kong, other than a warship, any person who he suspects on reasonable grounds of—
 - (i) having committed an offence under this Ordinance or any other enactment; or
 - (ii) having boarded, or remained on board, the vessel without the permission of the owner or his agent or of the master of the vessel; or
- (b) direct a vessel to which Part IV applies, in respect of which he suspects on reasonable grounds that an offence under this Ordinance or any other enactment has been committed, to proceed together with any persons on board to the nearest Marine Police Base or Marine Licensing Station.

(3) An authorized officer boarding a vessel under subsection (1) may take with him such persons as may be necessary to assist him for the purposes of this section.

(4) The master of a vessel, when required to stop the vessel by an authorized officer in the exercise of his powers under subsection (1), shall stop the vessel and permit the authorized officer to board the vessel.

(5) Any master who without reasonable excuse—

- (a) fails to comply with a direction given under subsection (2)(b); or
- (b) contravenes subsection (4),

commits an offence and is liable to a fine of \$5,000.

60. (1) Subject to subsection (3), for the purpose of any investigation by an inspector under section 39 or by an authorized officer under section 59, an inspector or authorized officer may—

- (a) require that the vessel which he has boarded or any part of it, or anything therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary to carry out the investigation;
- (b) take such measurements and photographs and make such recordings as he considers necessary;
- (c) inspect, seize and remove from the vessel any article or substance in respect of which he suspects on reasonable grounds that an offence under this Ordinance or any other enactment has been committed;
- (d) in the case of any article or substance removed under paragraph (c), detain it for so long as is necessary—
 - (i) to examine it and to cause it to be subjected to any process or test;
 - (ii) to ensure that it is not tampered with before the examination of it is completed;
 - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under this Ordinance or any other enactment;
- (e) require any person whom he has reasonable cause to believe to be able to give any information relevant to the investigation to answer (in the absence of persons other than a person nominated by him to be present and any persons whom the inspector or authorized officer may allow to be present) such questions as the inspector or authorized officer thinks fit to ask and to sign a declaration of the truth of his answers;
- (f) require the production of, inspect, and take copies of any entry in, the log book of the vessel or any document which it is necessary for him to see for the purposes of the investigation.

(2) No answer given by a person in pursuance of a requirement imposed under subsection (1)(e) shall be admissible in evidence against that person or the husband or wife of that person in any proceedings.

(3) For the purpose of an investigation under section 39, the powers of an inspector shall be limited to matters to which Part V relates or to offences under that Part.

(4) Any person who—

- (a) contravenes any requirement imposed by an inspector or authorized officer under subsection (1);

Powers of
investigating
officers.
[cf. 1974 c. 37,
s. 20.]

- (b) prevents any other person from appearing before an inspector or authorized officer or from answering any question to which an inspector or authorized officer may by virtue of subsection (1)(e) require an answer,

commits an offence and is liable to a fine of \$5,000 and to imprisonment for 6 months.

61. (1) A direction given under this Ordinance may be given orally or in writing, or by means of signals.

Giving of
directions and
offence of
non-compliance.

(2) If requested by any person who is given a direction orally or by means of signals the person giving the direction shall confirm the direction in writing.

(3) A direction given under this Ordinance shall be complied with—

- (a) forthwith; or
- (b) where a time limit for compliance is specified in the direction, within such time limit,

notwithstanding that the direction has not been confirmed under subsection (2).

(4) Where under this Ordinance a direction may be given to a master of a vessel it shall be sufficient if the direction is given to a person on board the vessel who is on duty to accept any direction on behalf of the master, and if there is no such master or such master cannot be traced, the direction may be given to the owner of the vessel or his agent or to any other person who appears to the person giving the direction to be in control of the vessel at that time.

(5) The giving of a direction under this Ordinance shall not diminish or in any way affect the responsibility of the master in relation to his vessel, persons on board, its cargo or any other person or property.

(6) Without prejudice to any other express penalty for failure to comply with a direction, any person who without reasonable excuse fails to comply with a direction given to him under this Ordinance commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

62. (1) Where a person who is given a direction under this Ordinance fails to comply with it, the Director may, whether or not the person is or will be prosecuted for an offence under this Ordinance, take or cause to be taken such action as may be necessary to give effect to the direction.

Director may
give effect to
directions in
certain cases.

(2) Where no person to whom a direction under this Ordinance may be given exists or can be found, the Director may take or cause to be taken such action as he would have directed to be taken if such person existed or could be found.

(3) In a case of emergency affecting the safety of life or property the Director may take or cause to be taken such action as he would have directed to be taken under this Ordinance.

(4) For the purpose of taking any action under this section in respect of any vessel or property, the Director may board the vessel or enter the property without the permission of the owner or his agent or of the master of the vessel, or the owner or occupier of the property, as the case may be, and take with him such persons as may be necessary to assist him for that purpose.

(5) The Director may recover the cost of any action taken or caused to be taken under this section—

- (a) as a civil debt from the person to whom the direction (if any) was given, or the owner of the vessel or property in respect of which the action was taken;
- (b) where the cost is incurred in respect of a vessel, under section 55 as if the cost represented port dues payable in respect of the vessel; or
- (c) where the cost incurred in respect of a vessel to which Part IV applies cannot for any reason be recovered under paragraph (a) or (b) or where there is no owner of the vessel, by sale of the vessel and applying the proceeds in payment of the cost and the balance (if any), after deducting any reasonable expense incurred in the sale, shall be paid to the person who satisfies the Director that he is entitled to the balance.

(6) For the purposes of subsection (5), the cost of any action taken or caused to be taken under this section shall include all disbursements and other expenses incurred thereby by the Director.

Director's
general power
of exemption.

63. The Director may, on application made to him in such manner as he may determine or on his own initiative, exempt any person or any vessel or any type, class or description of vessel from any requirement under this Ordinance, subject to such terms and conditions as the Director may specify.

Director's
permission to
do restricted
acts.

64. (1) Where it is provided under this Ordinance that no person shall do, or cause or permit to be done, any specified act without the permission of the Director, the Director may—

- (a) on application made to him in such manner as he may determine; and
- (b) on payment to him of the prescribed fee (if any),

permit the specified act to be done subject to such terms and conditions as he may specify generally or in any particular case.

(2) Except where this Ordinance provides for a written permission, a permission under this Ordinance may be granted orally or by means of signals.

- (3) A written permission granted under this Ordinance shall be—
 - (a) kept on the vessel or at the place in which the act in respect of which the permission is required is being done; and
 - (b) produced for inspection by the Director, an authorized officer, or by any other officer appointed for the purposes of this Ordinance, on demand or within such time and at such place as the Director or such officer may specify.

(4) If any person to whom a written permission is granted under this Ordinance without reasonable excuse fails to comply with subsection (3)(a) or to produce it under subsection (3)(b), he commits an offence and is liable to a fine of \$2,000.

(5) A permission granted under this Ordinance may be withdrawn or cancelled by the Director—

- (a) if any term or condition of the permission is not complied with; or
- (b) if the Director considers it necessary to do so for any other reason.

(6) Without prejudice to subsection (5), where a person without reasonable excuse fails to comply with any term or condition of a permission granted under this Ordinance, he commits an offence and is liable to a fine of \$10,000.

65. Where by or under this Ordinance—

- (a) any obligation or duty is placed on an owner or his agent or on a master of a vessel;
- (b) any direction is given to an owner or his agent or to a master of a vessel; or
- (c) an owner or his agent or a master of a vessel is required to comply with any requirement,

Compliance by
master or
owner.

it shall, except where it is otherwise expressly provided, be sufficient if such obligation, duty, direction or requirement is met or complied with either by the owner or his agent or the master of the vessel.

66. (1) If any person is aggrieved by a direction, decision or act of the Director, or any other person, performing or exercising any function, duty or power under this Ordinance (other than a decision of the Director under section 30(1)), he may within 14 days after—

Appeals.

- (a) the date on which the direction, decision or act was given, made or done; or
- (b) the date on which he was notified of the direction, decision or act,

appeal to the Governor against the direction, decision or act by lodging the grounds of the appeal in writing with the Chief Secretary.

(2) On considering an appeal under subsection (1), the Governor may confirm, vary or reverse the direction, decision or act appealed against and make such order as he thinks fit.

- (3) A decision of the Governor under subsection (2) shall be final.

67. (1) Where, within the waters of Hong Kong—

- (a) a vessel is involved in a collision with another vessel, a port facility or other property;
- (b) a vessel sinks or becomes stranded or disabled;
- (c) a person is killed or seriously injured on board a vessel as a result of an accident;
- (d) an explosion or fire occurs on board a vessel;
- (e) damage is caused by a vessel to a port facility or other property; or
- (f) a person, cargo or equipment is lost overboard from a vessel,

Duty to report
collisions, etc.

the owner or his agent or the master of the vessel shall report the occurrence forthwith to the Director orally, by means of signals, or in writing and shall furnish to the Director in writing full particulars thereof within 24 hours after the occurrence.

(2) An owner, agent or master of a vessel who—

- (a) without reasonable excuse fails to comply with subsection (1); or
- (b) makes a report or furnishes any particulars under subsection (1) which he knows to be false in any material particular,

commits an offence and is liable to a fine of \$10,000.

(3) For the purposes of subsection (1)(c) a person shall be deemed to be seriously injured if he is admitted to a hospital immediately after he sustains the injury for observation or treatment.

Notification prior to arrival of damaged vessels, etc.

68. (1) Where a vessel which—

- (a) has been involved in a collision or has suffered damage which may affect the inherent stability of the vessel; or
- (b) has been or is on fire,

is expected to arrive in the waters of Hong Kong, the owner or his agent or the master of the vessel shall notify the Director of such expected arrival not less than 24 hours before the arrival of the vessel, or, if that is not practicable, as early as practicable before the arrival of the vessel.

(2) Where a vessel enters the waters of Hong Kong in contravention of subsection (1), the owner or his agent and the master commit an offence and each of them is liable to a fine of \$10,000.

Duty to report fires on vessels.

69. (1) Where—

- (a) a fire occurs on board a vessel within the waters of Hong Kong; or
- (b) a vessel which is on fire arrives within the waters of Hong Kong;

the owner or his agent or the master of the vessel shall report such occurrence or arrival forthwith to the Director of Fire Services.

(2) The Director of Fire Services and any member of the Fire Services Department of or above the rank of Principal Fireman may, at any time of day or night, board any vessel in the waters of Hong Kong, other than a warship, for the purpose of extinguishing a fire on board the vessel whether or not the fire has been reported to the Director of Fire Services, and may take with him such persons as may be necessary to assist him for such purpose.

(3) An owner, agent or master who without reasonable excuse fails to comply with subsection (1) commits an offence and is liable to a fine of \$10,000.

Boarding ships without authority.

70. (1) No person, other than a member of Her Majesty's forces in uniform and on duty or a person duly authorized by law for the purpose, shall without the permission of the owner or his agent or the master of a ship go on board the ship.

(2) A master of a ship may take into custody any person who contravenes subsection (1) and shall deliver such person forthwith to a police officer.

(3) Any person who contravenes subsection (1) commits an offence and is liable to a fine of \$5,000 and to imprisonment for 6 months.

Cutting of moorings.

71. Any person, other than the Director or a person authorized by him, who without lawful excuse cuts a mooring or fastening of a vessel commits an offence and is liable to a fine of \$5,000.

Endangering the safety of others.

72. Any person who by any unlawful act, or in any manner whatsoever without reasonable excuse, endangers or causes to be endangered the safety of any person conveyed in or being in or upon any vessel or in the sea commits an offence and is liable to a fine of \$50,000 and to imprisonment for 2 years.

73. Except in pursuance of the regulations made under this Ordinance, no person shall—

Discharge, storage, etc. of logs and other timber.

- (a) load or discharge logs or other timber at any public waterfront or public seawall within any port;
- (b) discharge logs or other timber from a vessel into the waters of Hong Kong; or
- (c) tow or store logs or other timber in the waters of Hong Kong.

74. (1) Any person who obstructs the Director, or any other person, performing or exercising any function, duty or power under this Ordinance commits an offence and, subject to subsection (2), is liable to a fine of \$10,000 and to imprisonment for 6 months.

Obstruction.

(2) An owner, agent or master of a vessel who commits an offence under subsection (1) is liable to a fine of \$50,000 and to imprisonment for 2 years.

75. (1) Any person who, being required to give any information to the Director or any other person under this Ordinance, fails without reasonable excuse to give such information or gives any information, whether in writing, orally or otherwise, which he knows to be false or misleading as to a material particular commits an offence and is liable to a fine of \$5,000 and to imprisonment for 6 months.

False information.

(2) Notwithstanding anything in the Magistrates Ordinance, proceedings in respect of an offence against this section may be brought at any time within 2 years next after the commission of the offence or within 6 months after the first discovery thereof by the prosecutor, whichever period expires first.

(Cap. 227.)

76. (1) In any legal proceedings for a contravention of this Ordinance, any entry in the official log book of a vessel, deck log book, engine room log book or other similar document, or a document purporting to be a copy of any such entry and to be certified as a true copy by any person specified in subsection (2), shall, until the contrary is proved—

Use of official log book in evidence.

- (a) be admitted in evidence and be sufficient evidence of the matters stated therein; and
- (b) in the case of such a copy, be presumed that it is so certified.

(2) For the purposes of subsection (1), the persons who may certify copies of entries in an official log book, deck log book, engine room log book or other similar document are—

- (a) the Director or any person authorized by him in writing in that behalf;
- (b) a magistrate;
- (c) a justice of the peace;
- (d) a notary public, as defined in the Legal Practitioners Ordinance;
- (e) a consular officer.

(Cap. 159.)

77. (1) Notwithstanding section 8 of the Magistrates Ordinance, if an officer of the Marine Department of the rank of Marine Assistant Class II or above reasonably suspects that an offence under this Ordinance has been committed by a master of a vessel such officer may serve on the master personally or by handing the same personally to the senior officer on board the vessel or to the person appearing to be in charge or command of the vessel at the time of such service a notice requiring the master to appear before a magistrate to be dealt with according to law.

Notice to appear before a magistrate in respect of offences.

(Cap. 227.)

(2) A notice under subsection (1)—

- (a) shall be in the prescribed form;
- (b) shall be signed by the officer by whom it is served; and
- (c) shall state—
 - (i) the name of the master upon whom it is served and the name of the vessel of which he is the master;
 - (ii) the offence which is alleged to have been committed with sufficient particulars thereof;
 - (iii) the time and place at which the offence is alleged to have been committed; and
 - (iv) the time and place at which the master on whom the notice is served is required to appear.

(3) If a master upon whom a notice under subsection (1) has been duly served fails to appear before a magistrate at the time and place mentioned in the notice, and it is made to appear to the magistrate by oath that the notice was served on the master personally or was handed personally to the senior officer or the person in charge or command of the vessel in accordance with subsection (1), the magistrate may issue his warrant for the apprehension of the master and to bring the master before him or another magistrate to be dealt with according to law duly endorsed as to the amount of bail, if any, upon which the master may be released in the meantime.

(4) If a master upon whom a notice under subsection (1) has been duly served appears before a magistrate in accordance with the notice, or is brought before a magistrate by a warrant issued under subsection (3), the magistrate may hear and determine the offence alleged in the notice as if a complaint had been made or an information had been laid against the master in respect of the offence and for such purposes, the provisions of the Magistrates Ordinance relating to the hearing of a complaint or information and the proceedings thereon shall apply *mutatis mutandis*.

(5) If a master upon whom a notice under subsection (1) has been served is brought before a magistrate by a warrant issued under subsection (3), the magistrate may, in addition to any other penalty, order the master to pay costs, of not more than \$400, solely in respect of the warrant.

(6) Any costs ordered to be paid under subsection (5) shall be recoverable under section 69(2) of the Magistrates Ordinance in the same manner as costs awarded under section 69(1) of that Ordinance.

(7) Notwithstanding anything to the contrary in the Magistrates Ordinance, a magistrate may permit a representative to appear on behalf of a master upon whom a notice under subsection (1) has been served where such representative satisfies the magistrate that—

- (a) the master has left Hong Kong;
- (b) he is authorized to enter a plea of guilty on behalf of the master; and
- (c) he is himself authorized and financially able to pay any fine imposed within 7 days or such longer time as the magistrate may allow.

78. (1) Where for the purposes of this Ordinance any document is to be served on a person, that document may be served by any officer of the Marine Department of the rank of Marine Assistant Class II or above—

- (a) in any case by delivering the document personally to the person to be served, or by leaving it for him at his last known place of business or residence;

Service of documents.

- (b) if the document is to be served on the master of a vessel, where there is one, by leaving it for him on board the vessel with the person being or appearing to be in charge or command of the vessel or a member of the crew of the vessel;
- (c) if the document is to be served on a person belonging to a vessel, by leaving it for him on board the vessel with the master of the vessel or with a person being or appearing to be in charge or command of the vessel;
- (d) if the document is to be served on the master of a vessel, where there is no master and the vessel is in Hong Kong—
 - (i) on the owner of the vessel or his agent residing in Hong Kong; or
 - (ii) where no such owner or his agent is known or can be found, by affixing the document to the mast or other prominent part of the vessel;
- (e) if the document is to be served on the owner of a vessel or his agent—
 - (i) by leaving the document for him on board the vessel with some person being or appearing to be in charge or command of the vessel or a member of the crew of the vessel;
 - (ii) by leaving the document for him at the office of the owner or his agent, as the case may be, with some person being or appearing to be in charge of the office; or
 - (iii) if the vessel is a vessel to which Part IV applies, by leaving it for him at the address of the owner which is endorsed on the licence issued in respect of the vessel or at the address of the agent of the owner (if any).

(2) Any document referred to in subsection (1) which is to be served on the owner or master of a vessel may be addressed to the owner or master of the vessel without specifying the name of the owner or master.

79. No action in respect of any damage to property or injury to person shall lie against the Director or any other officer performing or exercising any function, duty or power under section 20, 21 or 62. Indemnity against damage, etc.

80. (1) The Governor in Council may make regulations for all or any of the following matters— Regulations.

- (a) the provision of port facilities and control over their use;
- (b) the procedure to be followed, and the provisions to be complied with, by vessels entering or leaving the waters of Hong Kong;
- (c) the control of vessels within the waters of Hong Kong generally and in particular—
 - (i) the navigation of vessels and the prevention of collisions;
 - (ii) the speed of vessels;
 - (iii) the anchoring, mooring and berthing of vessels;
 - (iv) the manning of ships;
 - (v) the lights and signals to be exhibited by vessels;
- (d) the radiotelephone equipment to be carried and operated on vessels;
- (e) the aids to navigation to be laid or erected in respect of vessels which are disabled, stranded, abandoned or sunk in the waters of Hong Kong or in respect of construction or other works in the waters of Hong Kong;

- (f) the control of the laying of private port facilities, or any floating or other structure, in the waters of Hong Kong and prescribing fees therefor;
- (g) the prevention of hazards to navigation and the removal and disposal of objects which are a hazard to navigation;
- (h) the control of dead ships, laid-up vessels, or vessels stranded, abandoned or sunk in the waters of Hong Kong, and the supply of information in relation thereto;
- (i) the control of repairs to vessels, salvaging or breaking up of vessels and the safety and protection against accidents of persons employed in such operations;
- (j) the control of cargo handling, the control and use of lifting appliances and lifting gear, the safety and protection against accidents of persons employed in cargo handling, the provision of safe workplaces on vessels, the operation, use and maintenance of hatches and hatch coverings on vessels in connexion with cargo handling; and regulations made for the purposes of this paragraph may empower the Director to make exemptions from the application of the regulations where he is satisfied that the regulations have been substantially complied with or where compliance therewith is unnecessary having regard to the circumstances;
- (k) the prevention and control of pollution of the waters of Hong Kong;
- (l) the control of the loading, discharge, storage and movement of logs and other timber in the waters of Hong Kong, and of the loading or discharge of logs and other timber at any public waterfront or public seawall within the waters of Hong Kong;
- (m) the establishment of typhoon shelters and typhoon anchorages and the control of their use and the vessels therein;
- (n) the prohibition or control of fishing within specified areas of the waters of Hong Kong, the control of fishing by the use of bright lights, and the control of the erection and working of fishing stakes;
- (o) the licensing of marine hawkers, tallyclerks and stevedores and the general control of persons engaged in the trade of, or acting as, marine hawkers, tallyclerks and stevedores;
- (p) the port dues, fees and charges payable in respect of vessels and port facilities, any other fees or charges payable under this Ordinance, and the recovery of such port dues, fees and charges;
- (q) empowering the Director, in order to calculate any port dues, to require the production of documents in respect of a vessel and to require the survey of a vessel at the cost of the owner or master of the vessel;
- (r) the notification of accidents involving vessels and injuries to persons on vessels within the waters of Hong Kong, and the investigation and inquiry into such accidents and injuries;
- (s) prohibiting, restricting or regulating the embarkation or disembarkation of persons, the loading and unloading of cargo and goods, and the conveyance and disposal of cargo and goods unlawfully obtained;
- (t) empowering the Director to control and regulate water sports, races, regattas or other similar activities in the waters of Hong Kong and providing for the safety of persons taking part in, or affected by, such activities;

- (u) establishing piers and terminals and controlling their use;
 - (v) empowering the Director to give directions in any particular case in relation to such matters as may be specified;
 - (w) empowering the Director to amend any Schedule to such regulations;
 - (x) prescribing any other matter which is to be or may be prescribed under this Ordinance;
 - (y) providing generally for the better carrying out of the provisions and purposes of this Ordinance.
- (2) Any regulations made under this section may provide that a contravention of specified provisions thereof is an offence and may prescribe penalties therefor not exceeding a fine of \$50,000 and imprisonment for 6 months.

81. (1) The Merchant Shipping Ordinance is amended—

- (a) by repealing Parts IX, X, XI, XIII and XIV;
- (b) in section 2—
 - (i) by deleting the following definitions—
 - “dangerous goods”;
 - “explosive”; and
 - “Government Explosives Depot”;
 - (ii) in the definition of “passenger”, by deleting “except for the purposes of Parts XIII and XIV,”; and
 - (iii) in the definitions of “port of the Colony” and “port”, by deleting “section 61” and substituting the following—
 - “the Shipping and Port Control Ordinance 1978”;
- (c) in section 3(1), by deleting “section 97 or 105” and substituting the following—
 - “Part IV of the Shipping and Port Control Ordinance 1978”;
- (d) in section 5, by deleting subsection (2);
- (e) in section 52(2), by deleting “(excluding a local certificate of competency issued under Part XIII)”;
- (f) by repealing section 116; and
- (g) in section 118(2) by deleting “nor shall it apply except so far as regards Parts IX, X, XIII, XIV, XV and XVI to pleasure yachts, nor to the owners, masters and crews thereof”.

(2) The Merchant Shipping (Launches and Ferry Vessels) Regulations are amended, in regulation 3—

- (a) by the insertion after the definition of “fee” the following new definitions—
 - ““ferry vessel” means any steam or motor vessel which plies regularly for the conveyance of persons and things between 2 or more points within the waters of the Colony;
 - “launch” means any mechanically propelled vessel of European type not exceeding 300 tons which is designed or used for—
 - (a) the conveyance of persons or things;
 - (b) towing or pushing; or
 - (c) any other purpose,

Amendments of the Merchant Shipping Ordinance and regulations made thereunder. (Cap. 281.)

(Cap. 281, sub. leg.)

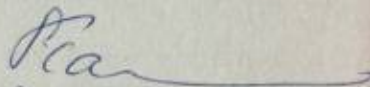
and does not carry passengers beyond the waters of Hong Kong;"; and

(b) by the insertion after the definition of "owner" the following new definition—

"passenger" means any person carried in a vessel other than—

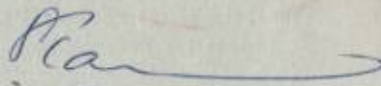
- (a) a person employed or engaged in any capacity on board the vessel on the business of the vessel; and
- (b) a child under the age of one year;".

Passed by the Hong Kong Legislative Council this 15th day of November, 1978.



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.

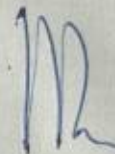


Clerk to the Legislative Council.

No. 77 OF 1978



I assent.

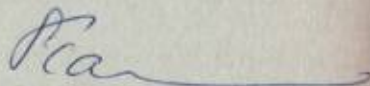


Governor

Hong Kong"; and
insertion after the definition of "owner" the following
definition—

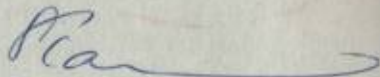
- passenger" means any person carried in a vessel other than—
(a) a person employed or engaged in any capacity on
board the vessel on the business of the vessel; and
(b) a child under the age of one year;"

the Hong Kong Legislative Council this 15th day of



Clerk to the Legislative Council.

Printed impression has been carefully compared by me
and is found by me to be a true and correct
impression of the said bill.



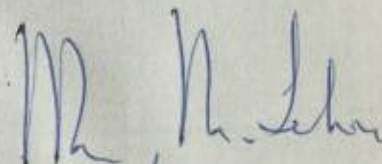
Clerk to the Legislative Council.

HONG KONG

No. 77 OF 1978



I assent.



Governor.

16th November, 1978.

An Ordinance to amend the Hong Kong Airport (Control of Obstructions)
Ordinance.

[17th November, 1978]

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 Hong Kong Airport (Control of Obstructions) (Amendment) Ordinance 1978. Short title.
2. Section 2(1) of the principal Ordinance is amended in the definition of "building" by inserting, after "pole", the following— Amendment of section 2.
(Cap. 301.)
"or any pile driver, scaffolding, hoist or crane".
3. Section 3 of the principal Ordinance is amended— Amendment of section 3.
 - (a) in subsection (1)(b) by deleting "above principal datum—which expression shall have the same meaning as in the First Schedule to the Interpretation and General Clauses Ordinance"; and
 - (b) by adding, after subsection (3), the following subsection—
 - "(4) The Director of Civil Aviation may, by notice in writing, grant—
 - (a) for a period not exceeding 2 months which may be extended for such further periods of 2 months as he thinks fit; and

(b) upon such terms and conditions as he may in any case impose,

an exemption from the operation of an order made pursuant to subsection (1)(b)."

Amendment of section 4.

4. Section 4 of the principal Ordinance is amended by inserting after "and" the following—

" , subject to section 3(4)."

Addition of section 14A.

5. The principal Ordinance is amended by adding, after section 14, the following section—

"Removal of trees obstructing lights or beacons.

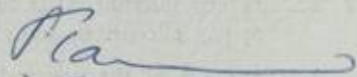
14A. (1) Where in the opinion of the Director of Civil Aviation any tree, shrub, plant or vegetation obstructs or affects or is likely to obstruct or affect the proper operation of any warning light, guiding light, aircraft beacon or navigational or approach aids so as to impair the safety of aircraft, the Director shall, by notice in writing served upon the occupier of the land upon which such tree, shrub, plant or vegetation is situated, call upon him to fell the tree or remove the plant, shrub or vegetation or deal with the same in such other manner as will in the opinion of the Director remove the obstruction.

(2) Any person who fails to comply with a notice under subsection (1) within 14 days of service of such notice commits an offence and is liable to a fine of \$2,000 and to imprisonment for 6 months.

(3) Where a notice under subsection (1) is not complied with within 14 days of service thereof or where in the opinion of the Director of Civil Aviation the proper operation of any warning light, guiding light, aircraft beacon or navigational or approach aids requires the immediate felling of, removal of or dealing with any tree, shrub, plant or vegetation, the Director or any public officer authorized in writing by him in that behalf may at any time enter upon any land and may fell, remove or deal with in such manner as the Director may specify any such tree, shrub, plant or vegetation.

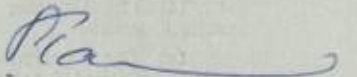
(4) Any reasonable expenses incurred by an occupier in complying with a notice under subsection (1) shall be paid by the Government."

Passed by the Hong Kong Legislative Council this 15th day of November, 1978.



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. 78 OF 1978



I assent.



Governor

16th November

case impose,
exemption from the operation of an order made pursuant
subsection (1)(b).”.

4 of the principal Ordinance is amended by inserting
following—

”, subject to section 3(4).”.

principal Ordinance is amended by adding, after section 14,
section—

14A. (1) Where in the opinion of the Director of Civil
aviation any tree, shrub, plant or vegetation obstructs or
affects or is likely to obstruct or affect the proper operation
of any warning light, guiding light, aircraft beacon or
navigational or approach aids so as to impair the safety
of aircraft, the Director shall, by notice in writing served
upon the occupier of the land upon which such tree, shrub,
plant or vegetation is situated, call upon him to fell the tree
or remove the plant, shrub or vegetation or deal with the
same in such other manner as will in the opinion of the
Director remove the obstruction.

(2) Any person who fails to comply with a notice under
subsection (1) within 14 days of service of such notice
commits an offence and is liable to a fine of \$2,000 and
imprisonment for 6 months.

(3) Where a notice under subsection (1) is not complied
with within 14 days of service thereof or where in the
opinion of the Director of Civil Aviation the proper opera-
tion of any warning light, guiding light, aircraft beacon or
navigational or approach aids requires the immediate felling

HONG KONG

No. 78 OF 1978



I assent.

Governor.

16th November, 1978.

An Ordinance to make special provision to exempt certain persons from
the obligation to be contributors under the Widows and Orphans
Pension Ordinance.

[17th November, 1978]

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 Widows and Orphans Pension (Exemption) Ordinance 1978. Short title.

2. Notwithstanding the provisions of the Widows and Orphans Pension (Application) Regulations, the term “officer” in the Widows and Orphans Pension Ordinance shall not apply and shall be deemed never to have applied to the persons named in the Schedule. Exemption from obligation to contribute. (Cap. 94, sub. leg.) (Cap. 94.)

3. All contributions under the Widows and Orphans Pension Ordinance made by the person to whom section 2 applies shall be refunded to them. Refund of contributions.

SCHEDULE

[s. 2.]

Michael John BALL
Richard Walton MACKLIN
Stuart Ashley Raygarth PRICE
Peter John WILKINSON

Passed by the Hong Kong Legislative Council this 15th day of November, 1978.

No. 79 of 1978

[Handwritten signature]

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.



[Handwritten signature]

Clerk to the Legislative Council.

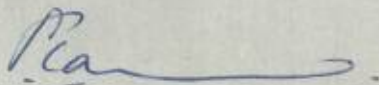


I assent.

[Handwritten signature]

Governor.

of the Hong Kong Legislative Council this 15th day of 1978.



Clerk to the Legislative Council.

A printed impression has been carefully compared by me with the original bill, and is found by me to be a true and correct copy of the said bill.



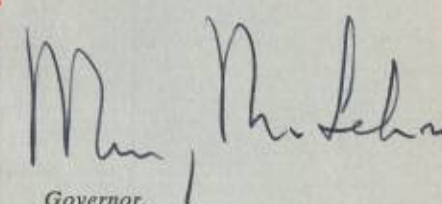
Clerk to the Legislative Council.

HONG KONG

No. 79 OF 1978



I assent.



Governor.

30th November, 1978.

An Ordinance to amend the Inland Revenue Ordinance.

[1st December, 1978]

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

1. (1) This Ordinance may be cited as the Inland Revenue (Amendment) (No. 4) Ordinance 1978.

Short title, commencement and application.

(2) Section 2 shall be deemed to have come into operation on the 1st April 1978.

(3) The amendments to the principal Ordinance made by section 2 shall apply in relation to—

(a) all assessments, other than assessments to provisional salaries tax made under section 63C, made in respect of the year of assessment commencing on the 1st April 1978;

(b) all assessments in respect of the year of assessment commencing on the 1st April 1979 and all subsequent years of assessment.

(4) Section 3 shall come into operation on the 1st April 1979 and shall apply in relation to all assessments in respect of the year of assessment commencing on the 1st April 1979 and all subsequent years of assessment.

Amendment of
section 42B,
(Cap. 112.)

2. Section 42B of the principal Ordinance is amended—

(a) in subsection (1) by inserting after paragraph (c) the following paragraph—

“(d) an allowance of \$4,000, if the individual or his wife, not being a wife living apart from her husband, maintains a parent of the individual or his wife in the year of assessment and that parent at any time in that year—

(i) was a permanent resident in the Colony; and

(ii) was aged 60 or more or, being under the age of 60, was eligible to claim an allowance under the Government's Disability Allowance Scheme,

and an allowance under this paragraph may be granted in respect of each such parent of the individual or his wife so maintained;”;

(b) by inserting after subsection (1) the following subsections—

“(2) For the purposes of subsection (1)(d)—

(a) a parent shall only be treated as being maintained by an individual or his wife if—

(i) the parent resides, otherwise than for full valuable consideration, with the individual for a continuous period of not less than 6 months in the year of assessment; or

(ii) the individual or his wife contributes not less than \$1,200 in money towards the maintenance of that parent in the year of assessment;

(b) “parent of the individual or his wife” means—

(i) a parent of whose marriage, being a marriage recognized by the law of the Colony, the individual or his wife is the child;

(ii) a parent by whom the individual or his wife was adopted in an adoption recognized by the law of the Colony;

(iii) a step-parent;

(iv) the natural mother of the individual or his wife; or

(v) a parent of a deceased husband or wife of the individual.

(2A) An allowance under subsection (1)(d) shall not be given to more than one individual; and where—

(a) the Commissioner has reason to believe that two or more individuals are eligible to claim the allowance in respect of the same parent for the same year of assessment, the Commissioner shall not consider any claim until he is satisfied that the claimants have agreed which of them shall be entitled to claim the allowance; or

(b) an allowance under subsection (1)(d) has been granted—

(i) to two or more individuals in respect of the same parent for the same year of assessment; or

(ii) to an individual and, within 6 months of such allowance being granted, another individual appears to the Commissioner to be eligible to claim that

allowance in respect of the same parent for the same year of assessment,

the Commissioner shall invite the individuals to whom the allowance has been granted and any other individual who appears to the Commissioner to be eligible to claim the allowance to agree which of them is to have the allowance and the Commissioner may in consequence of such agreement or if the individuals do not so agree within a reasonable time raise additional assessments under section 60, within the period of time specified in that section.”.

3. Section 63E(2) of the principal Ordinance is amended in paragraph (a) by deleting “(b) or (c)” and substituting the following—

“(b), (c) or (d)”.

Amendment of
section 63E.

Passed by the Hong Kong Legislative Council this 29th day of November, 1978.

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.

No. 80 OF 1978



I assent.

A handwritten signature in black ink, appearing to be 'M. K. Jayaram'.

Governor.

20th November

HONG KONG

No. 80 OF 1978



I assent.

Governor.

30th November, 1978.

An Ordinance to amend the Lands Tribunal Ordinance.

[1st December, 1978]

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 Lands Tribunal (Amendment) Ordinance 1978. Short title.
2. Section 9(6) of the principal Ordinance is amended by deleting paragraph (b) and substituting the following— Amendment of section 9. (Cap. 17.)
“(b) the Tribunal hearing those proceedings does not include a member qualified in law.”
3. Section 10(3) of the principal Ordinance is amended— Amendment of section 10.
 - (a) in paragraph (b) by deleting “and” at the end thereof;
 - (b) in paragraph (c) by deleting the full stop and substituting the following—
“; and”; and
 - (c) by inserting, after paragraph (c), the following new paragraph—
“(d) the evidence which may be required or admitted in any proceedings before the Tribunal.”

Amendment of
section 11.

4. Section 11 of the principal Ordinance is amended—
(a) by deleting subsections (2) and (3) and substituting the following—

"(2) Any party who alleges that the Tribunal erred in any point of law in arriving at its decision under subsection (1) may apply, within 14 days after the decision has been given, in writing to the registrar requesting the President or the member of the Tribunal presiding over the proceedings in question to state a case for the opinion of the Court of Appeal for its decision on the alleged error of law.

(3) Where any party requests a case to be stated under subsection (2) and the proceedings in question were heard by a Tribunal which did not include a member qualified in law, a case shall be stated by the President.

(3A) A case stated under subsection (2) shall set forth in writing the decision of the Tribunal and the reasons therefor.

(3B) On a case submitted to it under subsection (2) the Court of Appeal may affirm, reverse or vary the decision of the Tribunal or may remit the case to the Tribunal with its opinion thereon."; and

- (b) by inserting, after subsection (4), the following new subsections—

"(5) On the hearing of the case, the Court of Appeal may amend the case or order it to be sent back to the Tribunal for amendment.

(6) In any proceedings before the Court of Appeal under this section, the court may make such order in regard to costs as it thinks fit.

(7) The practice and procedure to be followed in any case stated under subsection (2) shall be governed by rules made under section 10(3)."

5. The principal Ordinance is amended by adding, after section 11, the following new section—

"Review of
decision.

11A. (1) The Tribunal, on such grounds as it may think sufficient and within 1 month from the date of any decision given or made by it, may decide to review any finding of fact in relation to such decision and may vary or confirm its previous decision.

(2) The power conferred by subsection (1) may be exercised—

- (a) by a member of the Tribunal, on notice to all parties to the proceedings; or
(b) on the application of any party to the proceedings, on notice to the other party.

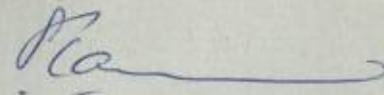
(3) If the Tribunal shall have decided, within 1 month from the date of any decision, to exercise its power of review in respect thereof, such power may be exercised at any time thereafter whether within such period of 1 month or otherwise."

Amendment of
Schedule.

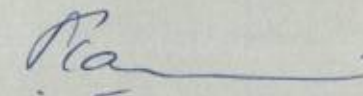
6. The Schedule to the principal Ordinance is amended by adding, after the item "130. Streets (Alteration) Ordinance.", the following—

"276. Mass Transit Railway (Land Resumption and Related Provisions) Ordinance."

Passed by the Hong Kong Legislative Council this 29th day of November, 1978.


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.

No. 81 of 1978



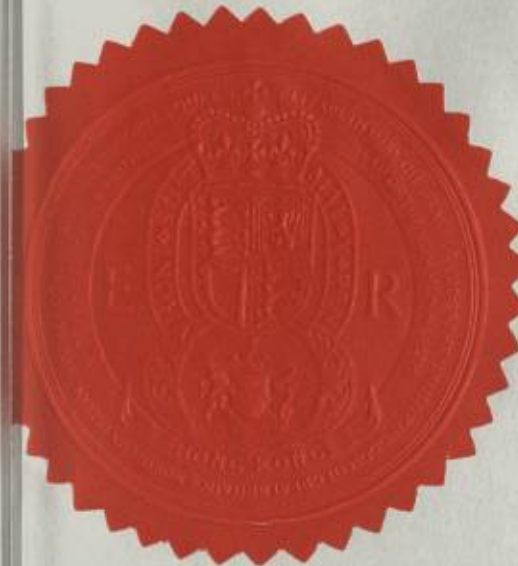
I assent.

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a cursive flourish.

Governor.

HONG KONG

No. 81 of 1978



I assent.

M. R. S. Chan
Governor.

30th November, 1978.

An Ordinance to amend the University of Hong Kong Ordinance.

[1st December, 1978]

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 University of Hong Kong Short title. (Amendment) Ordinance 1978.

2. Section 8(1) of the principal Ordinance is amended by deleting "Science and Medicine, and a Faculty of Engineering and Architecture" and substituting the following—

Amendment of section 8. (Cap. 1053.)

"Social Sciences, Science, Medicine, Engineering".

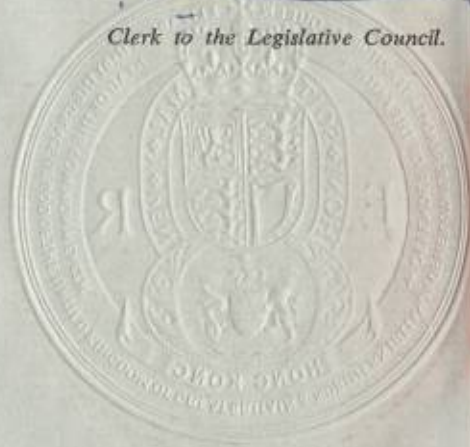
Passed by the Hong Kong Legislative Council this 29th day of November, 1978.

P. A. ...
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.

[Handwritten signature]

Clerk to the Legislative Council.



No. 82 OF 1978



I assent.

[Handwritten signature]

Governor.

the printed copy of the bill, and is found by me to be a true and correctly
copy of the said bill.

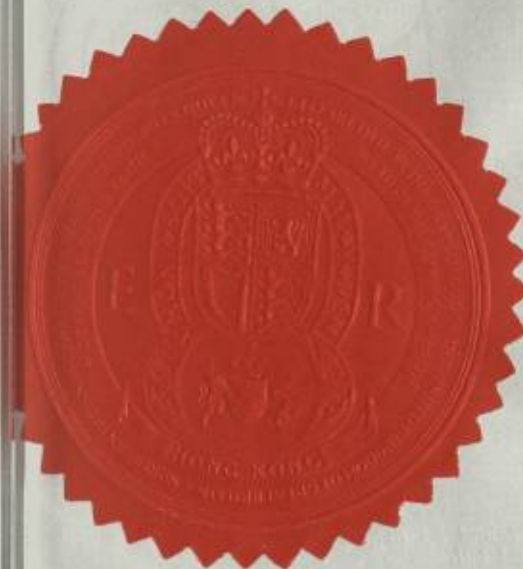
[Signature]

Clerk to the Legislative Council.



HONG KONG

No. 82 OF 1978



I assent.

[Signature]

Governor.

30th November, 1978.

An Ordinance to amend the Pensions Ordinance and to validate certain pensions, gratuities and other allowances.

[1st December, 1978]

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 Pensions (Amendment) Ordinance 1978. Short title.

2. Section 7 of the principal Ordinance is repealed and replaced by the following— Repeal and replacement of section 7. (Cap. 89.)

*Pension may be granted to officer whose service is terminated.

7. (1) Where an officer's service is terminated because—
- (a) the pleasure of the Crown that he should no longer hold office has been duly signified; or
 - (b) he has been compulsorily retired in exercise of disciplinary powers of punishment; or
 - (c) he has been required in the public interest to retire from the public service,

and a pension, gratuity or other allowance cannot otherwise be granted to him under this Ordinance, the Governor may, if he thinks fit, grant such pension, gratuity or other allowance as he thinks just and proper not exceeding that for

which the officer would be eligible if he retired from the public service in the circumstances described in section 6(e).

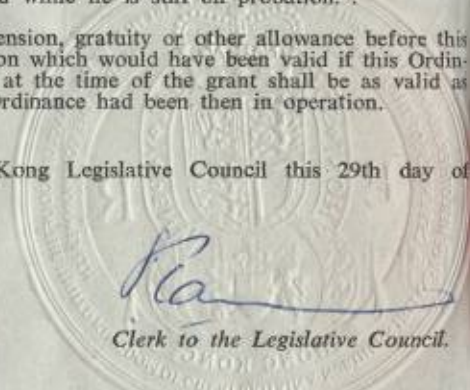
(2) References to retirement in this Ordinance (other than in sections 6 and 8) and in regulations made thereunder shall be construed to include references to termination of an officer's service in the circumstances described in subsection (1)(a).

(3) This section does not apply to an officer who ceases to be employed while he is still on probation."

Validation.

3. The grant of any pension, gratuity or other allowance before this Ordinance came into operation which would have been valid if this Ordinance had been in operation at the time of the grant shall be as valid as it would have been if this Ordinance had been then in operation.

Passed by the Hong Kong Legislative Council this 29th day of November, 1978.



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Clerk to the Legislative Council.

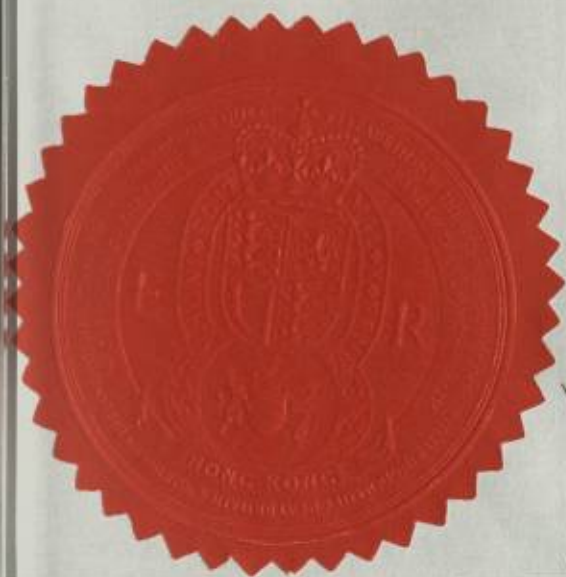
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.

[Handwritten signature]

Clerk to the Legislative Council.

~~HONG KONG~~

No. 83 of 1978



I assent.

[Handwritten signature]

Governor.

which the subject would be entitled if he retired from the public service in the circumstances described in section 6(e).

(2) References to retirement in this Ordinance (other than in sections 6 and 8) and in regulations made thereunder shall be construed to include references to termination of an officer's service in the circumstances described in subsection (1)(a).

(3) This section does not apply to an officer who ceases to be employed while he is still on probation."

he grant of any pension, gratuity or other allowance before this came into operation which would have been valid if this Ordinance had been in operation at the time of the grant shall be as valid as if it had been in operation at the time of the grant.

by the Hong Kong Legislative Council this 29th day of 1978.



Clerk to the Legislative Council.

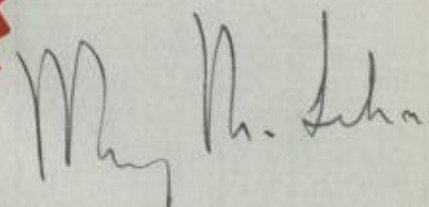
This printed impression has been carefully compared by me with the original and is found by me to be a true and correct copy of the said bill.

HONG KONG

No. 83 OF 1978



I assent.



Governor.

21st December, 1978.

An Ordinance to amend the Road Traffic Ordinance.

[]

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

1. (1) This Ordinance may be cited as the Road Traffic (Amendment) (No. 3) Ordinance 1978. Short title and commencement.

(2) The Governor may by notice published in the *Gazette* appoint the day on which this Ordinance, or any part or provision of this Ordinance, shall come into operation and may at different times, appoint different days for different parts or provisions.

2. Section 2(1) of the principal Ordinance is amended by inserting in the appropriate place in the alphabetical order the following new definitions— Amendment of section 2. (Cap. 220.)

“register”, when used as a verb, includes “re-register”;

“register”, when used as a noun, means the register of motor vehicles maintained under this Ordinance;

“registered” means registered in accordance with this Ordinance;

“registered owner” means the owner of a motor vehicle registered in accordance with this Ordinance;

"registration book" means the registration book in respect of a motor vehicle issued to the registered owner in accordance with this Ordinance;

"vehicle licence" means a licence issued in respect of a motor vehicle under this Ordinance."

Amendment of section 4.

3. Section 4(1) of the principal Ordinance is amended by deleting paragraph (f).

Addition of new Parts IA and IB.

4. The principal Ordinance is amended by adding after Part I the following new Parts—

"PART IA

REGISTRATION AND LICENSING OF VEHICLES

Registration and licensing.

7D. (1) Subject to this Ordinance, every motor vehicle which is used on any road shall be licensed.

(2) A motor vehicle shall not be licensed under this Ordinance—

- (a) unless it is registered under this Ordinance; or
- (b) within any class of vehicle other than the class within which it is registered.

(3) Subject to this Ordinance, the Commissioner shall register a motor vehicle on application in accordance with this Ordinance and where a motor vehicle is in more than one class of vehicle, the Commissioner, having regard to the design or type of the motor vehicle, shall register the motor vehicle within the class which he considers appropriate.

(4) Subject to this Ordinance, the Commissioner shall license a motor vehicle in accordance with this Ordinance on application in accordance with this Ordinance.

Power to regulate the number of vehicles registered.

7E. (1) Without prejudice to any other enactment, the Governor in Council by notice in the *Gazette* may limit the number of vehicles which may at any time be registered by reference to—

- (a) the total number of vehicles in all classes;
- (b) a class or description of vehicle;
- (c) the date of manufacture of vehicles; or
- (d) the country of origin of vehicles.

(2) Subject to subsection (3), any limit notified under subsection (1) shall remain in force for such period not exceeding 6 months as shall be specified in the notice.

(3) The Legislative Council may by resolution extend the period for which a limit remains in force under subsection (2).

(4) Any limit notified under subsection (1) shall not affect the registration of any vehicle in force when the notice comes into operation.

(5) If the Commissioner—

- (a) receives applications for the registration of vehicles within a class of vehicle which is the subject of a notice under subsection (1); and
- (b) would, but for the limit under subsection (1) on the number of vehicles that may be registered in that class, grant the applications,

the Commissioner may cause the applications to be determined by lot.

Power to refuse registration.

7F. (1) The Commissioner may refuse to register any motor vehicle—

- (a) which does not accord with the particulars contained in the application for the registration thereof;
- (b) which has been but is no longer registered in Hong Kong;
- (c) which is not roadworthy; or
- (d) in respect of which—
 - (i) a notice under section 7M has not been complied with; or
 - (ii) a fee payable under section 7U has not been paid.

(2) The Commissioner may refuse to register any vehicle which is already registered.

Power to refuse or cancel licence and to impose conditions.

7G. (1) The Commissioner may—

- (a) refuse to license; or
- (b) cancel the licence of,

a motor vehicle if—

- (i) by reason of its design or construction, or any adaptation or the condition thereof, the vehicle or any equipment thereof does not comply with this Ordinance;
- (ii) a notice under section 7M or an examination order under section 7N in respect of the vehicle has not been complied with;
- (iii) on examination under Part IB the vehicle is found to be not roadworthy;
- (iv) any of the particulars contained in the application for the licence do not accord with the particulars contained in the register;
- (v) the motor vehicle does not accord with the particulars contained in the application for the licence; or
- (vi) no valid insurance in respect of third party risks as required by the Motor Vehicles Insurance (Third Party Risks) Ordinance is in force in respect of the vehicle.

(Cap. 272.)

(2) Without prejudice to subsection (1), the Commissioner may—

- (a) refuse to license a motor vehicle as a public omnibus, private omnibus, public light bus or a taxi; or
- (b) license such motor vehicle as a public omnibus, private omnibus, public light bus or a taxi as the case may be subject to such conditions as he may specify.

(3) Conditions which the Commissioner may specify under subsection (2)(b) shall include conditions as to—

- (a) the place on any road at which passengers may board or alight from the vehicle;
- (b) parking in particular places at particular times;
- (c) standards of cleanliness of vehicles;

- (d) places where the vehicle shall be available for hire;
- (e) the colour of the vehicle;
- (f) marking and signs to be exhibited on the vehicle; and
- (g) the form of advertising signs in or on the vehicle.

(4) In the case of a public omnibus, private omnibus or public light bus the Commissioner, in addition to the conditions specified in subsection (3), may specify conditions as to—

- (a) the days on which the vehicle may be used and the hours during which it may be used in any day;
- (b) the roads on which the vehicle may be used; and
- (c) the maximum fares which may be charged to passengers carried in the vehicle.

(5) The Commissioner, on application to license a motor vehicle as a public omnibus, private omnibus, public light bus or a taxi, shall take into account—

- (a) the type of vehicle in respect of which application for the licence is made;
- (b) the number of vehicles licensed as public omnibuses, private omnibuses, public light buses or taxis owned by the applicant;
- (c) garaging and maintenance facilities available to the applicant; and
- (d) financial resources of the applicant.

(6) In addition to the matters to be taken into account under subsection (5) the Commissioner on an application to license a motor vehicle as a public omnibus, private omnibus or public light bus shall take into account—

- (a) the need for the service proposed having regard to the availability of other forms of transport;
- (b) future development of public transport on the routes proposed for the vehicle the subject of the application; and
- (c) traffic conditions and road capacity on such routes.

(7) For the purposes of this section "public omnibus" (Cap. 230.) does not include an omnibus to which the Public Omnibus Services Ordinance applies.

7H. Rickshaws etc. The Commissioner may refuse to license any rickshaw, tricycle or trailer and may revoke the licence of any such vehicle.

7L. Right of review. (1) Subject to subsection (2), where the Commissioner—

- (a) refuses to register a vehicle under section 7F;
- (b) refuses to license a vehicle or revokes a licence under section 7G(1) or (2) or 7H,

the applicant or the holder of the licence may, within 21 days of being notified of the decision of the Commissioner, apply in writing to the Commissioner for a review of the Commissioner's decision by a Transport Tribunal.

(2) There shall be no right of review where the Commissioner—

- (a) refuses to register a motor vehicle under section 7F(1)(d)(i); or

- (b) refuses to license a motor vehicle or cancels a licence under section 7G(1)(ii).

Appointment of Transport Tribunals.

7J. (1) The Chief Secretary may appoint such Transport Tribunals as may from time to time be necessary for the purposes of this Part.

(2) Each tribunal shall consist of the Commissioner or any Assistant Commissioner for Transport (who shall be the Chairman) and two members of the panel.

(3) In subsection (2) "panel" means the panel appointed under section 26A.

Review.

7K. (1) On receipt of an application under section 7I the Commissioner shall fix a time and place for the review and shall give 14 clear days notice thereof to the applicant.

(2) The Commissioner shall, so far as practicable, ensure that the date of the review is not less than 10 days nor more than 30 days after the date of the notice served on the applicant under subsection (1).

(3) A Transport Tribunal may postpone a review if it thinks fit and where a review is postponed the Commissioner shall cause a notice to be served on the applicant specifying the date to which the review has been postponed.

(4) If—

- (a) an applicant or his authorized representative does not appear before the Tribunal on the date of the review notified to him in a notice under subsection (1) or (3); or

(b) an applicant makes no written representations,

his application for a review shall be deemed to have been withdrawn.

Practice and procedure on review.

7L. (1) On a review a Transport Tribunal shall consider—

- (a) any evidence received by it, whether tendered on behalf of the applicant or otherwise, and any representations made by or on behalf of the applicant at the review;
- (b) representations in writing by or on behalf of the applicant.

(2) The Transport Tribunal may confirm or reverse a decision of the Commissioner under section 7F, 7G(1) or (2) or 7H.

(3) The Commissioner shall notify an applicant of the Tribunal's decision under subsection (2).

(4) The decision of the Transport Tribunal under subsection (2) shall be final.

PART IB

EXAMINATION OF MOTOR VEHICLES

Examination of motor vehicles in connexion with registration etc.

7M. (1) Before—

- (a) registering a motor vehicle;
- (b) issuing a registration book or a duplicate thereof to the registered owner of a motor vehicle;

- (c) returning the registration book to a new registered owner;
- (d) licensing a motor vehicle; or
- (e) entering in the register any alterations to a motor vehicle notified under this Ordinance,

the Commissioner may, by notice in writing served either personally or by registered post on the owner, the registered owner or the new owner of the motor vehicle, as the case may be, require production of the motor vehicle for examination at such vehicle examination centre, and at such time on such date, as may be specified in the notice for the purpose of ascertaining whether the motor vehicle—

- (i) accords, as the case may be, with the particulars contained in the application for registration or for the vehicle licence or in the notice of transfer of ownership, or with the particulars contained in the register, or with the alterations notified under this Ordinance;
- (ii) is roadworthy;
- (iii) complies with this Ordinance and any conditions subject to which a vehicle licence was issued in respect of the vehicle.

(2) A vehicle produced at a vehicle examination centre pursuant to subsection (1) may be detained for a period not exceeding 24 hours.

Examination orders for examination of motor vehicles.

7N. The Commissioner or any police officer may serve or cause to be served personally on the driver, or by registered post on the registered owner, of a motor vehicle an examination order in a form specified by the Commissioner requiring production of the motor vehicle for examination at such vehicle examination centre, and at such time on such date, as shall be specified in the examination order, for the purpose of ascertaining whether the motor vehicle—

- (a) accords with the particulars thereof contained in the register;
- (b) is roadworthy;
- (c) complies with this Ordinance and any conditions subject to which a vehicle licence was issued in respect of the vehicle.

Examination of motor vehicle on road by police officer and removal to vehicle examination centre or police station.

7O. (1) A police officer may—

- (a) examine; or
- (b) cause to be examined by a motor vehicle examiner, a motor vehicle which is being used on a road, for the purpose of ascertaining whether the vehicle complies with this Ordinance and any condition subject to which the vehicle licence in respect of the vehicle was issued.

(2) Any police officer who, as a result of an examination of a motor vehicle under subsection (1), has reason to believe that—

- (a) the vehicle has been involved in an accident;
- (b) the vehicle is not roadworthy; or
- (c) the vehicle does not comply with this Ordinance or any condition subject to which the vehicle licence in respect of the vehicle was issued,

may—

- (i) direct the driver of the vehicle to drive it to such vehicle examination centre or police station as the police officer may specify; or
- (ii) direct the driver and any other person to leave the vehicle and himself drive or remove the vehicle or cause it to be driven or removed to any vehicle examination centre or police station,

and may cause the vehicle to be detained at a vehicle examination centre or police station for not more than 72 hours while the motor vehicle is examined by a vehicle examiner.

(3) A police officer who—

- (a) directs a driver to drive a motor vehicle; or
- (b) drives, removes or causes a motor vehicle to be driven or removed,

to a vehicle examination centre or police station under subsection (2) shall serve on the driver of the motor vehicle a notice specifying—

- (i) his belief that the vehicle has been involved in an accident;
- (ii) the respect in which he believes the vehicle is unroadworthy; or
- (iii) the respect in which he believes the vehicle does not comply with this Ordinance or any condition subject to which the vehicle licence in respect of the vehicle was issued.

(4) Any person who fails to comply with the directions of a police officer under subsection (2) commits an offence and is liable on conviction to a fine of \$1,000.

(5) Nothing in this section shall be deemed to authorize any person who is not the holder of a valid driving licence for a vehicle of the appropriate class, to drive any vehicle in the course of any removal or examination.

Powers of vehicle examiner on examination of motor vehicle.

7P. In carrying out an examination of a motor vehicle for the purposes of any of the provisions of this Part a vehicle examiner may carry out or cause to be carried out such inspection, examination or test of the vehicle, any part of the vehicle, any accessory affixed to the vehicle or any equipment or part of the equipment of the vehicle as he thinks fit and may weigh the vehicle or any load on the vehicle.

Vehicle not in accord with particulars in register, in form of application for registration or notice of transfer.

7Q. (1) Where an examination of a motor vehicle under this Part a vehicle examiner finds that a motor vehicle does not accord with the particulars of the motor vehicle—

- (a) entered in the register; or
- (b) contained in an application for registration or notice of transfer of ownership,

the vehicle examiner shall notify the Commissioner and shall serve notice personally or by registered post—

- (i) on the owner of the motor vehicle; and
- (ii) the person who produced the vehicle for examination if he is present during the examination; and
- (iii) where appropriate, on the new owner.

- (2) A notice under subsection (1), shall—
- (a) be in a form specified by the Commissioner; and
 - (b) specify the manner in which the motor vehicle does not accord with the particulars of the motor vehicle—
 - (i) entered in the register; or
 - (ii) contained in the application for registration or notice of transfer of ownership.

Vehicle not roadworthy or not in accordance with the Ordinance or conditions of vehicle licence.

7R. Where on the examination of a motor vehicle under this Part it appears to the vehicle examiner that—

- (a) the motor vehicle is not roadworthy; or
- (b) the motor vehicle does not comply with the Ordinance or any condition subject to which a motor vehicle licence was issued in respect of the vehicle,

he shall—

- (i) if he considers that the use of the motor vehicle on a road would be dangerous to other road users refer the motor vehicle to a specially authorized vehicle examiner who shall make a suspension of vehicle licence order and remove the vehicle licence from the vehicle;
- (ii) in any other case, make a vehicle repair order.

Suspension of vehicle licence orders.

7S. (1) A suspension of vehicle licence order shall—

- (a) be in a form specified by the Commissioner;
- (b) require the registered owner of the motor vehicle to cause to be carried out the repairs or other work specified in the order;
- (c) specify the conditions on which the motor vehicle may be driven and used on a road and in particular specify the manner in which the motor vehicle may be moved from and to the vehicle examination centre; and
- (d) be served on the registered owner personally or by registered post.

(2) A suspension of vehicle licence order shall continue in force in respect of a motor vehicle until the repairs or other work required thereby have been carried out satisfactorily.

(3) Where a suspension of vehicle licence order is in force in respect of a motor vehicle, the registered owner may produce the motor vehicle at such vehicle examination centre and at such time and on such date as may be specified by the Commissioner for examination by a vehicle examiner to ascertain whether the repairs or other work required by the order have been carried out satisfactorily and if such repairs or other work are found to have been so carried out a specially authorized vehicle examiner shall cancel the suspension of vehicle licence order forthwith and restore the vehicle licence to the registered owner.

(4) Where a suspension of vehicle licence order is in force in respect of a motor vehicle, any person who drives that motor vehicle on a road except in accordance with the suspension of vehicle licence order commits an offence and is liable on conviction to a fine of \$1,000 and to imprisonment for 6 months.

Repair orders.

7T. (1) A vehicle repair order shall—

- (a) be in a form specified by the Commissioner;
- (b) require the registered owner of the motor vehicle to—
 - (i) cause to be carried out the repairs or other work specified in the order; and
 - (ii) produce the motor vehicle at such vehicle examination centre, and at such time on such date, as shall be specified in the order; and
- (c) be served on the registered owner personally or by registered post.

(2) If, on the examination of a motor vehicle produced at a vehicle examination centre in accordance with a vehicle repair order, the vehicle examiner is not satisfied that the repairs or other work required by the order have been carried out satisfactorily, he may make a further vehicle repair order under section 7R.

(3) The registered owner of a motor vehicle in respect of which a vehicle repair order has been made who fails to produce the motor vehicle for examination at the vehicle examination centre specified in the order at the time and on the date specified in the order commits an offence and is liable on conviction to a fine of \$1,000.

(4) In any proceedings for an offence under subsection (3) it shall be a good defence for the registered owner to prove that at the date specified in the vehicle repair order for production of the motor vehicle for examination—

- (a) the vehicle had been broken up, destroyed or sent permanently out of Hong Kong; or
- (b) the registration book relating to the motor vehicle had been submitted to the Commissioner for cancellation of the registration.

Fees, Third Schedule.

7U. (1) A fee as specified in the Third Schedule shall be payable in respect of an examination under section 7M, 7S(3) and 7T(2).

(2) The Governor in Council may by order published in the *Gazette* amend the Third Schedule.

Forfeiture and disposal.

7V. (1) If a motor vehicle—

- (a) produced at a vehicle examination centre pursuant to a requirement under section 7M or 7N or of a vehicle repair order or pursuant to section 7S(3); or
- (b) driven to a vehicle examination centre under section 7O,

is not claimed within 14 days, the Commissioner shall serve personally or by registered post on the owner, the registered owner or the new owner, as the case may be, a notice in writing informing him that unless he—

- (i) pays to the Commissioner any fee due under section 7U; and
- (ii) removes the motor vehicle from the vehicle examination centre within 7 days of the service of the notice,

the motor vehicle shall be forfeited to the Crown and may be sold or otherwise disposed of in such manner as the Commissioner thinks fit.

(2) If a notice under subsection (1) is not complied with the motor vehicle shall thereupon be forfeited to the Crown and may be sold or otherwise disposed of as the Commissioner thinks fit.

Vehicle
Inspectors and
vehicle testing
centres.

7W. (1) The Commissioner shall appoint persons to be—

- (a) vehicle examiners;
- (b) specially authorized vehicle examiners,

for the purposes of this Part.

(2) The Commissioner may designate any place to be a vehicle examination centre for the purposes of this Part.

Interpretation.

7X. In this Part—

“roadworthy” in relation to any motor vehicle means that the vehicle is suitable and safe for use for any of the purposes for which it may lawfully be used, having regard to the class or any division of the class of motor vehicle within which—

- (a) application has been made to register the vehicle; or
 - (b) the vehicle is registered,
- as the case may be;

“specially authorized vehicle examiner” means a person appointed as a specially authorized vehicle examiner under section 7W(1)(b) and authorized in writing by the Commissioner to issue suspension of vehicle licence orders;

“vehicle examiner” means a person appointed as a vehicle examiner and a specially authorized vehicle examiner under section 7W(1);

“vehicle examination centre” means a place designated as a vehicle examination centre under section 7W(2).”

Addition of new
section 33A.

5. The principal Ordinance is amended by adding after section 33 the the following new section—

“Proof of
matters
relating to
previous
convictions.

33A. (1) A document purporting—

- (a) to be signed by or on behalf of the Commissioner of Police; and
- (b) to certify that according to the record of convictions for offences under this Ordinance compiled and maintained by the Commissioner of Police under this section a person having the name, and holding the driving licence, specified in the certificate is recorded as having been, on the date specified in the certificate, convicted of the offence under this Ordinance specified in the certificate,

shall be admitted in any criminal proceedings before any court or magistrate on its production without further proof.

(2) On the production of a document under subsection (1)—

- (a) the court or magistrate shall, until the contrary is proved, presume that the document was signed at the time specified therein by or on behalf of the Commissioner of Police; and
- (b) the document shall be evidence that the person having the name and holding the driving licence specified in the document was on the date so specified convicted of the offence so specified.

(3) The Commissioner of Police may, for the purposes of this section, cause to be compiled and maintained from information obtained from such persons and in such manner as the Commissioner of Police shall determine records of convictions of persons for offences under this Ordinance.

(4) Any records of convictions of persons for offences under this Ordinance compiled and maintained by the Commissioner of Police prior to the commencement of this section shall be deemed to be records compiled and kept under this section.”

6. The principal Ordinance is amended by adding the following new Schedule—

Addition of
Third
Schedule.

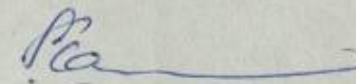
“THIRD SCHEDULE

[s. 7U.]

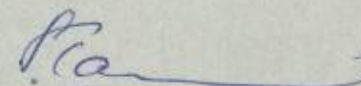
FEEs FOR MOTOR VEHICLE EXAMINATION

	\$
1. Motor cycle or scooter with or without side car	25
2. (a) Motor vehicles of a weight unladen not exceeding 2 tons, other than those specified in item 1	
(b) Trailers other than trailers towed by private cars ...	60
3. Motor vehicles of a weight unladen exceeding 2 tons	110”.

Passed by the Hong Kong Legislative Council this 20th day of December, 1978.


Clerk to the Legislative Council.

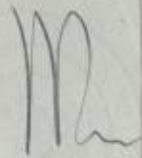
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.


Clerk to the Legislative Council.

~~SECRET~~

No. 84 OF 1978


I assent

A handwritten signature in black ink, appearing to be the initials 'M' followed by a flourish.

HONG KONG

No. 84 of 1978

I assent.



Murray S. Lehman

Governor.

21st December, 1978.

An Ordinance to provide for the creation of a fund for assisting traffic accident victims, the charging of levies and for purposes connected therewith.

[1st January, 1979]

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 Traffic Accident Victims (Assistance Fund) Ordinance 1978 and shall come into operation on the 1st January 1979. Short title and commencement.

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

"Commissioner" means the Commissioner for Transport;

"Director" means the Director of Social Welfare Incorporated;

"fund" means the assistance fund established under section 3;

"registered owner" means the person in whose name a motor vehicle is registered under regulations made under the Road Traffic Ordinance; (Cap. 220.)

"road" includes every highway, thoroughfare, street, lane, public bridge, alley, court, square, archway, passage, path, way and place to which the public have access, either continuously or intermittently and either of right or by licence, whether the same be the property of the Crown or otherwise;

"trade licence" means a trade licence issued under regulations made under the Road Traffic Ordinance;

"traffic accident" means an accident occurring on or after the 1st May 1979 which causes the death of or injury to any person as the direct result of the use or presence of a vehicle on a road;

"traffic accident victim" means any person who is killed or suffers personal injuries in a traffic accident;

"tramcar" and "trailer" mean any tramcar or trailer owned by Hong Kong Tramways Limited;

"vehicle" and "motor vehicle" mean any vehicle whether mechanically propelled or otherwise intended or adapted for use on roads;

"vehicle licence" means a licence issued under regulations made under the Road Traffic Ordinance.

3. (1) There is hereby established a fund for assisting traffic accident victims and their dependants.

(2) There shall be credited to the fund—

- (a) all levies that are paid under sections 5 and 6;
- (b) all sums received by the fund under section 10;
- (c) such sums as may from time to time be voted by the Legislative Council for the purpose;
- (d) all interest and other income derived from the money and investments comprising the fund.

(3) The fund shall be administered by the Director.

4. There shall be paid from the fund—

- (a) all moneys payable to traffic accident victims and their dependants in accordance with the Traffic Accident Victims Assistance Scheme approved by the Legislative Council together with any amendments to the Scheme or any replacement of the Scheme which may be approved by the Legislative Council;
- (b) any refund of levies made under section 5(9); and
- (c) the cost of any administration fee charged under section 12.

5. (1) An annual levy at the rate specified in Part I of the Schedule shall be payable in respect of—

- (a) every motor vehicle which is licensed or is required to be registered and licensed under regulations made under the Road Traffic Ordinance;
- (b) every trade licence;
- (c) every motor vehicle owned by the Crown whether in right of Her Majesty's Government in Hong Kong or in the United Kingdom;
- (d) every tramcar;
- (e) every trailer drawn by a tramcar.

(2) A levy payable under subsection (1)(c) in respect of motor vehicles in the possession of Her Majesty's forces shall be so payable in respect only of such motor vehicles which the Secretary for Security certifies, at the time when the levy is payable, to be part of the vehicle establishment of any unit of Her Majesty's forces in Hong Kong.

(3) Subject to subsection (4), in the case of a motor vehicle to which subsection (1)(a) applies or in the case of a trade licence, the levy shall be payable by the registered owner of the vehicle or the person to whom

Establishment of assistance fund.

Objects of the fund.

Levy on motor vehicles. Schedule.

(Cap. 220.)

the trade licence is issued for each consecutive period of 12 months during which the vehicle is licensed or the trade licence is valid, under regulations made under the Road Traffic Ordinance, such period commencing on the date from which the vehicle licence or trade licence is granted.

(4) Where a motor vehicle to which subsection (1)(a) applies is licensed for less than 12 months, the amount of the levy payable by the registered owner shall be reduced by one-twelfth thereof for each complete month by which that period is less than 12 months.

(5) The levy shall be paid to the Commissioner and shall accompany the application made for the vehicle licence or trade licence, as the case may be.

(6) In the case of a motor vehicle to which subsection (1)(a) applies or in the case of a trade licence, the levy shall be payable where the vehicle licence or trade licence is issued on or after the 1st May 1979; but where a vehicle licence is due to expire on or after that date and, at any time during the period of 4 months immediately preceding the date of expiry of the licence, the registered owner of the motor vehicle to which the vehicle licence relates obtains a new vehicle licence in accordance with regulation 19(7) of the Road Traffic (Registration and Licensing of Vehicles) Regulations, the registered owner shall pay the levy that would have been payable had he applied for the new vehicle licence on or after the 1st May 1979.

(Cap. 220, sub. leg.)

(7) In the case of a motor vehicle to which subsection (1)(c) applies the levy shall be payable by the Crown in right of Her Majesty's Government in Hong Kong from general revenue not later than the 1st June 1979 and thereafter at intervals of 12 months calculated from the date of the first payment.

(8) In the case of a tramcar and trailer the levy shall be payable by Hong Kong Tramways Limited to the Commissioner not later than the 1st June 1979 and thereafter at intervals of 12 months calculated from the date of the first payment.

(9) Where—

- (a) the vehicle licence of a motor vehicle to which subsection (1)(a) applies is cancelled, revoked or surrendered and a refund of the fee for such licence is made;
- (b) a trade licence is cancelled; or
- (c) a tramcar or trailer is broken up, destroyed, rendered permanently immobile or sent permanently out of Hong Kong,

the Commissioner shall, on application in writing made to him by the registered owner of the vehicle, the person to whom the trade licence was issued or Hong Kong Tramways Limited, as the case may be, refund to such registered owner, person or company a sum equal to one-twelfth part of the amount of the levy in respect of the vehicle, trade licence, tramcar or trailer for each complete month between the date on which the licence was cancelled, revoked or surrendered or the tramcar or trailer was broken up, destroyed, rendered permanently immobile or sent permanently out of Hong Kong, as the case may be, and the end of the 12 months in respect of which the levy was paid.

6. (1) A levy at the rate specified in Part II of the Schedule shall be payable by—

- (a) every holder of a driving licence or provisional driving licence issued under the Road Traffic (Driving Licences) Regulations;
- (b) the Crown in respect of every person in the public service of the Crown who, not being the holder of a driving licence or

Levy on licence holders. Schedule.

(Cap. 220, sub. leg.)

provisional driving licence issued under the Road Traffic (Driving Licences) Regulations, is at the date of payment of the levy the holder of a valid permit or other form of authorization permitting that person to drive a vehicle belonging to the Crown.

(2) A levy under subsection (1)(a) shall be payable—

(a) in the case of a driving licence or provisional driving licence valid for 12 months, for each consecutive period of 12 months during which the licence remains valid; or

(b) in the case of driving licence valid for 3 years, for each consecutive period of 3 years during which the licence remains valid, such period commencing on the date from which the licence is granted.

(3) A levy under subsection (1)(a) shall be paid by the licence holder to the Commissioner and shall accompany the application for the licence.

(4) A levy under subsection (1)(a) shall be payable where the licence is granted on or after the 1st May 1979, but where a driving licence is due to expire on or after that date and, at any time during the 4 months immediately preceding the date of expiry of the licence, the holder renews that licence in accordance with regulation 6(1A)(a) of the Road Traffic (Driving Licences) Regulations, the holder shall pay the levy that would have been payable had he renewed the licence on or after the 1st May 1979.

(5) The levy under subsection (1)(b) shall be payable by the Crown from the general revenue not later than the 1st June 1979 and thereafter at intervals of 12 months calculated from the date of the first payment.

(6) In this section, "person in the public service of the Crown" means a person who is—

(a) a public officer;

(b) a member of Her Majesty's forces serving in Hong Kong; or

(c) a member of—

(i) the Royal Hong Kong Regiment (The Volunteers);

(ii) the Royal Hong Kong Auxiliary Air Force;

(iii) the Royal Hong Kong Auxiliary Police Force; or

(iv) the Essential Services Corps.

7. (1) Where a person who is liable to pay—

(a) an annual levy under section 5 in respect of a motor vehicle to which section 5(1)(a) applies or in respect of a trade licence to which section 5(1)(b) applies; or

(b) a levy under section 6 in respect of a driving licence to which section 6(1)(a) applies,

fails to pay such levy, the Commissioner shall—

(i) in respect of such motor vehicle refuse to issue a vehicle licence in respect of that vehicle until the annual levy is paid;

(ii) in respect of such trade licence, refuse to issue or renew that licence until the annual levy is paid; or

(iii) refuse to issue such driving licence until the levy is paid,

as the case may be.

(2) Any unpaid annual levy or levy due from any person other than the Crown shall be recoverable as a debt due to the Crown.

8. The Director may invest any moneys of the fund in such investments as the Financial Secretary may direct, whether or not such investments are investments authorized under the Trustee Ordinance.

Failure to pay
levy.

Investment.

(Cap. 29.)

9. (1) It shall be a condition of any payment of money from the fund to a person eligible to receive such money, that he signs, in such form as the Director may specify, an undertaking—

Undertaking
to notify
Director of
claim, etc.

(a) to notify the Director within such period as may be specified in the undertaking, of the making by that person of any claim or the bringing of any legal proceedings by that person in respect of the traffic accident for which he is eligible to claim money from the fund; and

(b) to notify any person against whom he makes a claim in respect of that traffic accident of the amount of money he has received from the fund.

(2) Where a person, who has been notified under subsection (1)(b) by any person making a claim in respect of a traffic accident of the amount of money he has received from the fund in respect of that accident, intends making or is required to make any payment to or for the benefit of that person in respect of that accident, that person shall not less than 72 hours before the day on which payment is to be made notify the Director in writing of the name and address of the person to whom or for whose benefit the payment is to be made and the amount thereof.

(3) Any person who wilfully breaches an undertaking signed by him under subsection (1) commits an offence and is liable on conviction to a fine of \$2,000 and to imprisonment for 6 months.

(4) Any person who fails to comply with subsection (2) commits an offence and is liable on conviction to a fine of \$2,000.

10. (1) Subject to subsection (2), where as a result of a traffic accident damages or compensation are or is paid to or for the benefit of any person to whom or for whose benefit money from the fund in respect of that accident has been paid, the person receiving the damages or compensation shall pay to the fund the amount of money paid from the fund.

Recovery of
money paid
out of the
fund.

(2) Where the damages or compensation are or is less than the money paid from the fund the amount to be paid to the fund under subsection (1) shall not exceed the amount of the damages or compensation.

(3) Where a person fails to pay money in accordance with subsection (1), the amount of the money not so paid shall be recoverable as a debt due to the Crown.

(4) In an action for damages for personal injuries arising out of a traffic accident there shall not be taken into account any money which has been or may be paid from the fund in respect of that accident.

11. (1) The Director shall keep such accounts of all transactions of the fund as the Director of Accounting Services may require and shall prepare for the period from the commencement of this Ordinance to the 31st March thereafter, and for each subsequent period of 12 months ending on the 31st March in each year, a statement of accounts of the fund, which statement shall include a receipts and payments account and balance sheet.

Accounts, audit
and annual
report.

(2) The statement of accounts of the fund shall be submitted by the Director to the Director of Audit not later than the 31st July next following the end of the period to which it relates or such later date as the Governor may allow.

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

(4) A copy of the audited statement of accounts together with the Director of Audit's report, if any, and a report by the Director on the administration of the fund during the period covered by the audited accounts shall be laid upon the table of the Legislative Council within 3 months of the receipt by the Director of the audited statement of accounts from the Director of Audit.

Cost of administration.

12. (1) Subject to subsection (2), the cost of the administration of the fund shall be a charge on the general revenue of Hong Kong.

(2) The Financial Secretary may direct that an annual administration fee to be determined by him shall be charged to the income of the fund and paid into the general revenue of Hong Kong.

No derogation from common law.

13. Nothing in this Ordinance shall diminish or extinguish any rights enforceable at common law arising from a traffic accident.

Power to amend Schedule.

14. The Legislative Council may by resolution amend the Schedule.

SCHEDULE

[ss. 5, 6 & 14.]

PART I

LEVY ON MOTOR VEHICLES, TRADE LICENCES, TRAMCARS AND TRAILERS

No. of Class	Description of Motor Vehicle, Tramcar and Trailer	Annual Levy
1.	Motor vehicle	\$75
2.	Trade licence	\$75
3.	Tramcar	\$75
4.	Trailer drawn by a tramcar	\$75

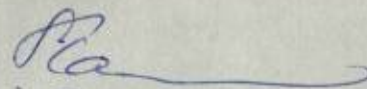
PART II

LEVY ON HOLDERS OF DRIVING LICENCES AND DRIVING PERMITS

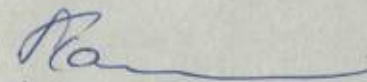
Item	Type of Licence or Permit	Levy
1.	Driving licence issued under regulation 6(1)(a) of the Road Traffic (Driving Licences) Regulations.	\$25
2.	Driving licence issued under regulation 6(1)(b) of the Road Traffic (Driving Licences) Regulations.	\$75
3.	Provisional driving licence issued under regulation 10 of the Road Traffic (Driving Licences) Regulations.	\$25
4.	Permit or other authorization issued by the Crown permitting a person in the public service of the Crown to drive a vehicle owned by the Crown.	\$25

(Cap. 220,
sub. leg.)

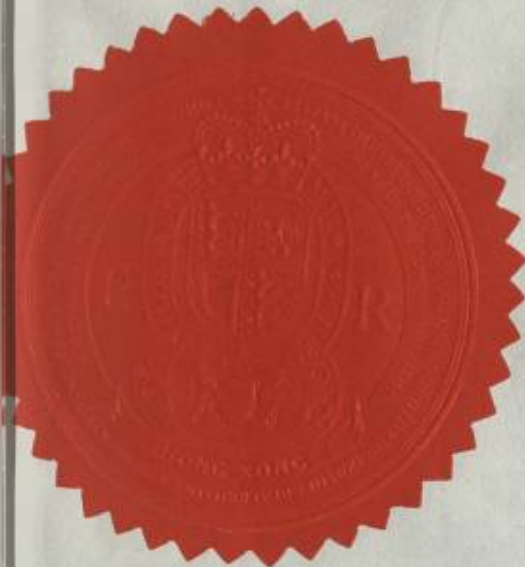
Passed by the Hong Kong Legislative Council this 20th day of December, 1978.


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.

No. 85 OF 1978



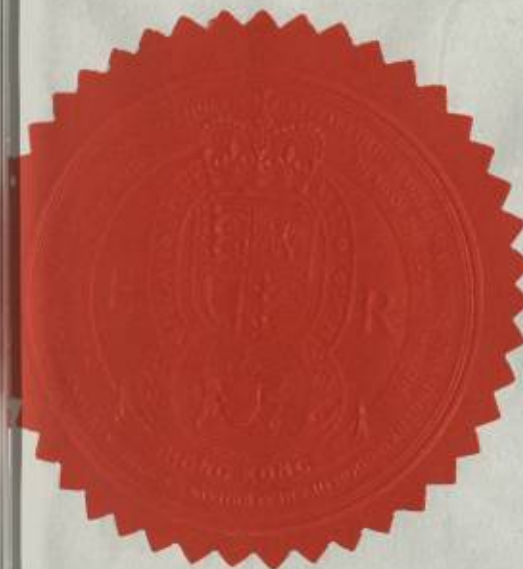
I assent.

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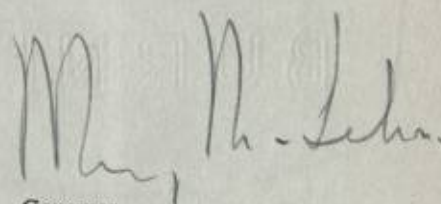
Governor

HONG KONG

No. 85 OF 1978



I assent.


Governor.

21st December, 1978.

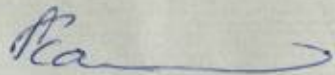
An Ordinance to amend the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance.

[22nd December, 1978]

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 Judicial Proceedings (Adjournment During Gale Warnings) (Amendment) Ordinance 1978. Short title.
2. Section 2 of the principal Ordinance is amended by deleting the definition of "gale warning" and substituting the following— Amendment of section 2.
(Cap. 62.)
"gale warning" means a warning of the occurrence of a tropical cyclone in, or in the vicinity of, the Colony by the use of any of the tropical cyclone warning signals referred to in section 5;"
3. Section 5(1) of the principal Ordinance is amended by deleting paragraphs (a) and (b) and substituting the following— Amendment of section 5.
(a) commence when the Director issues from the Royal Observatory a report to the effect that any of the tropical cyclone warning signals commonly referred to as No. 8NW, 8SW, 8NE, 8SE, 9 or 10 is in force; and
(b) cease when the Director issues from the Royal Observatory a report to the effect that none of the signals mentioned in paragraph (a) remains in force."

Passed by the Hong Kong Legislative Council this 20th day of December, 1978.

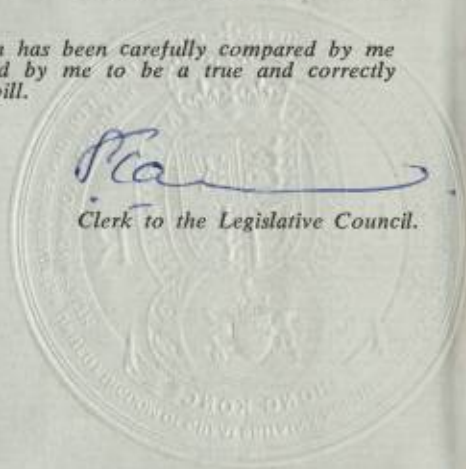


Clerk to the Legislative Council.

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.



PUBLIC RECORDS OFFICE
OF HONG KONG

H.K.R.S. No. 28

D. & S. No. 16/26