

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

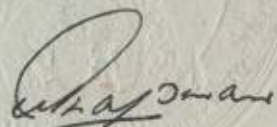
Short title.

1. This Ordinance may be cited as the Community Relief Trust Fund (Transfer and Vesting) Ordinance, 1964.

Transfer and vesting of fund.
(12 of 1962).

2. The Community Relief Trust Fund established by section 3 of the Community Relief Trust Fund Ordinance, 1962, shall be deemed to have been transferred to and vested in the Director of Social Welfare Incorporated as trustee, in accordance with subsection (1) of that section, on the 15th June, 1962.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 20th day of May, 1964, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

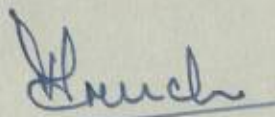
(Secretariat GR1/3/1866/60)

HONG KONG

No. 18 OF 1964.



I assent.


Governor.

4th June, 1964.

An Ordinance to amend the Chinese University of Hong Kong Ordinance, 1963.

[5th June, 1964.]

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

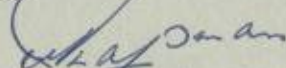
1. This Ordinance may be cited as the Chinese University of Hong Kong (Amendment) Ordinance, 1964.

2. Section 11 of the Chinese University of Hong Kong Ordinance, 1963, is amended by the deletion, in paragraph (i), of the words "two persons" and the substitution therefor of the following—

Amendment of section 11.
(28 of 1963).

"not more than four persons".

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 3rd day of June, 1964, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

(Secretariat CR12/2041/63II)

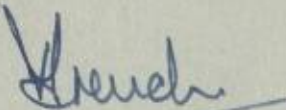


HONG KONG

No. 19 OF 1964.



I assent.


Governor.

4th June, 1964.

An Ordinance further to amend the Workmen's Compensation Ordinance, 1953.

[]

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

1. This Ordinance may be cited as the Workmen's Compensation (Amendment) Ordinance, 1964, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*.

Short title
and com-
mencement.

2. The Workmen's Compensation Ordinance, 1953 (hereinafter referred to as the principal Ordinance) is amended by the insertion, before section 1, of the following—

Division of
Ordinance
into Parts,
Part I.

"PART I.

PRELIMINARY."

(28 of 1953).

3. Section 3 of the principal Ordinance is amended by the insertion, after the definition "member of the family", of the following definition—

Amendment
of section 3.

Second
Schedule.

" "occupational disease" means any of the diseases specified in the second column of the Second Schedule and any recurrence or sequelae thereof;".

Division of
Ordinance
into Parts,
Part II.

4. The principal Ordinance is amended by the insertion, before section 5, of the following—

“PART II.

COMPENSATION FOR INJURY.”.

Addition of
new Part.

5. The principal Ordinance is amended by the addition, after section 29, of the following new Part—

“PART III.

COMPENSATION FOR OCCUPATIONAL DISEASES.

Compensa-
tion in the
case of occu-
pational
disease.

29A. (1) If a workman contracts an occupational disease which results in the total or partial incapacity (whether of a permanent or temporary nature) or the death of the workman and is due to the nature of any employment in which the workman was employed at any time within the twelve months immediately preceding such incapacity or death, whether under one or more employers, then, the workman or his dependants, as the case may be, shall be entitled to compensation under this Ordinance as if such incapacity or death had been caused by an accident arising out of and in the course of employment in respect of which the provisions of section 5 apply, and the provisions of this Ordinance (including in particular section 14) shall, *mutatis mutandis*, apply thereto, subject to the following modifications—

- (a) the incapacity or the death shall be treated as the happening of the accident;
- (b) if it is proved that the workman, at the time of entering into the employment, wilfully and with intent to deceive represented in writing that he had not previously suffered from the disease resulting in the incapacity or death, compensation shall not be payable;
- (c) subject to subsection (3), the compensation shall be recoverable from the employer who last employed the workman during the twelve months immediately preceding the incapacity or death in the employment to the nature of which the disease was due;
- (d) the amount of the compensation shall be calculated with reference to the earnings of the workman under the employer from whom the compensation is recoverable pursuant to paragraph (c) or subsection (3);

- (e) the employer to whom notice of incapacity or death is given shall be the employer who last employed the workman during the twelve months immediately preceding the incapacity or death in the employment to the nature of which the disease was due, and the notice may be given notwithstanding that the workman has voluntarily left such employer's employment.

(2) Where a workman suffers incapacity or dies as a result of an occupational disease, the workman or his dependants, as the case may be, shall, if so required, furnish to the employer who last employed the workman during the twelve months immediately preceding the incapacity or death in the employment to the nature of which the occupational disease was due such information as to the names and addresses of all other employers who employed him in such employment during such twelve months as he or they may possess, and, if such information is not furnished or is not sufficient to enable that employer to take proceedings under subsection (3), that employer, upon proving that the disease was not contracted whilst the workman was in his employment, shall not be liable to pay compensation.

(3) If the employer who last employed the workman during the twelve months immediately preceding the incapacity or death in the employment to the nature of which the occupational disease was due alleges that the disease was in fact contracted whilst the workman was in the employment of some other employer during such twelve months, and not whilst in his employment, he may join such other employer as a party to the proceedings in respect of the claim for compensation, and if the allegation is proved that other employer shall be the employer from whom the compensation is recoverable.

(4) If the occupational disease is of such a nature as to be contracted by a gradual process, any other employers who during the twelve months immediately preceding the incapacity or death employed the workman in the employment to the nature of which the disease was due shall be liable to make to the employer from whom compensation is recoverable pursuant to paragraph (c) of subsection (1) or subsection (3) such contribution as, in default of agreement, may be determined by a Court at the hearing of the claim for compensation, or, if the amount of and liability to pay the compensation is not in dispute, by the Court at a separate hearing.

(5) Nothing in subsection (2) shall be construed as preventing the workman or his dependants, as the case may be, from recovering compensation under this Part from any other employer who employed the workman in the employment to the nature of which the occupational disease was due during the period of twelve months immediately preceding the incapacity or death in the event of the employer who last employed the workman in such employment proving that the disease in question was not contracted whilst the workman was in his employment.

(6) For the purposes of this section, the date of the incapacity shall, in the absence of agreement, be such date as the Court shall determine as being the date upon which the incapacity commenced; and no workman shall be prejudiced in any claim for compensation under this Part by reason only of the fact that the notice of incapacity given to the employer specified some other date.

Medical examination before employment. Second Schedule.

29B. (1) Any employer may, before employing a workman in any trade, industry or process specified in the third column of the Second Schedule, require the workman to undergo a medical examination by a medical practitioner at the cost of the employer.

(2) (a) Subject to paragraph (b), any workman who refuses to undergo a medical examination required under subsection (1) shall not be entitled to recover from that employer compensation under this Ordinance for incapacity or death suffered as a result of an occupational disease.

(b) Paragraph (a) shall not apply unless the refusal to undergo the medical examination is evidenced by writing under the hand of the workman.

Presumption as to cause of occupational disease.

29C. If a workman who suffers incapacity or dies as a result of an occupational disease was within the period of twelve months immediately preceding such incapacity or death employed in any trade, industry or process specified opposite to that disease in the third column of the Second Schedule, it shall be presumed, until the contrary is proved, that such disease was due to the nature of such employment.

Second Schedule.

Amendment of Second Schedule.

29D. The Governor in Council may from time to time by order, which shall be published in the *Gazette*, amend the Second Schedule.

Saving in case of diseases other than occupational diseases.

29E. Nothing in this Part shall prejudice the right of a workman to recover compensation under this Ordinance in respect of a disease to which this Part does not apply, if the disease is a personal injury by accident within the meaning of section 5."

6. The principal Ordinance is amended by the insertion, before section 30, of the following—

Division of Ordinance into Parts, Part IV.

"PART IV.

MISCELLANEOUS."

7. The principal Ordinance is amended by the insertion, before the word "Schedule" wherever it occurs, of the following—

Amendment of principal Ordinance.

"First".

8. The Schedule to the principal Ordinance is amended by being numbered the First Schedule.

Amendment of Schedule.

9. The principal Ordinance is amended by the addition of the following new Schedule—

Addition of new Schedule.

"SECOND SCHEDULE.

[ss. 3, 29B & 29C.]

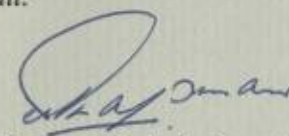
OCCUPATIONAL DISEASES.

Item.	Description of occupational disease.	Nature of trade, industry or process.
1.	Poisoning by lead	Any occupation involving the use or handling of, or exposure to the fumes, dust or vapour of, lead or a compound of lead, or a substance containing lead.
2.	Poisoning by manganese	Any occupation involving the use or handling of, or exposure to the fumes, dust or vapour of, manganese or a compound of manganese, or a substance containing manganese.
3.	Poisoning by phosphorus	Any occupation involving the use or handling of, or exposure to the fumes, dust or vapour of, phosphorus or a compound of phosphorus or a substance containing phosphorus.
4.	Poisoning by arsenic	Any occupation involving the use or handling of, or exposure to the fumes, dust or vapour of, arsenic or a compound of arsenic, or a substance containing arsenic.
5.	Poisoning by mercury	Any occupation involving the use or handling of, or exposure to the fumes, dust or vapour of, mercury or a compound of mercury, or a substance containing mercury.

<i>Item.</i>	<i>Description of occupational disease.</i>	<i>Nature of trade, industry or process.</i>
6.	Poisoning by carbon bisulphide	Any occupation involving the use or handling of, or exposure to the fumes or vapour of, carbon bisulphide or a compound of carbon bisulphide, or a substance containing carbon bisulphide.
7.	Poisoning by benzene or a homologue of benzene	Any occupation involving the use or handling of, or exposure to the fumes of, or vapour containing, benzene or any of its homologues.
8.	Poisoning by a nitro-derivative or amido-derivative of benzene or of a homologue of benzene	Any occupation involving the use or handling of, or exposure to the fumes of, or vapour containing, a nitro-derivative or amido-derivative of benzene or of a homologue of benzene.
9.	Poisoning by dinitrophenol or a homologue of dinitrophenol	Any occupation involving the use or handling of, or exposure to the fumes of, or vapour containing, dinitrophenol or any of its homologues.
10.	Poisoning by cadmium	Any process involving exposure to cadmium fumes.
11.	Poisoning by tri-cresyl phosphate	Any occupation involving the use or handling of, or exposure to the fumes of, or vapour containing, tri-cresyl phosphate.
12.	Poisoning by halogen derivatives of hydrocarbons of the aliphatic series	Any process involving the production, liberation or utilization of halogen derivatives of hydrocarbons of the aliphatic series.
13.	Poisoning by nitrous fumes	Any process involving the use or handling of nitric acid or exposure to nitrous fumes.
14.	Anthrax	Any process involving the handling of wool, hair, bristles, hides or skins or other animal products or residues or contact with animals infected with anthrax.
15.	Primary epitheliomatous cancer of the skin	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.
16.	Ulceration of the corneal surface of the eye	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.
17.	Chrome ulceration	Any process involving the use or handling of chromic acid, chromate or bichromate of ammonium, potassium, sodium or zinc, or any preparation or solution containing any of these substances.
18.	Inflammation or ulceration of the skin produced by dust, liquid or vapour (including the condition known as chloracne but excluding chrome ulceration)	Any process involving exposure to dust, liquid or vapour.

<i>Item.</i>	<i>Description of occupational disease.</i>	<i>Nature of trade, industry or process.</i>
19.	Heat cataract	Any process involving frequent or prolonged exposure to the glare of, or rays from, molten glass or molten or red-hot metal.
20.	Decompression sickness	Any process involving subjection to increased air-pressure.
21.	Pathological manifestations due to radium or other radioactive substances or X-rays	Any process involving exposure to the action of radium, radioactive substance or X-rays."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 3rd day of June, 1964, and is found by me to be a true and correctly printed copy of the said Bill.



Deputy Clerk of Councils.

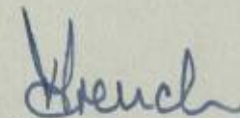
(Secretariat GR7569/45II)

HONG KONG

No. 20 OF 1964.



I assent.


Governor.

9th July, 1964.

An Ordinance to amend the Larceny Ordinance.

[10th July, 1964.]

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

1. This Ordinance may be cited as the Larceny (Amendment) Short title. Ordinance, 1964.

2. Section 3 of the Larceny Ordinance (hereinafter referred to as the principal Ordinance) is amended in the definition “valuable security” by the insertion after the words “other security for the payment of money” of the following—

Amendment
of section 3.
(Cap. 210).

“or any authority or request for the payment of money or for the delivery or transfer of goods or chattels”.

Repeal and
replacement
of section 50.

3. Section 50 of the principal Ordinance is repealed and replaced by the following—

"False
pretences
and fraud.

50. (1) Any person who by any false pretence or by means of any other fraud whether or not such false pretence or other fraud was the sole or main inducement—

(a) with intent to defraud, obtains from any other person credit or any chattel, money or valuable security or causes or procures credit to be given, money to be paid or any chattel or valuable security to be delivered to himself or to any other person for the use or benefit or on account of himself or any other person; or

(b) with intent to defraud or injure any other person, causes or induces any other person—

(i) to execute, make, accept, endorse, or destroy the whole or any part of any valuable security; or

(ii) to write, impress, or affix his name or the name of any other person, or the seal of any body corporate or society upon any paper or parchment in order that the same may be afterwards made or converted into, or used or dealt with as, a valuable security,

shall be guilty of felony and on conviction thereof liable to imprisonment for ten years.

(2) In this section false pretence includes a false pretence or false representation relating to the past, the present or the future and a false statement or false representation of intention or opinion.

(3) In this section obtaining credit includes incurring a liability or an obligation to pay money, supply goods, render services or do any other thing and causing or procuring credit to be given shall be construed similarly.

(4) An information, charge or indictment charging an offence under this section may contain the words "false pretence or by means of any other fraud" and shall not thereby be regarded as charging more than one offence.

(5) Any person who obtains from any other person credit or any chattel, money or valuable security or causes or procures credit to be given, money to be paid or any chattel or valuable security to be delivered to himself or to

any other person for the use or benefit or on account of himself or any other person by means wholly or in part of a cheque or other bill of exchange which is refused payment upon presentation on or after becoming due shall, until the contrary is proved, be deemed so to have obtained, caused or procured with knowledge that such cheque or other bill of exchange would not be honoured."

4. Section 51 of the principal Ordinance is amended by the deletion of paragraph (a). Amendment
of section 51.

5. Section 52 of the principal Ordinance is repealed and replaced by the following— Repeal and
replacement
of section 52.

"Receiving.
6 & 7 Geo.
5, c. 50,
s. 33.

52. (1) Any person who receives any property knowing the same to have been obtained in any way whatsoever under circumstances which amount to an indictable offence, shall be guilty of an offence and on conviction thereof liable to imprisonment for ten years.

(2) Any such person may be indicted and convicted, whether the principal offender has or has not been previously convicted, or is or is not amenable to justice.

(3) Any person who, without lawful excuse, knowing the same to have been obtained in any way whatsoever under such circumstances that if the act had been committed in this Colony the person committing it would have been guilty of an indictable offence, receives or has in his possession any property so obtained outside the Colony, shall be guilty of an offence and on conviction thereof liable to imprisonment for seven years."

6. Section 63 of the principal Ordinance is amended— Amendment
of section 63.

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

"(1) In a prosecution for any offence under section 50 it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the defendant did the act charged with intent to defraud."

(b) in subsection (2)—

(i) by the insertion, after the words "An allegation in an", of the following—

"information, charge or";

(ii) by the insertion, after the words "by false pretence", of the following—

"or by means of any other fraud";

(c) in subsection (3)—

(i) by the insertion, after the words "In an", of the following—

"information, charge or"; and

(ii) by the deletion of the word "feloniously".

Amendment
of section 64.

7. Section 64 of the principal Ordinance is amended by the deletion, from subsection (1), of the words "knowing it to have been stolen, or for having in his possession stolen property" and the substitution therefor of the following—

"contrary to section 52".

Repeal and
replacement
of section 66.

8. Section 66 of the principal Ordinance is repealed and replaced by the following—

"Verdict.

Schedule.

66. (1) If on the trial of any information, charge or indictment for an offence specified in the first column of the Schedule it is proved that the defendant is guilty of some other offence being the offence or one of the offences specified opposite thereto in the second column of the Schedule or of attempting or being a party to an offence so specified the defendant shall be acquitted of the offence originally charged and shall be convicted of such other offence or of attempting or being a party to such other offence and be liable to be punished accordingly.

(2) The references in the Schedule to numbered sections and subsections shall be construed to include every offence under the section or subsection so numbered in this Ordinance.

(3) Nothing in this section or in the Schedule shall exclude the application to any offence of any other law authorizing a person to be found guilty of an offence other than that with which he is charged.

(4) If on the trial of any information, charge or indictment charging two or more persons for jointly receiving any property it is proved that one or more such persons separately received any part of such property, such of the said persons as are proved to have received any part of such property may be convicted."

9. The principal Ordinance is amended by the addition of the following Schedule—

Addition
of new
Schedule.

"SCHEDULE.

[s. 66.]

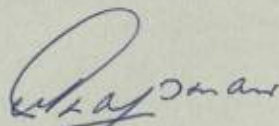
<i>Offence</i>	<i>Other offences of which the defendant may be found guilty</i>
Robbery with aggravation (section 40(1))	(i) Receiving (section 52) (ii) Simple larceny (section 4) (iii) Larceny from the person (section 26) (iv) Common assault (v) Assault with intent to rob (section 40(3)) (vi) Robbery (section 40(2)) (vii) Demanding with menaces (section 48)
Robbery (section 40(2))	(i) Receiving (section 52) (ii) Simple larceny (section 4) (iii) Larceny from the person (section 26) (iv) Common assault (v) Assault with intent to rob (section 40(3)) (vi) Demanding with menaces (section 48)
Assault with intent to rob (section 40(3))	(i) Common assault (ii) Demanding with menaces (section 48)
Demanding with menaces (section 48)	(i) Assault with intent to rob (section 40(3)) (ii) Common assault (iii) Threatening to publish (section 49)
Simple larceny (section 4)	(i) Receiving (section 52) (ii) False pretences and fraud (section 50) (iii) Fraudulent conversion (sections 32 and 33) (iv) Embezzlement (section 31)
Larceny from the Person (section 26)	(i) Simple larceny (section 4) (ii) Common assault (iii) Receiving (section 52)
Embezzlement (section 31)	(i) Fraudulent conversion (sections 32 and 33) (ii) Simple larceny (section 4) (iii) Receiving (section 52)
Fraudulent conversion (sections 32 and 33)	(i) False pretences and fraud (section 50) (ii) Embezzlement (section 31) (iii) Simple larceny (section 4) (iv) Receiving (section 52)
False pretences and fraud (section 50)	(i) Receiving (section 52) (ii) Simple larceny (section 4) (iii) Fraudulent conversion (sections 32 and 33)

Offence	Other offences of which the defendant may be found guilty
Larceny in dwelling houses (section 25)	(i) Receiving (section 52) (ii) Simple larceny (section 4)
Burglary (section 42)	(i) Receiving (section 52) (ii) Simple larceny (section 4) (iii) Larceny in dwelling houses (section 25) (iv) Being found by night armed (section 45) (v) House-breaking with intent (section 44) (vi) House-breaking and committing felony (section 43)
House-breaking and committing felony (section 43)	(i) Receiving (section 52) (ii) Simple larceny (section 4) (iii) Larceny in dwelling houses (section 25) (iv) Being found by night armed (section 45) (v) House-breaking with intent (section 44)
House-breaking with intent (section 44)	Being found by night armed (section 45)

Repeal of sections 62 and 63 of Cap. 221.

10. Sections 62 and 63 of the Criminal Procedure Ordinance are repealed.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 8th day of July, 1964, and is found by me to be a true and correctly printed copy of the said Bill.

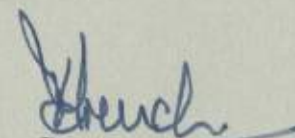

Deputy Clerk of Councils.

(Secretariat GR10/2706/47)

HONG KONG

No. 21 OF 1964.

I assent.


Governor.

9th July, 1964.

An Ordinance to amend the Forgery Ordinance.

[10th July, 1964.]

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

1. This Ordinance may be cited as the Forgery (Amendment) Short title. Ordinance, 1964.

2. In section 2 of the Forgery Ordinance (hereinafter referred to as the principal Ordinance) the definition "valuable security" is amended by the insertion after the words "other security for the payment of money" of the following—

Amendment of section 2, (Cap. 209).

"or any authority or request for the payment of money or for the delivery or transfer of goods or chattels".

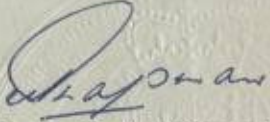
Amendment
of section 3.

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

"15 & 16
Geo. 5, c.
86, s. 35.

(4) A document may be a false document for the purpose of this Ordinance notwithstanding that it is not false in any such manner as is described in subsection (2) of this section."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 8th day of July, 1964, and is found by me to be a true and correctly printed copy of the said Bill.

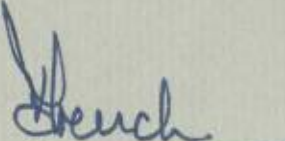

Deputy Clerk of Councils.

(Secretariat GR10/2706/47)

HONG KONG

No. 22 OF 1964.

I assent.


Governor.

23rd July, 1964.

An Ordinance to amend the Medical Clinics Ordinance, 1963.

[24th July, 1964.]

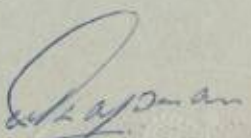
BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

1. This Ordinance may be cited as the Medical Clinics (Amendment) Ordinance, 1964. Short title.

2. Section 2 of the Medical Clinics Ordinance, 1963, is amended by the insertion, after the definition "medical treatment", of the following—
Amendment of section 2. (27 of 1963).

"“premises” include any place whatsoever, whether consisting of a building or not, and any vehicle or vessel, whether mobile or not;”.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 22nd day of July, 1964, and is found by me to be a true and correctly printed copy of the said Bill.

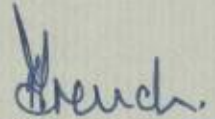

Deputy Clerk of Councils.

(Secretariat CR3862/57II)

HONG KONG

No. 23 OF 1964.

I assent.


Governor.

6th August, 1964.

An Ordinance further to amend the Road Traffic Ordinance, 1957.

[]

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

1. This Ordinance may be cited as the Road Traffic (Amendment) Ordinance, 1964, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*. Short title and commencement.

2. Section 2 of the Road Traffic Ordinance, 1957 (hereinafter referred to as the principal Ordinance) is amended, in subsection (2)— Amendment of section 2. (39 of 1957).

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

“(d) public cars, that is to say any cars, not being taxis, which either—

(i) stand or ply for hire and are used to carry passengers at separate and distinct fares within the Colony on a recognized and predetermined route or

for a recognized or predetermined purpose, in accordance with a right or licence granted by or under any enactment; or

(ii) are hired or intended to be hired for the carriage of passengers under a contract expressed or implied, other than a hire purchase agreement, for the use of the vehicles as a whole at or for a fixed or agreed rate or sum, whether or not such contract makes provision for the driving of the vehicles by the hirers;";

(b) by the deletion in paragraph (e) of the words and comma "hire cars,";

(c) by the deletion of paragraphs (f) and (g) and the substitution therefor of the following—

"(f) public omnibuses, that is to say omnibuses which either—

(i) stand or ply for hire and are used to carry passengers at separate and distinct fares within the Colony on a recognized and predetermined route or for a recognized or predetermined purpose, in accordance with a right or licence granted by or under any enactment; or

(ii) are hired or intended to be hired for the carriage of passengers under a contract expressed or implied, other than a hire purchase agreement, for the use of the vehicles as a whole at or for a fixed or agreed rate or sum;";

(d) by the deletion in paragraph (h) of the words "or hire omnibuses"; and

(e) by the deletion of paragraph (m).

Amendment
of section 9.

3. Section 9 of the principal Ordinance is amended by the deletion of paragraph (a) of subsection (1) and the substitution therefor of the following—

"(a) on summary conviction, in the case of a first conviction to a fine of one thousand dollars and to imprisonment for six months, and in the case of a second or subsequent conviction or of a conviction subsequent to a conviction under section 4 of the Vehicle and Road Traffic Ordinance to a fine of two thousand dollars and to imprisonment for six months; or".

(Cap. 220).

4. Section 26 of the principal Ordinance is amended—

Amendment
of section 26.

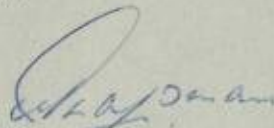
(a) by the insertion, after the words "so required" where they appear in both paragraph (b) and paragraph (c) of subsection (1), of the following—

"(such requirement having been made within fourteen days after the date of the alleged offence)"; and

(b) by the insertion, after subsection (2), of the following new subsection—

"(3) A requirement under paragraph (b) or (c) of subsection (1) may be in writing and may be served on the owner of the vehicle concerned or other person, as the case may be, by post."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 5th day of August, 1964, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

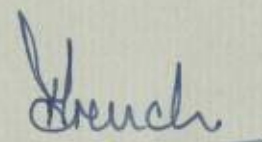
(Secretariat GR33/3231/54)

HONG KONG

No. 24 OF 1964.



I assent.


Governor.

20th August, 1964.

An Ordinance further to amend the Dangerous Goods Ordinance, 1956.

[21st August, 1964.]

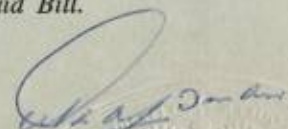
BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

1. This Ordinance may be cited as the Dangerous Goods (Amendment) (No. 2) Ordinance, 1964. Short title.

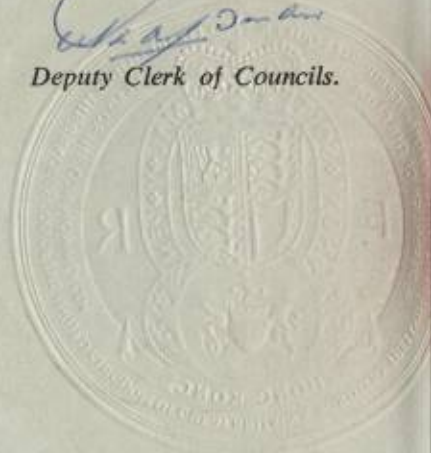
2. Section 2 of the Dangerous Goods Ordinance, 1956, is amended by the insertion, after the definition "prohibited goods", of the following new definition— Amendment of section 2. (38 of 1956).

"store", when used as a verb, includes to have possession or custody of or control over that to which the verb relates;"

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 19th day of August, 1964, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

(Secretariat GR11/3231/51)

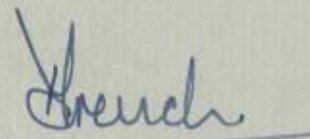


HONG KONG

No. 25 OF 1964.



I assent.


Governor.

20th August, 1964.

An Ordinance to amend the Chinese Anglican Church Body Incorporation Ordinance.

[21st August, 1964.]

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

1. This Ordinance may be cited as the Chinese Anglican Church Body Incorporation (Amendment) Ordinance, 1964. Short title.

2. Section 4 of the Chinese Anglican Church Body Incorporation Ordinance is amended— Amendment of section 4. (Cap. 275).

(a) in subsection (3), by the insertion, after the word “enjoy”, of the following—

“and invest moneys upon”; and

(b) by the insertion, after subsection (4), of the following new subsection—

“(5) The corporation shall further have power—

(a) to improve, develop and turn to account any land belonging to the corporation or in which the corporation has or may acquire a sufficient legal or

equitable interest, by reconstructing, altering and demolishing buildings and by constructing new buildings of any kind whatsoever either alone or in any joint development scheme in conjunction with owners or lessees of sites adjoining any land belonging to the corporation or in which the corporation enjoys any interest as aforesaid;

(Cap. 255).

- (b) to obtain vacant possession of any land belonging to the corporation or in which the corporation has or may acquire a sufficient legal or equitable interest, and of any buildings thereon by any lawful means whatsoever and in particular by application for exclusion orders or other orders under the Landlord and Tenant Ordinance or any Ordinance amending or replacing the same;
- (c) to pay compensation to occupiers vacating any lands or buildings belonging to the corporation, or in which the corporation has or may acquire a sufficient legal or equitable interest;
- (d) to borrow or raise or secure the payment of money in such manner as the corporation shall think fit for the purpose of developing any land belonging to the corporation or in which the corporation has or may acquire a sufficient legal or equitable interest and for payment of compensation to occupiers for vacating any such land or any buildings thereon;
- (e) to do all such things as are directly or indirectly incidental or conducive to the attainment of the aims, objects and powers of the corporation."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 19th day of August, 1964, and is found by me to be a true and correctly printed copy of the said Bill.

[Signature]
Deputy Clerk of Councils.

(Secretariat GR4/3231/64)

HONG KONG

No. 26 OF 1964.



I assent.

[Signature]

Governor.

3rd September, 1964.

An Ordinance to make provision for the establishment and incorporation of a Board to operate a scheme to provide economical medical treatment for the pupils of schools participating therein and for matters ancillary thereto.

[4th September, 1964.]

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

1. This Ordinance may be cited as the School Medical Service Board Incorporation Ordinance, 1964. Short title.

2. In this Ordinance, unless the context otherwise requires—
"Board" means the School Medical Service Board established by virtue of section 3;

Interpretation.

"Chairman" and "Vice Chairman" mean respectively the Chairman and Vice Chairman of the Board;

(25 of 1957). "medical practitioner" means a medical practitioner registered or exempted from registration under the Medical Registration Ordinance, 1957;

(33 of 1952, 1958 reprint). "school" means a school registered or exempted from registration under the Education Ordinance, 1952.

Establishment and constitution of the Board.

3. (1) There shall be established in the Colony a Board to be called the School Medical Service Board.

(2) The Board shall consist of—

- (a) a Chairman to be appointed by the Governor;
- (b) a Vice Chairman to be appointed by the Governor from among the unofficial members for the time being of the Legislative Council;
- (c) the Financial Secretary or his representative;
- (d) the Director of Education or his representative;
- (e) the Director of Medical and Health Services or his representative;
- (f) one member to be nominated by the Chinese Medical Association;
- (g) not more than four members, who shall be practising medical practitioners taking part for the time being in the purposes of the Board as hereinafter provided in this Ordinance and who shall be elected from among those medical practitioners so taking part; and
- (h) not more than five members to be appointed by the Governor.

(3) Subject to the provisions of subsection (5), the Chairman and the members referred to in paragraphs (f), (g) and (h) of subsection (2) shall hold office for a period of three years and shall be eligible to re-appointment, re-nomination or re-election, as the case may be, for further such periods from time to time:

Provided that, for the purposes of the establishment of the Board, in lieu of the election of the members referred to in paragraph (g) of subsection (2) there shall be two members nominated by the Chinese Medical Association who shall hold office for a period of one year only but shall thereafter be eligible for election for the period provided in this subsection.

(4) Subject to the provisions of subsection (5), the Vice Chairman shall hold office for a period of three years or until he ceases to be a member of the Legislative Council, whichever shall be the sooner.

(5) The Chairman, Vice Chairman and any member of the Board, other than a member referred to in paragraph (c), (d) or (e) of subsection (2), may resign therefrom by giving to the Board thirty days' notice in writing of his intention to resign.

(6) If any member, by reason of sickness, absence from the Colony or any other cause, is unable to attend to the business of the Board for any period exceeding six months, an additional member may be appointed, nominated or elected, as the case may be, to the Board to fill the place of such first mentioned member during his incapacity or absence.

4. (1) The Board shall meet at such times and at such places as the Chairman shall appoint. Meetings of the Board.

(2) Five members of the Board shall be a quorum.

(3) The validity of any proceedings of the Board shall not be affected by any vacancy among the members thereof or by any defect in the appointment, nomination or election of any member thereof.

(4) All questions for determination at a meeting of the Board shall be decided by a majority of the members of the Board present and voting thereon:

Provided that in the event of the votes on any question being equally divided the Chairman shall have a casting vote in addition to his original vote.

(5) If both the Chairman and the Vice Chairman are unable to attend any meeting of the Board, the members of the Board present at any meeting may elect from among their number a member to act as Chairman for that meeting.

(6) The Board may make standing orders for regulating the procedure at and in connexion with its meetings.

5. The Board may conduct its business in such manner as appears to it to be expedient and may for that purpose appoint from among its members select committees and may authorize any such committee to co-opt such additional members thereto, not necessarily being members of the Board, as may appear to it necessary for the proper conduct of the business delegated by the Board. Conduct of business of the Board.

6. (1) The Board shall be a body corporate and shall have the corporate name of "School Medical Service Board" and in that name shall have perpetual succession and may sue and be sued in all courts and shall have and may use a common seal and may break, change, alter and make anew such seal. Incorporation of the Board and use of common seal.

(2) Any deed, document or other instrument requiring the seal of the Board shall be sealed with the common seal and signed by the Chairman or the Vice Chairman and two members of the Board and such signing shall for all purposes be taken as sufficient evidence of the due sealing of such deed, document or other instrument.

Powers of Board.

7. (1) For the purposes of providing economical medical treatment for pupils in all or any schools of the Colony the Board shall have full power—

- (a) to manage, administer and operate any scheme for the furtherance of the said purposes;
- (b) to contract upon such terms and conditions as it may consider expedient with any person or body of persons, whether corporate or unincorporate;
- (c) to acquire, accept leases of, purchase, take, hold and enjoy any lands, buildings, messuages and tenements of what nature or kind soever and wheresoever situate and to purchase, acquire and possess vessels, vehicles and equipment and any other property of what nature or kind soever, and also to invest moneys upon mortgage of any lands, buildings, messuages, tenements, mortgages, debentures, stocks, funds, shares or securities of or on deposit in any corporation or company;
- (d) to grant, sell, assign, surrender, exchange, partition, yield up, mortgage, demise, reassign, transfer or otherwise dispose of any lands, buildings, messuages, tenements, mortgages, debentures, stocks, funds, shares or securities, vessels, vehicles, equipment, or other property of what nature or kind soever for the time being vested in or belonging to the Board upon such terms or conditions as the Board may think fit;
- (e) to borrow or raise money, and to secure the repayment of the same, in any manner as the Board may think fit.

(2) The exercise of any power conferred by any of the provisions of subsection (1) shall, insofar as the same is to be exercised for the purpose of investing funds to the profit of the Board or insofar as the same is to be exercised for the purpose of borrowing or raising funds conditional upon repayment, be subject to the approval in writing of the Financial Secretary.

(23 of 1958). (3) For the avoidance of doubt, the Board shall be deemed to be a charity within the meaning of section 2 of the Charities (Land Acquisition) Ordinance, 1958, and shall be subject to the provisions of that Ordinance.

8. (1) The Board shall cause proper accounts to be kept of all its transactions and shall cause to be prepared for every period of twelve months ending on the 31st day of August in each year, a statement of the accounts of the Board, which statement shall include an income and expenditure account and balance sheet and shall be signed by the Chairman or, in the case of the absence or inability of the Chairman, by the Vice Chairman or by such other person as the Governor may appoint thereto. Accounts.

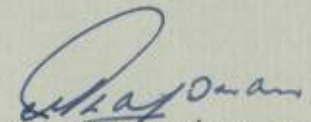
(2) The accounts of the Board and the signed statement of the accounts shall be audited by an authorized auditor within the meaning of section 131 of the Companies Ordinance, and the auditor shall certify the statement subject to such report, if any, as he may think fit. (Cap. 32).

(3) A copy of the signed and audited statement of the accounts of the Board together with the auditor's report, if any, and a report by the Board on the administration of its schemes or projects in furtherance of its purposes under this Ordinance during the period covered by the audited accounts shall be laid on the Table of the Legislative Council not later than the 1st day of March next following the end of such period or so soon thereafter as the Governor, in his absolute discretion, may allow.

9. No suit, prosecution or other legal proceedings shall lie against the Board or any member thereof arising out of the negligence or default of any medical practitioner participating in any scheme managed, administered or operated by the Board. Protection of Board.

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

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 2nd day of September, 1964, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

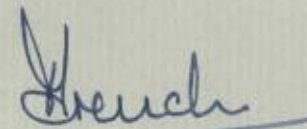
(Secretariat GR7/3921/47)

HONG KONG

No. 27 OF 1964.



I assent.


Governor.

3rd September, 1964.

An Ordinance further to amend the Buildings Ordinance, 1955.

[4th September, 1964.]

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

1. This Ordinance may be cited as the Buildings (Amendment) Short title.
(No. 2) Ordinance, 1964.

2. Section 9B of the Buildings Ordinance, 1955 (hereinafter referred to as the principal Ordinance) is amended by—

- (a) the deletion of the full stop at the end of paragraph (j) of subsection (1) and the substitution therefor of a semi-colon;
- (b) the insertion in subsection (1), after paragraph (j), of the following new paragraphs—

“(k) it appears to him that the demolition of a building that requires to be demolished before the building works shown on such plans can be carried out—

Amendment
of section 9B.
(68 of 1955,
1960
Reprint).

(i) will cause, or will be likely to cause, a total or partial collapse of any adjoining or other building, or

(ii) will render, or will be likely to render, any adjoining or other building so dangerous that it will collapse, or be likely to collapse, either totally or partially,

and he is not satisfied that the collapse or the likelihood of the collapse, or such danger or the likelihood of such danger to the building, can be avoided;

(f) in the case of plans showing piling works, excavation works or foundation works, it appears to him that the carrying out of such works—

(i) will cause, or will be likely to cause, a total or partial collapse of any adjoining or other building, or

(ii) will render, or will be likely to render, an adjoining or other building so dangerous that it will collapse, or be likely to collapse, either totally or partially,

and he is not satisfied that the collapse or the likelihood of the collapse, or such danger or the likelihood of such danger to the building, can be avoided.”;

(c) the insertion therein, after subsection (3), of the following new subsections—

“(4) The Building Authority may refuse to give his consent to the commencement of any building works where it appears to him that the carrying out of the building works—

(a) will cause, or will be likely to cause, a total or partial collapse of any adjoining or other building, or

(b) will render, or will be likely to render, any adjoining or other building so dangerous that it will collapse, or be likely to collapse, either totally or partially,

of the collapse, or such danger or the likelihood of such danger to the building, can be avoided.

(5) without prejudice to subsection (4), the Building Authority may refuse to give his consent to the commencement of demolition works until he is satisfied that adequate precautions have been taken—

(a) to prevent a collapse, whether total or partial, or the likelihood of such a collapse, of any adjoining or other building; or

(b) to prevent any adjoining or other building becoming so dangerous, or the likelihood of any such building becoming so dangerous, that it will collapse or be likely to collapse, either totally or partially.”.

3. Section 9C of the principal Ordinance is amended by the insertion in Columns A and B, respectively, after item 6 in each Column, of the following new item—

“7. Approval of plans showing, or consent to commence, piling works, excavation works or foundation works.

7. Prescribe conditions subject to which the works may be carried out, being conditions that the Building Authority considers necessary to prevent a collapse, whether total or partial, or the likelihood of such a collapse, of any adjoining or other building or to prevent any adjoining or other building becoming so dangerous, or the likelihood of any such building becoming so dangerous, that it will collapse, either totally or partially.”.

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

“Authority to erect shoring in certain cases.

9D. (1) Without prejudice to any other provision of this Ordinance and subject to subsection (2), where—

(a) for the purpose of satisfying the Building Authority that such precautions as are referred to in subsection (5) of section 9B have been taken; or

(b) for the purpose of complying with a condition prescribed by the Building Authority under section 9C,

the erection of shoring for any building is necessary, the person whose building works or proposed building works necessitate the erection of the shoring is hereby authorized to erect, or cause to be erected, such shoring as may be necessary, and the same may be affixed—

(i) in or to or around the building for which it is erected, or otherwise in relation to that building as the circumstances require; or

(ii) with the permission of the Director of Public Works, or an officer of the Public Works Department authorized in that behalf by the Director of Public Works either by name or by reference to

Amendment of section 9C.

Addition of new section 9D.

an office, granted under subsection (3) and in accordance with such permission, in or over or upon any street, whether or not the street is on land held under lease from the Crown,

and maintained for such time as may be necessary.

(2) Nothing in subsection (1) authorizes—

(a) the affixing of shoring in or over or upon any land, not being a street, unless the land is owned by either the owner of the building for which the shoring is erected or the person whose building works or proposed building works necessitate the erection of the shoring; or

(b) the affixing of shoring in or to or around, or otherwise in relation to, any building other than the building for which the shoring is erected.

(3) Whenever it is necessary, for either of the purposes specified in subsection (1), to erect shoring in or over or upon a street, whether or not the street is on land held under lease from the Crown, the Director of Public Works or an officer of the Public Works Department authorized in that behalf by the Director of Public Works, either by name or by reference to an office, may, if he thinks fit, permit the erection of such shoring, subject to such conditions as he considers necessary.

(4) Any damage to a building for which shoring is erected pursuant to subsection (1) caused by or resulting from the erection or maintenance of the shoring shall be made good as soon as practicable by the person whose building works or proposed building works necessitated the erection or maintenance of the shoring.

(5) (a) Any occupier of a building for which shoring is erected pursuant to subsection (1), and any other person whatsoever, who suffers any loss or damage by reason of the erection or maintenance of the shoring shall be entitled to recover compensation from the person whose building works or proposed building works necessitated the erection or maintenance of the shoring.

(b) Where any dispute arises as to—

(i) whether compensation is payable under this subsection,

(ii) the amount of any such compensation, or

(iii) the person to whom it is payable,

the same shall be determined by arbitration.

(6) (a) Any person authorized by the Building Authority in the prescribed form may enter any building specified in such authorization for the purpose of ascertaining what shoring may be required for the building for either of the purposes specified in subsection (1) or of ascertaining the manner in which shoring for the building may be affixed or for the purpose of erecting shoring for the building pursuant to subsection (1) or of maintaining such shoring in good order or of inspecting the same.

(b) An authorization granted to any person under paragraph (a) shall be deemed also to authorize any servant or agent of that person, and such an agent's servants, to enter the building for the like purpose."

5. Section 26 of the principal Ordinance is amended by the insertion in subsection (1), after paragraph (e), of the following new paragraph—

Amendment
of section 26.

"(ee) the construction, inspection, testing and safe working of ventilating systems;"

6. Section 27 of the principal Ordinance is amended by the insertion, after subsection (2), of the following new subsection—

Amendment
of section 27.

"(2A) Any person who unlawfully and maliciously removes, pulls down, demolishes or damages, or in any way whatsoever interferes with, any shoring erected for a building pursuant to subsection (1) of section 9D shall be guilty of an offence and shall be liable to a fine of two thousand dollars and to imprisonment for six months."

7. The powers conferred upon the Building Authority by—

Transitional
provisions.

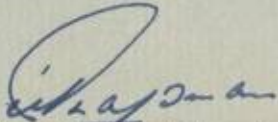
(a) the new paragraphs (k) and (l) inserted in subsection (1) of section 9B of the principal Ordinance by paragraph (b) of section 2;

(b) the new subsections (4) and (5) inserted in the said section 9B by paragraph (c) of section 2; or

(c) the new item inserted in the table to section 9C of the principal Ordinance by section 3,

may be exercised notwithstanding that, as the case may be, the plans were submitted to the Building Authority for his approval, or the application for consent to commence the building works was made, prior to the commencement of this Ordinance.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 2nd day of September, 1964, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

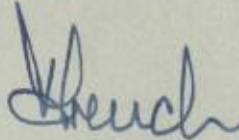
(Secretariat BL2/741/60)

HONG KONG

No. 28 OF 1964.



I assent.


Governor.

17th September, 1964.

An Ordinance further to amend the Inland Revenue Ordinance.

[1st April, 1964.]

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

1. (1) This Ordinance may be cited as the Inland Revenue (Amendment) Ordinance, 1964, and, except section 11 hereof, shall be deemed to have come into operation on the 1st day of April, 1964.

Short title
and com-
mencement.

(2) Section 11 of this Ordinance shall be deemed to have come into operation on the 28th day of September, 1956.

2. Section 2 of the Inland Revenue Ordinance (hereinafter referred to as the principal Ordinance) is amended by the deletion of the definition "assessable profits" and the substitution therefor of the following—

Amendment
of section 2.
(Cap. 112,
1956 Reprint).

"assessable profits" means the profits in respect of which a person is chargeable to tax for the basis period for any year of assessment, calculated in accordance with the provisions of Part IV;".

Amendment
of section 12.

3. Section 12 of the principal Ordinance is amended by the insertion, after subsection (2), of the following new subsection—

“(2A) Where, under the provisions of subsection (2), the amount of any allowance provided for in paragraph (c) of subsection (1) is reduced, such reduction shall not affect the calculation of subsequent allowances or charges provided for in the said paragraph which shall be computed in the first place as if the full amount of the allowance had been granted and may then be apportioned in relation to the extent to which the machinery or plant concerned is or has been used in the production of such assessable income.”.

Amendment
of section 14.

4. Section 14 of the principal Ordinance is amended by the insertion in subsection (1), after the words “from such trade or business”, of the following—

“, excluding profits arising from the sale of capital assets”.

Amendment
of section 15.

5. Section 15 of the principal Ordinance is amended by the insertion in subsection (1), after the words “from such trade, profession or business”, of the following—

“, excluding profits arising from the sale of capital assets”.

Amendment
of section
15C.

6. Section 15C of the principal Ordinance is amended—

(a) by the deletion of the words “the assessable profits of that person” and the substitution therefor of the following—

“the profits in respect of which that person is chargeable to tax under this Part”; and

(b) by the deletion, in sub-paragraph (ii) of paragraph (a), of the words “his assessable profits from such trade or business” and the substitution therefor of the following—

“the profits from such trade or business in respect of which such purchaser is chargeable to tax under this Part”.

Repeal and
replacement
of section 16.

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

“Ascertain-
ment of
chargeable
profits.

16. (1) In ascertaining the profits in respect of which a person is chargeable to tax under this Part for any year of assessment there shall be deducted all outgoings and expenses wholly and exclusively incurred during the basis period for that year of assessment by such person in the production of profits in respect of which he is chargeable to tax under this Part for any period, including—

(a) sums payable by such person by way of interest upon any money borrowed by him, if such money was borrowed for the purpose of producing such profits;

- (b) rent paid by any tenant of land or buildings occupied by him for the purpose of acquiring such profits;
- (c) the allowances provided by Part VI (Depreciation, etc.) to the extent to which the relevant assets are used in the production of such profits;
- (d) bad debts incurred in any trade, business or profession, proved to the satisfaction of the assessor to have become bad during the basis period for the year of assessment, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the assessor to have become bad during the said basis period notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said basis period:

Provided that—

(i) deductions under this paragraph shall be limited to debts which were included as a trading receipt in ascertaining the profits, in respect of which the person claiming the deduction is chargeable to tax under this Part, of the period within which they arose, and debts in respect of money lent, in the ordinary course of the business of the lending of money within the Colony, by a person who carries on that business;

(ii) all sums recovered during the said basis period on account of amounts previously allowed in respect of bad or doubtful debts shall for the purposes of this Ordinance be treated as part of the profits of the trade, business or profession for that basis period;

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

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

- (g) notwithstanding the provisions of section 17, a sum expended for the registration in the Colony of a trade mark used in the trade, profession or business which produces such profits;
- (h) such other deductions as may be prescribed by any rule made under this Ordinance.

(2) Where, by virtue of the provisions of paragraph (c) of subsection (1), any reduction in the amount of any allowance provided by Part VI is made by reason of the extent to which the relevant assets are used otherwise than in the production of the profits in respect of which the person claiming the allowance is chargeable to tax under this Part, such reduction shall not affect the calculation of subsequent allowances or charges under Part VI which shall be computed in the first place as if the full amount of the allowance had been granted and may then be apportioned in relation to the extent to which the relevant assets are or have been used in the production of such profits."

Amendment
of section 17.

8. Section 17 of the principal Ordinance is amended by the deletion, in subsection (2), of the words "assessable profits" and the substitution therefor of the following—

"profits in respect of which a partnership is chargeable to tax under this Part".

Amendment
of sections
23B and 23C.

9. Subsection (2) of section 23B and subsection (5) of section 23C of the principal Ordinance are amended by the deletion of the words "assessable profits", where they twice appear in the proviso to the definition "total profits" in each of the said subsections, and the substitution therefor of the following—

"profits in respect of which a person is chargeable to tax".

Amendment
of section 26.

10. Section 26 of the principal Ordinance is amended—

- (a) by the deletion of the words "the purpose of assessment under" and the substitution therefor of the following—
"the purposes of";
- (b) by the deletion, in paragraph (a), of the words "assessable profits of any other person" and the substitution therefor of the following—
"profits in respect of which any other person is chargeable to tax under this Part"; and
- (c) by the deletion of paragraph (b) and the substitution therefor of the following—
"(b) subject to the provisions of section 15A no part of the profits or losses of a trade, profession or business

carried on by a person who is chargeable to tax under this Part shall be included in ascertaining the profits in respect of which any other person is chargeable to tax under this Part."

11. Section 70A of the principal Ordinance is repealed and replaced by the following—

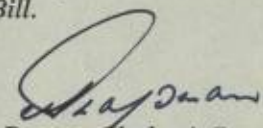
"Powers of
assessor to
correct
errors.

Repeal and
replacement
of section
70A.

70A. Notwithstanding the provisions of section 70, if, upon application made within six years after the end of a year of assessment or within six months after the date on which the relative notice of assessment was served, whichever is the later, it is established to the satisfaction of an assessor that the tax charged for that year of assessment is excessive by reason of an error or omission in any return or statement submitted in respect thereof, or by reason of any arithmetical error or omission in the calculation of the amount of the assessable income or profits assessed or in the amount of the tax charged, the assessor shall correct such assessment:

Provided that under this section no correction shall be made to any assessment in respect of an error or omission in any return or statement submitted in respect thereof as to the basis on which the liability to tax ought to have been computed where the return or statement was in fact made on the basis of or in accordance with the practice generally prevailing at the time when the return or statement was made."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 16th day of September, 1964, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

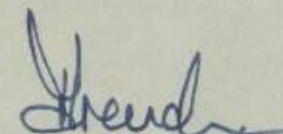
(Secretariat FR2/2301/47)

HONG KONG

No. 29 OF 1964.



I assent.


Governor.

17th September, 1964.

An Ordinance to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March, 1964.

[18th September, 1964.]

WHEREAS it has become necessary to make further provision for the public service of the Colony for the financial year ended the 31st day of March, 1964, in addition to the charge upon the revenue and other funds of the Colony authorized by the Appropriation (1963-64) Ordinance, 1963: Preamble.

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

1. This Ordinance may be cited as the Supplementary Appropriation (1963-64) Ordinance, 1964. Short title.

2. A sum of twelve million, one hundred and thirty thousand and fifty-nine dollars is hereby charged upon the revenue and other funds of the Colony for the service of the financial year ended the 31st day of March, 1964, the appropriation of the sum so charged being approved as specified in the Schedule. Appropriation from general revenue and other funds.
Schedule.

SCHEDULE.

<i>Number of Vote.</i>	<i>Head of Expenditure.</i>	<i>Amount of Vote.</i>
		\$
29.	Defence: Hong Kong Royal Naval Reserve	138,074
33.	Defence: Auxiliary Medical Service	68,659
47.	Marine Department	3,043,089
71.	Stores Department	8,371,818
75.	Subventions: Miscellaneous	240,711
81.	Colonial Development and Welfare Schemes	267,708
	Total	\$12,130,059

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 16th day of September, 1964, and is found by me to be a true and correctly printed copy of the said Bill.

Deputy Clerk of Councils.

(Secretariat FR2/2311/63)

HONG KONG

No. 30 OF 1964.

I assent.

Governor.

15th October, 1964.

An Ordinance to repeal and replace the Banking Ordinance, and to make better provision for the licensing and control of banks, banking business and matters connected therewith.

[16th October, 1964.]

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

PART I.

PRELIMINARY.

1. (1) This Ordinance may be cited as the Banking Ordinance, 1964. Short title and commencement.

(2) This Ordinance shall not come into operation unless and until Her Majesty's pleasure has been signified thereupon and thereafter it shall come into operation on such day as the Governor may by Proclamation appoint.

Interpreta-
tion.

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

"accounts" means all methods of keeping accounts whether in writing, print or by any machine or device;

"bank" means a company which carries on banking business and holds a valid licence granted under section 7;

"Banking Advisory Committee" means the committee established by section 3;

"banking business" means the business of either—

(a) (i) receiving money on current, deposit or other similar account from the general public, and

(ii) paying and collecting cheques drawn by or paid in by customers, and

(iii) making advances to customers; or

(b) receiving money on savings account from the general public repayable on demand or within three months or at three months' notice or less,

or both;

"Commissioner" means the Commissioner of Banking;

"company" means a company—

(a) incorporated under the Companies Ordinance; or

(b) incorporated by any other Ordinance; or

(c) which is incorporated outside the Colony and has complied with the provisions of section 318 of the Companies Ordinance;

"licence" means a licence granted under section 7 or 42;

"share" means share in the share capital of a company, and includes stock except where a distinction between stock or shares is expressed or implied; and the expression "shareholder" includes a stockholder;

"specified liquid assets" means all or any of the assets specified in subsection (6) of section 18;

"unincorporated bank" means an unincorporated person or body of persons to whom or to which a licence to transact banking business in the Colony has been granted under section 42.

(2) Powers vested in the Financial Secretary by virtue of the provisions of this Ordinance shall not be exercised by any person other than the Financial Secretary or, in his absence or if he is unable to act, the person for the time being exercising his functions.

(Cap. 32).

PART II.

APPOINTMENTS.

3. (1) There is hereby established a Banking Advisory Committee for the purpose of advising the Governor in Council upon any matter connected with this Ordinance or relating to banking and the carrying on of banking business.

Banking
Advisory
Committee.

(2) The Banking Advisory Committee shall consist of a chairman, who shall be the Financial Secretary, and such other persons, not being less than four nor more than seven, as the Governor may from time to time appoint.

(3) The members of the Banking Advisory Committee shall hold office for such period and upon such terms as the Governor may specify in their appointments.

4. The Governor may appoint a Commissioner of Banking who shall be a public officer.

Appointment
of a Com-
missioner of
Banking.

PART III.

LICENSING OF BANKS.

5. Except as may be otherwise provided in this Ordinance, no banking business shall be transacted in the Colony except by a company which is in possession of a valid licence issued by the Financial Secretary authorizing it to transact banking business in the Colony.

Banking
business
restricted to
licensed
banks.

6. (1) A company which wishes to transact, or a body of persons proposing to form a company for the purpose of transacting, banking business in the Colony shall apply to the Financial Secretary, through the Commissioner, for a licence or, in the case of a body of persons proposing to form a company, for an intimation that a licence will be granted to the company upon the incorporation thereof.

Application
for licence.

(2) An application for a licence or for an intimation that a licence will be granted shall be accompanied by—

(a) a copy of the memorandum of association and articles of association under which the company is or is to be incorporated, verified by a statutory declaration made by a director of the company or by a person who has consented to be a director of the proposed company, as the case may be; and

(b) such other documents and information as may be required by the Financial Secretary.

(3) After receiving an application for a licence, the Commissioner shall forward to the Financial Secretary the application and his advice as to whether or not the applicant should be granted a licence or, in the case of a proposed company, whether or not the company upon incorporation should be granted a licence.

Grant or
refusal of
licence.

7. (1) After receiving the application and the advice of the Commissioner pursuant to the provisions of section 6, the Financial Secretary may—

- (a) grant a licence or, in the case of a proposed company, intimate his intention to grant a licence upon receipt of notice of the incorporation thereof;
- (b) grant a licence subject to such conditions as he may think proper to attach thereto in any particular case or, in the case of a proposed company, intimate his intention, upon receipt of notice of the incorporation thereof, to grant a licence subject to the attachment of such conditions;
- (c) without assigning any reason therefor, refuse to grant a licence or, in the case of a proposed company, intimate his intention to refuse to grant a licence upon receipt of notice of the incorporation thereof.

(2) An applicant for a licence or, in the case of a proposed company, an applicant for an intimation that a licence will be granted upon the incorporation thereof, may, within thirty days after receipt of the decision of the Financial Secretary upon the application appeal by way of petition to the Governor in Council and the Governor in Council may confirm, vary or reverse the decision of the Financial Secretary.

(3) The decision of the Governor in Council upon any appeal pursuant to the provisions of subsection (2) shall be final.

Minimum
paid up
capital, etc.

8. (1) No company shall be granted a licence unless—

- (a) its capital issued and paid up is not less than five million dollars (or the equivalent amount in the case of a company incorporated outside the Colony) deduction having been made in respect of a debit balance, if any, appearing in the profit and loss account of the company;
- (b) its assets within the Colony, after due provision has been made for all known bad and doubtful debts, exceed its deposit liabilities, if any, within the Colony, as defined by subsection (5) of section 18, by not less than five million dollars.

(2) For the purposes of paragraph (b) of subsection (1),—

- (a) "assets within the Colony" shall include, but shall not be limited to, specified liquid assets as defined in subsection (6) of section 18;
- (b) in the case of a bank operating in the Colony and also elsewhere, the offices and branches situated in the Colony shall, for the purposes of this Ordinance, be deemed collectively to be a separate bank carrying on business in the Colony.

9. (1) The Financial Secretary may, at any time, revoke a licence, if he is satisfied that the holder of the licence—

Revocation
of licence by
Financial
Secretary.

- (a) has ceased to transact banking business in the Colony; or
- (b) has gone into liquidation or has been wound up or otherwise dissolved.

(2) The holder of a licence may appeal by way of petition to the Governor in Council against the revocation of such licence by the Financial Secretary and the Governor in Council, whose decision shall be final, may confirm, vary or reverse such revocation.

10. Where the Financial Secretary makes a report to the Governor in Council under paragraph (iv) of subsection (1) of section 13, the Governor in Council may revoke the bank's licence if he considers that it is in the public interest so to do.

Revocation
of licence by
Governor in
Council.

11. (1) Where a licence is revoked under section 9 or 10—

Effect of
revocation
of licence.

- (a) notice of such revocation shall be published in the *Gazette*;
- (b) the bank shall, as from the date of such notice, cease to transact any banking business in the Colony.

(2) The provisions of paragraph (b) of subsection (1) shall not prejudice the enforcement by any person of any right or claim against the bank or by the bank of any right or claim against any person.

12. (1) Every bank shall pay an annual licence fee of seven thousand five hundred dollars or such other amount as may from time to time be specified by the Governor in Council and notified in the *Gazette*.

Licence fee.

(2) The fee payable under this section shall be paid upon the grant of the licence and thereafter upon the anniversary of the date of the grant thereof.

(3) Subject to the provisions of subsection (3) of section 44, the Financial Secretary shall cause to be published in the *Gazette* each year in the month of April the name of every bank which has within the preceding financial year paid the fees payable under this section.

PART IV.

POWERS OF CONTROL OVER BANKS.

Powers of
Financial
Secretary.

13. (1) Where—

- (a) a bank informs the Financial Secretary—
 - (i) that it considers that it is likely to become unable to meet its obligations; or
 - (ii) that it is insolvent or about to suspend payment;
- (b) a bank becomes unable to meet its obligations or suspends payment;
- (c) after investigation is made under section 15, the Financial Secretary is of the opinion that a bank—
 - (i) is carrying on its business in a manner detrimental to the interests of its depositors or of its creditors;
 - (ii) is insolvent or is likely to become unable to meet its obligations or is about to suspend payment;
 - (iii) has contravened or failed to comply with any of the provisions of this Ordinance; or
 - (iv) has contravened or failed to comply with any condition attached to its licence; or
- (d) the Financial Secretary considers it in the public interest to do so,

the Financial Secretary may exercise such one or more of the following powers as may from time to time appear to him to be necessary—

- (i) to require the bank forthwith to take any action or to do any act or thing whatsoever in relation to its business as he may consider necessary;
- (ii) to appoint a person to advise the bank in the proper conduct of its business, and may fix the remuneration to be paid by the bank to such person;
- (iii) to direct the Commissioner or some other person to assume control of and carry on the business of the bank, and may fix the remuneration to be paid by the bank to the Commissioner and to such person;

(iv) to report the circumstances to the Governor in Council.

(2) The Financial Secretary shall not exercise the power conferred by paragraph (iv) of subsection (1) unless the bank has been given reasonable notice in writing of his intention to exercise such power together with a written statement of his reasons therefor and has been afforded opportunity to submit to him representations in writing thereon.

(3) Any person aggrieved by the exercise by the Financial Secretary of any of the powers conferred on him by paragraphs (i), (ii) and (iii) of subsection (1) may appeal by way of petition to the Governor in Council.

(4) A bank shall comply with any requirement, appointment, fixing of remuneration or direction made under paragraphs (i), (ii) and (iii) of subsection (1) notwithstanding that an appeal has been or may be made to the Governor in Council under subsection (3).

14. (1) Where—

- (a) the Financial Secretary makes a report to the Governor in Council under paragraph (iv) of subsection (1) of section 13; or
- (b) any person appeals to the Governor in Council under subsection (3) of section 13,

Powers of
Governor in
Council.

the Governor in Council may, without prejudice to the powers conferred by section 10, exercise one or more of the following powers—

- (i) to confirm, vary or reverse any requirement, appointment, fixing of remuneration or direction made by the Financial Secretary;
- (ii) to make such orders as he may think fit in relation to the affairs of the bank, including any order which the Financial Secretary is empowered to make by virtue of paragraphs (i), (ii) and (iii) of section 13; and
- (iii) to direct the Financial Secretary to take steps to present a petition to the Supreme Court for the winding up of the bank by the Supreme Court.

(2) The Governor in Council may, before considering any report or appeal under subsection (1), seek the advice of the Banking Advisory Committee, but shall not be bound to follow any such advice.

15. (1) Without prejudice to the provisions of section 13, the Financial Secretary may, from time to time, require the Commissioner to investigate, with or without prior notice to the bank concerned, the books, accounts and transactions of any bank.

Investigation
of banks.

(2) Without prejudice to the provisions of section 13, the Financial Secretary shall order the Commissioner to investigate the books, accounts and transactions of a bank—

(a) if he has reason to believe that the bank—

(i) is carrying on its business in a manner detrimental to the interests of its depositors or of its creditors;

(ii) is insolvent or is likely to become unable to meet its obligations or is about to suspend payment;

(iii) has contravened or failed to comply with or may contravene or fail to comply with any of the provisions of this Ordinance; or

(iv) has contravened or failed to comply with or may contravene or fail to comply with any condition attached to its licence;

(b) if shareholders of the bank (holding not less than one-third of the total number of issued shares in the bank) or depositors (holding not less than one-third of the gross amount of the total deposit liabilities in the Colony of the bank) apply to him to order an investigation and submit to him such evidence as he may consider necessary to justify an investigation and furnish such security for the payment of the costs of the investigation as he may require; or

(c) if a bank suspends payment or informs him of its intention to do so.

(3) After the conclusion of the investigation, the Commissioner shall submit a report thereon to the Financial Secretary who shall forward a copy thereof to the head office of the bank concerned.

(4) Where any investigation is carried out pursuant to the provisions of subsection (2), the Financial Secretary may order that all expenses incurred by or incidental to such investigation shall be defrayed—

(a) by the bank investigated; or

(b) if the investigation was made pursuant to an application therefor submitted under paragraph (b) of that subsection, either wholly by the applicants or partly by the applicants and partly by the bank in such proportions as may appear to the Financial Secretary to be just.

16. (1) The Commissioner shall exercise general supervision and control over the carrying out of the provisions of this Ordinance.

General powers of Commissioner.

(2) The Commissioner may authorize any person to assist him in the exercise of his functions and duties under this Ordinance either generally or in any particular case.

(3) The Commissioner shall, in the exercise of his functions and duties under this Ordinance, be subject to, and shall comply with, such general or special directions as the Financial Secretary may give.

17. (1) Where the Commissioner or some other person has assumed control of the business of a bank by virtue of a direction under paragraph (iii) of subsection (1) of section 13 he shall, subject to the provisions of subsection (2) of this section, remain in control of and continue to carry on the business of that bank in the name and on behalf of the bank until—

Control of licensed bank by the Commissioner.

(a) the deposits of the bank have been repaid, or the Financial Secretary is satisfied that suitable provision has been made for their repayment; and

(b) it is no longer necessary, in the opinion of the Financial Secretary, for the Commissioner or such other person to remain in control of the business of the bank.

(2) Where the Commissioner or some other person has, by virtue of paragraph (iii) of subsection (1) of section 13, assumed control of the business of a bank, the Governor in Council, upon the application of the bank, may, if he is satisfied that it is no longer necessary for the protection of the depositors of the bank that the Commissioner or such other person should remain in control of the business of the bank, order that the Commissioner or such other person shall cease to control the business of the bank as from a date specified in the order.

(3) Where the control of the business of any bank has been assumed by the Commissioner or some other person by virtue of any of the provisions of section 13 or 14 or has been relinquished pursuant to any of the provisions of this section, the Financial Secretary shall cause to be published in the *Gazette* a notification of the fact of the assumption or cessation of such control, as the case may be.

PART V.

DUTIES OF BANKS.

18. (1) A bank shall maintain at all times a minimum holding of specified liquid assets, free from encumbrances, in accordance with the provisions of this section.

Minimum holding of specified liquid assets.

(2) The minimum holding of specified liquid assets to be maintained by a bank shall amount to not less on the average during any calendar month than twenty-five per cent of the deposit liabilities of the bank at the close of business on the last business day of the preceding calendar month.

(3) The minimum holding of specified liquid assets required by subsection (2) shall include not less than the equivalent of fifteen per cent of the deposit liabilities of the bank at the close of business on the last business day of the preceding calendar month in the form of such specified liquid assets as are set out in paragraphs (a), (b), (c), (d) and (e) of subsection (6).

(4) For the purposes of subsection (2), "average" shall be calculated by taking the arithmetical mean of the amounts of specified liquid assets held by a bank according to the bank's books at the close of business on every such weekday as the Financial Secretary may specify during the month in question:

Provided that—

- (a) if any such specified weekday is a public holiday the amount of specified liquid assets as at the close of business on the last working day preceding that specified weekday shall be taken for the purposes of such calculation; and
 - (b) the Commissioner may at any time require that the average for any bank shall be calculated by taking the arithmetical mean of the amounts of specified liquid assets held by the bank according to the bank's books at the close of business on such working days as he may specify.
- (5) For the purposes of computing the minimum holding of specified liquid assets to be held by a bank—
- (a) the deposit liabilities of a bank shall be deemed to be its gross demand, time, and savings account liabilities, excluding amounts owing to other banks save that there shall be included the amounts by which balances payable on demand to other banks in the Colony and money at call owing to other banks in the Colony exceed balances payable on demand at other banks in the Colony and money at call with other banks in the Colony;
 - (b) in the case of a bank operating in the Colony and also elsewhere, the offices and branches situated in the Colony shall be deemed collectively to be a separate bank carrying on business in the Colony;
 - (c) all the deposit liabilities of a bank owed through any of the offices or branches in the Colony of a bank operating in the Colony and also elsewhere shall be regarded as if they con-

stituted liabilities of that separate bank, and all the assets held by or to the credit of any of these offices or branches shall be regarded as if they were assets of that separate bank.

(6) For the purposes of this section "specified liquid assets" means all or any of the following—

- (a) notes and coins which are legal tender in the Colony;
- (b) refined gold in the form of coin or bars, whether or not situated in the Colony;
- (c) total net balances payable on demand at other banks in the Colony and total net money at call with other banks in the Colony;
- (d) balances payable on demand at any bank outside the Colony and money at call outside the Colony, which are or is freely remittable to a branch of the bank within the Colony and held in a form approved by the Commissioner;
- (e) treasury bills, maturing within ninety-three days, issued by the Government or by the Government of the United Kingdom or by the Government of any other country, the currency of which is freely remittable to a branch of the bank within the Colony;
- (f) bills of exchange discountable in a currency which is freely remittable to a branch of the bank within the Colony;
- (g) bills of exchange payable on demand in the form of bank drafts, sight drafts drawn under export commercial or travellers letters of credit, travellers cheques, money orders negotiable in the Colony and issued by or under the authority of the Government of any country in currency freely remittable to a branch of the bank within the Colony and postal orders issued within the United Kingdom or the Irish Republic;
- (h) such securities (other than securities specified in paragraph (i)) issued or guaranteed by the Government as may be specified by the Governor in Council and published in the *Gazette*;
- (i) securities with less than five years to maturity issued or guaranteed by the Government, the Government of the United Kingdom or the Government of any other country, if—
 - (i) they are quoted on a Stock Exchange in London, Hong Kong or New York;
 - (ii) they have been dealt in during the preceding six months; and
 - (iii) payment of interest thereon is not in arrear.

(7) The Governor in Council may, from time to time, in exceptional circumstances, by order reduce for such period as he may think necessary and to such percentages as he may think fit the minimum percentages specified in subsection (2) or subsection (3) of specified liquid assets in the case of any particular bank or all banks.

(8) The Financial Secretary may, from time to time, in exceptional circumstances, by order reduce for a period not exceeding three months the minimum percentage specified in subsection (2) of specified liquid assets to not less than fifteen per centum and the minimum percentage specified in subsection (3) of specified liquid assets to not less than seven and a half per centum, in the case of any particular bank or all banks.

(Cap. 65).

(9) Liabilities in respect of notes issued and assets held as cover for notes issued shall, in the case of a bank which is a note-issuing bank under the Bank Notes Issue Ordinance, be disregarded for the purposes of this section.

Maintenance
of reserve.

19. (1) Subject to the provisions of subsection (2), every bank shall—

- (a) maintain a published reserve; and
- (b) before any dividend is declared, transfer to the published reserve out of the published profits of each year, after due provision has been made for taxation,
 - (i) a sum equal to not less than twenty-five per cent of such published profits; or
 - (ii) such other lesser sum as may be necessary to increase the published reserve to one hundred per cent of the paid up capital.

(2) The Financial Secretary may, if he is satisfied that the aggregate published reserve, wherever situated, of a bank which is incorporated outside the Colony is adequate for its business, by order in writing exempt such bank from the provisions of subsection (1) and may at any time by order in writing revoke such exemption.

Minimum
paid up
capital.

20. (1) Subject to the provisions of subsection (3), a bank shall not transact banking business in the Colony unless—

- (a) its capital issued and paid up is not less than five million dollars (or the equivalent amount in the case of a company incorporated outside the Colony) deduction having been made in respect of a debit balance appearing in the profit and loss account of the company;
- (b) its assets within the Colony, after due provision has been made for all known bad and doubtful debts, exceed its deposit

liabilities within the Colony, as defined by subsection (5) of section 18, by not less than five million dollars.

(2) For the purposes of paragraph (b) of subsection (1),—

- (a) "assets within the Colony" shall include, but shall not be limited to, specified liquid assets;
- (b) in the case of a bank operating in the Colony and also elsewhere, the offices and branches situated in the Colony shall be deemed collectively to be a separate bank carrying on business in the Colony.

(3) The Financial Secretary may from time to time by order in writing exempt any bank from the requirements of subsection (1) and may at any time by order in writing revoke such exemption.

21. A bank which is incorporated in the Colony shall not pay any dividend on its shares or distribute any capital profits unless—

Restriction
on payment
of dividends.

- (a) all items of expenditure not represented by tangible assets have been completely written off; and
- (b) in the case of a distribution of capital profits, its published reserve amounts to one hundred per cent of its paid up capital and will not be reduced to less than one hundred per cent of its paid up capital by virtue of such distribution.

22. A bank shall not grant any advance, loan or credit facility against the security of its own shares.

Advance
against
security of
own shares.

23. A bank shall not grant or permit to be outstanding to any one person, firm, corporation or company, or to any group of companies or persons which such person, firm, corporation or company is able to control or influence, any advances or credit facilities or give any financial guarantees or incur any other liabilities on their behalf to an aggregate amount of such advances, facilities, guarantees or liabilities in excess of twenty-five per cent of the paid up capital and reserves of the bank:

Limitation
on total of
advances to
one person,
firm etc.

Provided that the provisions of this section shall not apply to—

- (a) transactions between banks or between the branches of a bank;
- (b) the purchase of telegraphic transfers;
- (c) the purchase of bills of exchange or documents of title to goods where the holder of such bills or documents is entitled to payment outside the Colony for exports from the Colony; or
- (d) advances made against telegraphic transfers or against such bills or documents.

Limitation
on advances
to directors,
etc.

24. (1) A bank shall not grant any facility specified in subsection (3) to or on behalf of any person or body specified in subsection (4) if the aggregate amount of such facilities for the time being granted by that bank to or on behalf of any one or more such persons or bodies would thereby exceed twenty-five per cent of the paid up capital and reserves of the bank.

(2) Subject to and notwithstanding the provisions of subsection (1), a bank shall not grant any facility specified in subsection (3) to or on behalf of any person specified in paragraph (a) or (b) of subsection (4) if the aggregate amount of such facilities for the time being granted by that bank to or on behalf of that person or any of his relatives would thereby exceed one per cent of the paid up capital and reserves of the bank or two hundred and fifty thousand dollars, whichever is the less.

(3) For the purposes of subsections (1) and (2), the following facilities are specified—

- (a) the granting, or permitting to be outstanding, of unsecured advances or unsecured credit facilities;
- (b) the giving of unsecured financial guarantees; and
- (c) the incurring of any other unsecured liability.

(4) For the purposes of subsections (1) and (2), the following persons and bodies are specified—

- (a) any director of the bank;
- (b) any relative of any such director;
- (c) any firm, partnership or private company in which the bank or any of its directors or any relative of any of its directors is interested as director, partner, manager or agent; and
- (d) any individual, firm, partnership or private company of which any director of the bank or any relative of any such director is a guarantor.

(5) The provisions of this section shall apply to a facility granted to or on behalf of a person or body jointly with another person or body as they apply to a facility granted to or on behalf of a person or body severally.

(6) The provisions of this section shall not apply to the purchase of telegraphic transfers.

Limitation
on advances
to employees.

25. A bank shall not grant or permit to be outstanding to any one of its employees unsecured advances or unsecured credit facilities to an aggregate amount of such advances or facilities in excess of one year's salary for any such employee.

26. A bank shall not engage, whether on its own account or as an agent for another person, in any wholesale, retail, import or export trade, or otherwise have a direct interest in any commercial, agricultural, industrial or other undertaking, except as permitted under sections 27 and 28 and except to the extent of such interest as a bank may acquire in the course of the satisfaction of debts due to it:

Prohibition
on trading
by bank.

Provided that all interests acquired in the course of the satisfaction of debts due to it shall be disposed of at the earliest suitable opportunity, and in any event not later than eighteen months after the acquisition thereof or within such longer period as the Commissioner may allow in any particular case.

27. (1) Subject to the provisions of subsection (2), a bank shall not acquire or hold any part of the share capital of any other company or companies to an aggregate value in excess of twenty-five per cent of the paid up capital and reserves of the bank, except such shareholdings as a bank may acquire in the course of the satisfaction of debts due to it:

Limitation on
shareholding
by bank.

Provided that all shareholdings acquired in the course of the satisfaction of debts due to it shall be disposed of at the earliest suitable opportunity, and in any event not later than eighteen months after the acquisition thereof or within such longer period as the Commissioner may allow in any particular case.

(2) This section shall not apply in respect of any shareholding approved in writing by the Financial Secretary in another bank or in a subsidiary company formed by the bank concerned for the carrying out of nominee, executor or trustee functions or other functions incidental to banking business.

28. (1) A bank shall not purchase or hold any interest or interests in land of a value or to an aggregate value, as the case may be, in excess of twenty-five per cent of the paid up capital and reserves of the bank.

Limitations
on holding
of interest in
land.

(2) Subject to the provisions of paragraph (b) of subsection (1) of section 29, in addition to the value of any land permitted to be purchased or held under subsection (1), a bank may purchase or hold interests in land to any value, where the occupation of such land is, in the opinion of the Financial Secretary, necessary for conducting the business of the bank or for providing housing or amenities for the staff of the bank.

(3) For the purpose of subsection (2), but without prejudice to the generality thereof, the Financial Secretary may in his discretion regard as necessary for conducting the business of a bank the whole of any premises in which an office of a bank is situated.

(4) There shall not be taken into account in the assessment of the value of interests in land for the purposes of this section the value of

any interest in land mortgaged to the bank to secure a debt due to the bank:

Provided that, if the debtor defaults in the payment of the whole or any part of such debt or of any interest due thereon, such interest in land shall be disposed of at the earliest suitable opportunity, and in any event not later than eighteen months after the debtor defaults or within such longer period as the Commissioner may allow in any particular case.

Limitations
on aggregate
holdings
under
sections 24,
27 and 28.

29. (1) Notwithstanding anything contained in sections 24, 27 and 28—

(a) the aggregate total of—

(i) the amount outstanding of all facilities specified in subsection (3) of section 24 granted to or on behalf of persons or bodies specified in subsection (4) of that section;

(ii) the value of all holdings of share capital specified in section 27; and

(iii) the value of all holdings of interests in land specified in subsection (1) of section 28,

shall not at any time exceed fifty-five per cent of the paid up capital and reserves of the bank; and

(b) the aggregate total of—

(i) the amount outstanding of all facilities specified in subsection (3) of section 24 granted to or on behalf of persons or bodies specified in subsection (4) of that section;

(ii) the value of all holdings of share capital specified in section 27; and

(iii) the value of all holdings of interests in land specified in subsections (1) and (2) of section 28,

shall not at any time exceed eighty per cent of the paid up capital and reserves of the bank.

(2) In assessing the aggregate total which is permissible under subsection (1) there shall not be taken into account any matter which is excluded from the operation of section 24, 27, or 28 by virtue of any of the provisions thereof or of section 30.

Deductions
for purposes
of sections
23, 24, 27,
28 and 29.

30. For the purposes of sections 23, 24, 27, 28 and 29 there shall be deducted from the paid up capital and reserves of the bank any debit balance appearing in the profit and loss account of the bank.

Proof of
reserves.

31. Any bank, if at any time called upon in writing by the Commissioner so to do, shall satisfy him by the production of such evidence or information as he may require, that the bank is not in contravention of any of the provisions of section 23, 24, 27, 28 or 29.

32. (1) For the purpose of sections 24 and 25, the expression "unsecured" means granted without security, or, in respect of any advance or credit facility granted or financial guarantee or other liability incurred with security, any part thereof which at any time exceeds the market value of assets constituting that security and the expression "security" shall mean such security as would, in the opinion of the Commissioner, be acceptable to a prudent banker. Definitions.

(2) For the purpose of sections 27, 28 and 29, "value" means the current book value.

(3) For the purpose of sections 23, 24, 27, 28, 29, 30 and 31, the expression "reserves" means reserves which appear in the accounts of the bank, and does not include any reserves which are represented by the writing down of the value of assets or by provision for the depreciation of fixed assets.

33. (1) A bank, within three months after the making of any alteration to the memorandum of association, articles of association or other instrument under which it is incorporated, shall furnish to the Financial Secretary particulars of such alteration in writing, verified by a statutory declaration made by a director of the bank. Alteration in constitution and amalgamation.

(2) A bank shall not, without the prior approval of the Financial Secretary,—

(a) make any arrangement or enter into any agreement for the sale or disposal of its business by amalgamation or otherwise;

(b) make any reconstruction of its capital; or

(c) make any arrangement or enter into any agreement for the purchase or acquisition of the business of any other bank.

(3) If the Financial Secretary considers that—

(a) any alteration referred to in subsection (1) alters the constitution of any bank in a manner detrimental to its depositors, or

(b) any transaction referred to in subsection (2) is put into effect by any bank, whether incorporated or unincorporated, without his approval,

he may exercise such of the powers conferred by subsection (1) of section 13 as may appear to him to be necessary to protect the interests of the depositors of the bank.

34. If any bank considers that it is likely to become unable to meet its obligations or if it is about to suspend payment it shall forthwith report all relevant facts, circumstances and information to the Financial Secretary through the Commissioner. Duty to report inability to meet obligations.

35. (1) All entries in books and accounts kept by banks shall be recorded in the English language and the Arabic system of numerals shall be employed. Use of English language.

(2) All forms and information required to be sent and all returns required to be made to the Financial Secretary pursuant to any of the provisions of this Ordinance shall be compiled in the English language and the Arabic system of numerals.

Auditors.

(Cap. 32).

36. (1) Every bank shall appoint an auditor whose name appears for the time being on Part I or Part II of the authorized list of auditors kept by the Registrar under section 131 of the Companies Ordinance.

(2) The duties of any auditor appointed under subsection (1) shall be—

- (a) to carry out at least once in every year an audit of the accounts of the bank;
 - (b) to make an annual report to the shareholders, or in the case of a bank which is a private company or an unincorporated body to the directors, of the bank upon the accounts audited by him and the annual balance sheet of the bank;
 - (c) in every such report to state—
 - (i) whether or not he has obtained all the information and explanations which were, in his opinion, necessary for the purposes of his audit;
 - (ii) whether, in his opinion, the balance sheet referred to in the report gives a correct view of the state of the affairs of the bank at the date of the balance sheet, according to the best of his information and the explanations given to him;
 - (iii) whether, in his opinion, proper books of account have been kept by the bank so far as appears from his audit of the accounts; and
 - (iv) whether, in his opinion, proper returns, adequate for the purposes of his audit, have been received by him from branches not visited by him.
- (3) (a) In the case of a bank which is a company limited by shares or limited by guarantee and having a share capital, there shall be read annually at a general meeting of the shareholders—
- (i) the report of the auditor referred to in paragraph (b) of subsection (2) of this section; and
 - (ii) a report by the directors containing the several particulars required by subsection (3) of section 112 of the Companies Ordinance certified correct by the said auditor to the extent required by subsection (4) of that section.
- (b) In the case of a bank which is a private company or an unincorporated body there shall be read annually at a meeting of directors the report referred to in paragraph (b) of subsection (2) of this section.

37. (1) Every bank shall, not later than six months after the close of each financial year, publish in one English daily newspaper and one Chinese daily newspaper, each of which shall be a newspaper circulating in the Colony, and exhibit thereafter throughout the year in a conspicuous position in each of its offices and branches in the Colony—

Publication and exhibition of audited balance sheet.

- (a) copies of its latest annual balance sheet and profit and loss account;
- (b) the full and correct names of all persons who are directors or managers for the time being of the bank; and
- (c) the names of all subsidiary companies, for the time being, of the bank.

(2) A copy of each of the documents referred to in subsection (1) shall be sent to the Financial Secretary, through the Commissioner, by a bank, prior to first publication thereof under subsection (1) with a list of the names of all companies of which, for the time being, its directors are also directors.

(3) The balance sheet and profit and loss account of a bank sent to the Financial Secretary through the Commissioner shall be accompanied by a copy of the report of the auditor made under paragraph (b) of subsection (2) of section 36 and a copy of the report of the board of directors read at the annual general meeting of the shareholders pursuant to the provisions of sub-paragraph (ii) of paragraph (a) of subsection (3) of section 36.

(4) If, in the case of a bank incorporated outside the Colony, the Financial Secretary is satisfied that a report has been duly made by an auditor, or any person exercising a similar function in accordance with the law of the country in which such bank is incorporated, upon the annual balance sheet and accounts of the bank and a copy of such report and the report of the directors of such bank is sent to the Financial Secretary, he may by notice in writing exempt any such bank from the provisions of this section and of section 36.

(5) The Financial Secretary may require any bank to submit such further information as he may deem necessary for the proper understanding of the balance sheet and profit and loss accounts sent by that bank under subsection (2); and such information shall be submitted within such period and in such manner as the Financial Secretary may require.

38. (1) Every bank shall submit to the Financial Secretary—

- (a) not later than twenty-one days after the last day of each calendar month a statement, in such form as may be prescribed, showing the assets and liabilities of its offices and branches in the Colony at the close of business on the last business day of that month; and

Returns and information to be submitted to the Financial Secretary.

- (b) not later than twenty-one days after the last day of each quarter ending on the 31st day of March, the 30th day of June, the 30th day of September and the 31st day of December respectively, or upon any other day which may be approved by the Commissioner, a statement in the prescribed form giving an analysis of loans and advances made by its offices and branches in the Colony as at the close of business on the last business day of the preceding quarter:

Provided that the Financial Secretary may by permission in writing allow the statements referred to in paragraphs (a) and (b) to be submitted at less frequent intervals.

(2) The Financial Secretary may require a bank to submit such further information as he may consider necessary for the proper understanding of the financial position of the bank and such information shall be submitted within such period and in such manner as the Financial Secretary may require.

(3) Notwithstanding anything in sections 53 and 60, the Financial Secretary may prepare and publish consolidated statements aggregating the figures in the statements furnished under subsection (1).

Production
of bank's
books, etc.

39. For the purpose of an investigation under section 15, a bank shall afford the person carrying out the investigation access to its books, accounts and documents and such information and facilities as may be required to conduct the investigation and shall produce to the person carrying out the investigation such books, accounts, documents or other information as he may require:

Provided that, so far as is consistent with the conduct of the investigation, such books, accounts and documents shall not be required to be produced at such times and such places as shall interfere with the proper conduct of the normal daily business of the bank.

Licensed
bank under
control of
Commis-
sioner to co-
operate with
Commis-
sioner.

40. Where the Commissioner or some other person has assumed control of a bank by virtue of the provisions of paragraph (iii) of subsection (1) of section 13, the bank shall submit its business to the control of the Commissioner or such other person and shall provide him with the services of such members of its staff and such other facilities as he may consider necessary for carrying on the business of the bank and in connexion therewith the directors and managers shall comply with and carry out any directions which the Commissioner or such other person may give to them.

Disqualifica-
tion of
directors and
employees
of banks.

41. Notwithstanding the provisions of any other enactment, no person—

- (a) who is or who becomes bankrupt, suspends payment or compounds with his creditors; or

- (b) who is or who has been convicted of an offence in any country involving dishonesty or fraud and has not received a full pardon for the offence of which he was convicted; or
- (c) who has been a director of, or directly concerned in the management of, a bank licensed under this Ordinance or which was licensed under the Banking Ordinance repealed by this Ordinance, which has at any time been wound up by a Court or the licence of which has at any time been revoked, (Cap. 155).

shall, without the consent in writing of the Financial Secretary act, or continue to act as a director, manager, secretary or other employee of any bank.

PART VI.

UNINCORPORATED BANKS.

42. (1) Notwithstanding the provisions of section 5, the Financial Secretary may issue a licence to carry on banking business in the Colony to any unincorporated person or body of persons who or which, at the commencement of this Ordinance, held a valid licence issued under the Banking Ordinance repealed by this Ordinance.

Grant of
licences to
unincor-
porated
banks.
(Cap. 155).

(2) A licence may be granted under subsection (1), notwithstanding that the unincorporated person or body of persons does not comply and does not propose to comply with the provision of section 8, 18, 19 or 20.

43. (1) An application for a licence under section 42 shall be made to the Financial Secretary, through the Commissioner.

Application
for licence
under sec-
tion 42.

(2) An application for a licence under section 42 shall be accompanied by such documents and information as the Financial Secretary may require.

44. (1) An unincorporated bank shall pay an annual licence fee of five thousand dollars or such other sum as may be specified by the Governor in Council and notified in the *Gazette*.

Licence fee
for unincor-
porated
bank.

(2) The fees payable under this section shall be paid upon the grant of a licence and thereafter upon the anniversary of the date of the grant of such licence.

(3) The Financial Secretary shall cause to be published in the *Gazette* each year in the month of April the name of every unincorporated bank which has within the preceding financial year paid the fees payable under this section.

General application of Ordinance to unincorporated banks and members.

45. (1) An unincorporated bank shall, subject to the provisions of this part, be deemed to be a bank for the purposes of this Ordinance.

(2) Any person to whom, and any member or partner of any unincorporated body of persons to which, a licence is granted under section 42 shall be deemed for the purposes of this Ordinance to be a director of a bank.

Application of sections of Ordinance to unincorporated banks.

46. An unincorporated bank shall, subject to the provisions of this Part, be subject to all the provisions of this Ordinance, *mutatis mutandis*, except—

- (a) paragraph (b) of subsection (2) of section 15;
- (b) sections 18 to 32 inclusive;
- (c) subsection (1) of section 33;
- (d) paragraph (c) of subsection (1) of section 37; and
- (e) any other provision of this Ordinance which is inconsistent with the provisions of this Part or which is inapplicable in the case of an unincorporated bank.

Prohibition on use of word "bank".

47. An unincorporated bank shall not use the word "bank" or any of its derivatives in English, a translation thereof in any language or the Chinese expression "*ngan hong*" (銀行) in the description or title under which it carries on business in the Colony.

Prohibition on total of deposits.

48. An unincorporated bank shall not accept or hold deposits in excess, at any one time, of two million dollars or such other sum as the Governor in Council may from time to time specify either generally or in any particular case.

Death of member of unincorporated bank.

49. (1) Upon the death of a member or partner of an unincorporated bank, the licence issued to the unincorporated bank shall become void and of no effect upon a date six calendar months after the date of the death except for the purpose of winding up the banking business of the unincorporated bank.

(2) Notwithstanding the provisions of subsection (1), the Financial Secretary may issue a new licence under section 42 to the remaining members or partners of that body of persons or to a body of persons consisting of the remaining members of that body of persons and other members or partners who have acquired their interest in the business and assets of the unincorporated bank of which the deceased was a member under the will or upon the intestacy of the deceased.

(3) The remaining members or partners of an unincorporated bank shall notify the Financial Secretary of the death of a member or partner of the unincorporated bank within one month after the death.

PART VII.

MISCELLANEOUS.

50. (1) In the event of any dispute as to whether a person is carrying on a banking business, the matter, except in the case of a prosecution for any offence against this Ordinance, shall be submitted to the Governor in Council for his determination; and the decision of the Governor in Council shall be final and conclusive for all purposes of this Ordinance.

Governor in Council to decide whether or not banking business is being conducted.

(2) A submission under subsection (1) may be made by the Financial Secretary or by any bank or person which or who is interested in the determination of the matter.

51. Whenever it appears to a magistrate, upon the oath of any person, that there is reasonable cause to suspect that a contravention of this Ordinance has been or is being committed in any building or place, such magistrate may by warrant directed to any police officer of or above the rank of inspector empower him with such assistance as may be necessary by day or night—

Power of entry, search, detention and arrest.

(a) to enter, and, if necessary, to break into such building or place;

(b) to search for, detain and take away or remove any machinery, type, appliance, paper, books, documents, accounts, or any thing whatsoever which appears to afford evidence of the commission of such contravention.

52. No public officer and no person authorized under section 13 or 16 exercising any power or performing any duty conferred or imposed by this Ordinance shall incur any liability as a result of anything done *bona fide* in the exercise of such power or the performance of such duty.

Indemnity.

53. (1) Every person, other than an auditor appointed under section 36, who exercises any function or performs any duty under the provisions of this Ordinance shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the exercise or performance of his functions or duties under this Ordinance, and shall not communicate any such matter to any person other than the person to whom such matter relates or his executor or the authorized representative of such person or such executor, nor permit any person to have access to any records in the possession, custody or control of any public officer or any person authorized to assist the Commissioner under section 16, except as may be necessary for the performance of any function or duty under this Ordinance or for the carrying into effect of the provisions of this Ordinance.

Secrecy.

(2) No person who exercises any function or performs any duty in the course of an investigation under section 15 or who receives reports,

returns or information submitted under section 15, 38 or 39 shall be required to produce in any court any book, account or other document whatsoever or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his functions or duties under this Ordinance, except as may be necessary in the course of a prosecution for any offence or of a winding-up by the Supreme Court under section 55.

Recovery of fees, expenses, etc.

54. (1) There shall be recoverable at the suit of the Attorney General as a civil debt due to the Crown from the bank concerned, or in the case of an unincorporated bank, from the directors jointly and severally thereof—

- (a) the amount of any fees payable under section 12 or 44 for the grant of a licence;
- (b) any remuneration due to any person appointed or directed by the Financial Secretary under paragraph (ii) or (iii) of subsection (1) of section 13.

(2) There shall be recoverable, at the suit of the Attorney General, as a civil debt due from the applicants, jointly and severally, to the Crown, any expenses ordered by the Financial Secretary to be defrayed by the applicants under subsection (4) of section 15.

Winding-up of banks.
(Cap. 32).

55. (1) The provisions of the Companies Ordinance with regard to a creditors' voluntary winding-up shall not apply to banking companies.

(2) Notwithstanding the filing of any declaration of solvency under section 218 of the Companies Ordinance, the Supreme Court may, upon petition made by the Financial Secretary, acting in accordance with a direction of the Governor in Council under paragraph (iii) of subsection (1) of section 14, order the winding-up of a bank in accordance with the provisions of the Companies Ordinance relating to the winding-up of companies, whether registered or unregistered, if the Supreme Court is satisfied that it is in the public interest that the bank should be wound up.

Orders by the Financial Secretary.

56. The Financial Secretary may make orders—

- (a) prescribing anything which is to be or may be prescribed under this Ordinance;
- (b) providing for the carrying into effect of the provisions of the Ordinance.

Application of other Ordinances.
(Cap. 70).

57. (1) Notwithstanding anything in the Hongkong and Shanghai Banking Corporation Ordinance, all the provisions of this Ordinance shall apply to the Hongkong and Shanghai Banking Corporation.

(2) Where there is any conflict or inconsistency between the provisions of this Ordinance and the provisions of the Hongkong and Shang-

hai Banking Corporation Ordinance the provisions of this Ordinance shall prevail.

(3) A bank which is incorporated or registered under the Companies Ordinance shall be subject to the provisions of that Ordinance as well as to the provisions of this Ordinance, save that where there is any conflict or inconsistency between the provisions of this Ordinance and the provisions of the Companies Ordinance the provisions of this Ordinance shall prevail. (Cap. 32).

PART VIII.

OFFENCES.

58. Any person who is prosecuted in respect of any offence under section 61, 63, 64, 65 or 66, shall have a good defence if he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to his position in the bank in respect of which the offence was committed. Defence where director or manager prosecuted.

59. Any director, manager, trustee, employee or agent of any bank who, with intent to deceive— Offences by directors, employees and agents.

- (a) wilfully makes a false entry in any book of record or in any report, slip, document or statement of the business, affairs, transactions, condition, assets or accounts of such bank; or
- (b) wilfully omits to make an entry in any book of record or in any report, slip, document or statement of the business, affairs, transactions, condition, assets or accounts of such bank; or
- (c) wilfully alters, abstracts, conceals or destroys an entry in any book of record, or in any report, slip, document or statement of the business, affairs, transactions, condition, assets or accounts of such bank,

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

60. Any person who—

- (a) contravenes or fails to comply with any of the provisions of subsection (1) of section 53; or
- (b) aids, abets, counsels or procures any person to contravene any of the provisions of subsection (1) of section 53.

Breach of secrecy.

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

Offences
against
sections 5
and 47.

61. Any and every—

- (a) person who contravenes any of the provisions of section 5; and
- (b) director and manager of any unincorporated bank in respect of which any of the provisions of section 47 is contravened,

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

Prohibition
on receipt of
commission
by staff.

62. Any director or employee (other than a compradore) of a bank, who asks for or receives, consents or agrees to receive any gift, commission, emolument, service, gratuity, money, property or thing of value for his own personal benefit or advantage or for that of any of his relatives, for procuring or endeavouring to procure for any person any advance or credit facility from that bank or the purchase or discount of any draft, note, cheque, bill of exchange or other obligation by that bank, or for permitting any person to overdraw any account with that bank, shall be guilty of an offence and shall be liable on summary conviction to a fine of ten thousand dollars and to imprisonment for two years.

Criminal
liability of
directors and
managers.

63. (1) Subject to the provisions of section 46, every director and every manager of any bank which contravenes or fails to comply with any of the provisions of—

- (a) subsection (1) of section 19;
- (b) subsection (1) of section 20;
- (c) section 21;
- (d) section 22;
- (e) section 23;
- (f) subsection (1) or (2) of section 24;
- (g) section 25;
- (h) section 26;
- (i) subsection (1) of section 27;
- (j) section 28;
- (k) subsection (1) of section 29;
- (l) subsection (1) of section 33;
- (m) section 34;
- (n) section 35;
- (o) subsection (1) of section 36;
- (p) subsection (1), (2) or (3) of section 37;
- (q) subsection (1) of section 38;
- (r) section 39;
- (s) subsection (3) of section 49,

shall be guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars for every day during which the offence continues.

(2) Every director and every manager of any bank in respect of which there is a failure to comply with any of the provisions of subsection (3) of section 36 shall be guilty of an offence and liable on summary conviction to a fine of two thousand dollars.

64. (1) Subject to the provisions of section 46, every director and every manager of a bank shall be guilty of an offence if—

- (a) the holding of specified liquid assets of the bank is at any time less in amount than the minimum required by section 18;
- (b) the bank, during the period of any deficiency of specified liquid assets referred to in paragraph (a), grants any advance or credit facility or gives any financial guarantee or incurs any other liability on behalf of any customer of the bank without the approval in writing of the Commissioner; or
- (c) the bank fails to submit to the Financial Secretary any information required by him pursuant to the provisions of subsection (2) of section 38.

Directors,
etc., of
licensed
bank to be
guilty of
offence in
event of
contravention
of section 18
or 38.

(2) Any director or manager who commits an offence under subsection (1) shall be liable on summary conviction to a fine of two thousand dollars—

- (a) for every day during which an offence under paragraph (a) of subsection (1) continues; and
- (b) for every contravention of paragraph (b) of subsection (1); and
- (c) for every day during which an offence under paragraph (c) of subsection (1) continues.

65. Every director and every manager of any bank which—

- (a) fails to comply with any requirement of the Financial Secretary under paragraph (i) of subsection (1) of section 13;
- (b) fails to comply with any order of the Governor in Council under paragraph (ii) of subsection (1) of section 14;
- (c) fails to comply with any requirement of the Financial Secretary made under subsection (5) of section 37; or
- (d) fails to comply with any direction given by the Commissioner or other person under section 40,

Offence and
penalty for
failing to
comply with
orders, etc.

shall be guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars for every day during which the offence continues.

Offence and penalty for production of false books, etc.

66. If a bank produces any book, account, document or information whatsoever under section 39 which is false in a material particular, every director and every manager of such bank shall be guilty of an offence and shall be liable on summary conviction to a fine of ten thousand dollars and to imprisonment for two years.

Restriction on use of title "bank".

67. (1) Any person, other than a bank, who, without the written consent of the Financial Secretary,—

- (a) uses the word "bank" or any of its derivatives in English, or any translation thereof in any language or uses the Chinese expression "*ngan hong*" (銀行) in the description or title under which such person is carrying on business in the Colony; or
- (b) makes any representation in any bill head, letter paper, notice, advertisement or in any other manner whatsoever that such person is a bank or is carrying on banking business in the Colony,

shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for twelve months.

(2) Nothing in this section shall apply to any association of banks formed for the protection or promotion of their mutual interests or to any association of employees of banks formed for the protection or promotion of the mutual interests of such employees.

Offence against section 41.

68. Any person who contravenes any of the provisions of section 41 shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for twelve months.

Consent of Attorney General.

69. No prosecution in respect of any offence under this Ordinance shall be instituted without the consent in writing of the Attorney General.

PART IX.

TRANSITIONAL AND REPEAL.

Saving of licences granted under Banking Ordinance. (Cap. 155).

70. (1) Any licence granted under section 4 of the Banking Ordinance repealed by this Ordinance and which is in force at the commencement of this Ordinance shall be deemed to be a licence granted under section 7 of this Ordinance.

(2) Any special licence granted under subsection (3) of section 3 of the Banking Ordinance repealed by this Ordinance and which is in force at the commencement of this Ordinance shall be deemed to be a licence granted under section 42 of this Ordinance.

71. This Ordinance shall apply to any bank, whether incorporated or unincorporated which is deemed to be licensed under this Ordinance by virtue of section 70 as if a licence had been granted under section 7 or 42, as the case may be.

Application of Ordinance to banks licensed by virtue of section 70.

72. (1) A licence deemed to be granted under this Ordinance by virtue of section 70 shall remain in force only for a period of six months after the commencement of this Ordinance, or such longer period as the Financial Secretary may specify in any particular case, unless—

Duration of licence under section 70.

- (a) such licence shall be earlier revoked under this Ordinance; or
- (b) the holder thereof shall cease to transact banking business and has fully met any liabilities which arose in respect of the transaction of such banking business.

(2) No fee shall be payable under this Ordinance for any licence deemed to be granted by virtue of section 70.

73. (1) The Financial Secretary may grant to a company, which is the holder, at the commencement of this Ordinance, of a valid licence issued under the provisions of section 4 of the Banking Ordinance, a licence under section 7 notwithstanding that the bank concerned does not comply with the provisions of sections 8 and 20.

Granting of licence to a bank which does not comply with sections 8 and 20. (Cap. 155).

(2) Any bank which is granted a licence under the provisions of this section shall comply with the provisions of sections 8 and 20 within a period of two years from the commencement of this Ordinance.

(3) If any bank licensed under the provisions of this section fails to comply with the provisions of sections 8 and 20 in accordance with subsection (2) of this section, the licence granted to it under this section shall become null and void except insofar as may be necessary for the purpose of winding up its banking business.

(4) The Financial Secretary may, in any particular case, extend the period provided by subsection (2) and the period of validity of the licence concerned.

74. Notwithstanding the provisions of section 35, any bank which, at the commencement of this Ordinance, held a valid licence issued under the Banking Ordinance repealed by this Ordinance and kept its books and accounts in some other language or in some other system of numerals than what is required by that section may continue to do so but shall provide on demand to its auditor or to the Commissioner such translations into the English language and the Arabic system of numerals as either may require, and the cost of so doing shall be borne by the bank concerned.

Keeping of books. (Cap. 155).

Period
allowed for
compliance
with sections
21 to 29.

75. Subject to the provisions of section 46, any bank which, prior to the commencement of this Ordinance, entered into any business or transaction incompatible with section 21, 22, 23, 24, 25, 26, 27, 28 or 29 shall within six months after the commencement of this Ordinance, submit a full and accurate statement of such business or transaction to the Financial Secretary and shall liquidate such business or transaction within two years after the commencement of this Ordinance, or such longer period as the Financial Secretary may specify in any particular case.

Period
allowed for
compliance
with sec-
tion 18.
(Cap. 155).

76. Notwithstanding anything in section 18, a period of six months after the commencement of this Ordinance shall be allowed for compliance with the provisions thereof by any bank which, at the date of commencement of this Ordinance, held a valid licence under the Banking Ordinance repealed by this Ordinance.

Saving of
creditors'
voluntary
winding-up.

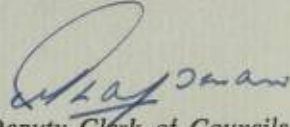
77. The provisions of subsection (1) of section 55 shall not affect any creditors' voluntary winding-up commenced before the commencement of this Ordinance.

Amendment
of section 130
of the
Companies
Ordinance
(Cap. 32)
and repeal of
the Banking
Ordinance
(Cap. 155).

78. (1) Subsection (1) of section 130 of the Companies Ordinance is amended by the deletion of the words "a limited banking company or".

(2) The Banking Ordinance is repealed.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 14th day of October, 1964, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

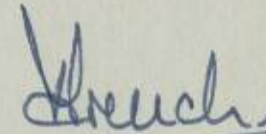
(Secretariat FR2/2201/62IV)

HONG KONG

No. 31 OF 1964.



I assent.


Governor.

5th November, 1964.

An Ordinance further to amend the Buildings Ordinance, 1955.

[4th September, 1964.]

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

1. This Ordinance may be cited as the Buildings (Amendment) (No. 3) Ordinance, 1964, and shall be deemed to have had effect as from the 4th day of September, 1964.

Short title
and com-
mencement.

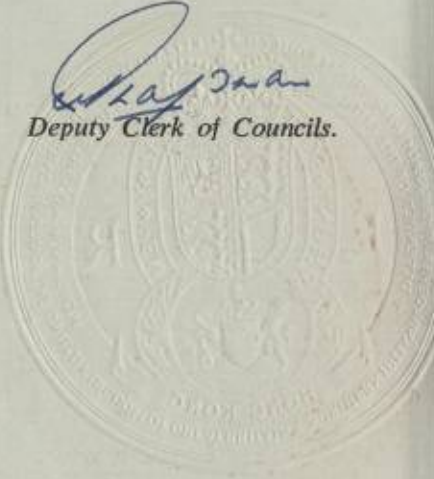
2. Section 9B of the Buildings Ordinance, 1955, is amended, in subsection (4), by the deletion of the words "of the collapse" and the substitution therefor of the following—

Amendment
of section 9B.
(68 of 1955,
1960
Reprint).

"and he is not satisfied that the collapse or the likelihood of the collapse".

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 4th day of November, 1964, and is found by me to be a true and correctly printed copy of the said Bill.

(Secretariat BL2/741/60)


[Signature]
Deputy Clerk of Councils.

HONG KONG

No. 32 OF 1964.

I assent.


[Signature]
Governor.

5th November, 1964.

An Ordinance to make provision for licensing companies to broadcast wireless television, for controlling the standards of programmes broadcast by such companies and for purposes connected therewith.

[6th November, 1964.]

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

PART I.

PRELIMINARY.

1. This Ordinance may be cited as the Television Ordinance, Short title. 1964.

Interpretation.

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

“application” means an application for a licence made under section 7;

“Board” means the Television Advisory Board appointed under section 5;

“broadcasting” means transmitting wireless television;

“Code of Practice” means a Code of Practice issued by the Television Authority under section 20 or 28;

“licence” means a licence to broadcast granted under section 8;

“licensee” means a company granted a licence and includes such company when making application for the licence;

“material” includes pictures, words, music and other sounds whether produced, spoken or made at the time or recorded in any manner;

(46 of 1962).

“Telecommunications Authority” means the Telecommunications Authority for the purposes of the Telecommunication Ordinance, 1962;

“voting shares” means shares in the company which entitle the registered owner thereof to vote at meetings of shareholders of the company.

PART II.

TELEVISION AUTHORITY, TELEVISION ADVISORY BOARD.

Appointment and functions of Television Authority.

3. (1) The Governor in Council may appoint a public officer to be the Television Authority under this Ordinance.

(2) The functions of the Television Authority shall be—

- (a) to secure proper standards of broadcasting with regard to both programme content and technical efficiency of broadcasts, and for such purposes to consult with the Board; and
- (b) generally to administer the provisions of this Ordinance.

Powers of Television Authority.

4. The Television Authority may—

- (a) issue Codes of Practice under section 28 relating to programme and advertising standards;
- (b) issue Codes of Practice under section 20 relating to technical standards;
- (c) issue directions to licensees under section 34;

(d) issue orders to licensees prohibiting the broadcasting of any programme or parts thereof in accordance with section 35;

(e) issue orders prohibiting the broadcasting of any material rendered, passed or selected by a particular person in accordance with section 36;

(f) impose financial penalties on licensees in accordance with section 37;

(g) require licensees to supply information in accordance with section 40, and to submit broadcast material under section 33.

5. (1) The Governor may appoint a Television Advisory Board consisting of—

Constitution of Television Advisory Board.

- (a) a public officer appointed as Chairman;
- (b) two other public officers; and
- (c) two members of the public.

(2) Persons appointed by the Governor shall hold office for such period as he may specify, and may be re-appointed or removed by the Governor at his pleasure.

(3) The Governor may appoint any person to be a member of the Board temporarily during the incapacity or absence of any member.

(4) The Board may from time to time appoint advisory panels, consisting of such person as it sees fit, to consider and advise on any particular aspect of its functions.

(5) The Board shall make standing orders to regulate the number of meetings to be held in each year and the procedure to be followed at such meetings.

(6) All questions arising at any meeting of the Board shall be decided by a majority of votes of members present and in the case of an equality of votes, the Chairman shall have a casting vote in addition to his original vote.

(7) For the purpose of conducting an enquiry under section 15 and for the purpose of making standing orders the quorum shall be three members of whom the Chairman shall be one.

6. The functions of the Board shall, without prejudice to any other power, be—

Functions of the Television Advisory Board.

- (a) to advise the Television Authority in the exercise of his functions;

- (b) to submit proposals and recommendations to the Governor in Council with regard to—
 - (i) technical, programme and advertising standards; and
 - (ii) the renewal or revocation of licences;
- (c) to conduct enquiries into such matters as may be referred to it by the Governor in Council or the Television Authority; and
- (d) to publish reports on the progress of television.

PART III.

LICENCE TO BROADCAST.

Application
for licence.

7. Any company complying with the provisions of section 10 may apply in the form prescribed by the Television Authority and approved by the Governor in Council for a licence to broadcast.

Grant of
licences.

8. (1) The Governor may appoint such persons as he thinks fit to consider applications and to make recommendations thereon to the Governor in Council.

(2) Having considered the recommendations submitted under subsection (1) the Governor in Council may grant a licence which shall be subject, in addition to the conditions set out in section 11, to such conditions as he may specify, which conditions may include any matter contained in the prescribed application form as completed and submitted by the licensee under section 7.

(46 of 1962).

(3) A licence granted under this section shall for the purpose of section 8 of the Telecommunication Ordinance, 1962, be deemed to be a licence granted by the Governor in Council under that Ordinance.

Number and
term of
licences.

9. (1) Only one licence may be granted in the first instance, and such licence shall confer an exclusive right to broadcast for a period of five years from its commencement. Such exclusive right shall relate only to commercial broadcasting and shall not be infringed by non-commercial broadcasting by Government.

(2) Such first licence shall be for a term of fifteen years subject to the same being renewed under section 13 at the expiry of each five year period.

(3) Licences shall commence on a date to be specified by the Governor in Council, not being a date earlier than that nominated by the licensee when submitting his application.

(4) Licences, other than the first licence, granted or renewed under section 8 or 13 shall be for such term as the Governor in Council may order.

10. (1) A licence may be granted only to a company formed and registered under the Companies Ordinance, whose memorandum and articles of association contain clauses (hereinafter referred to as the entrenched clauses) to provide for the following—

Entrenched
clauses to
ensure
licensee is a
British
owned
Hong Kong
company.
(Cap. 32).

- (a) the majority of the directors shall be British subjects ordinarily resident in Hong Kong;
- (b) the majority of directors required under paragraph (a) shall participate actively in the direction of the company and shall constitute a majority of any quorum required for a meeting of directors;
- (c) the principal officers, which term shall include the officer responsible for the selection of programmes, shall be British subjects ordinarily resident in Hong Kong;
- (d) in these entrenched clauses—

“ordinarily resident” means residence of not less than one hundred and eighty days in any calendar year or not less than three hundred days in any two consecutive calendar years.

(2) Notwithstanding any provisions in any enactment or in the memorandum and articles of association relating to amendment or any other provisions thereto enabling the entrenched clauses may not be amended without the prior consent in writing of the Television Authority.

(3) The requirements of this Ordinance concerning a licensee shall apply to the licensee in addition to, and notwithstanding any conflict with, the provisions of the Companies Ordinance.

(Cap. 32).

11. (1) A licence shall contain the following conditions—

- (a) the licensee shall comply with such clauses as are required to be contained in its memorandum and articles of association under section 10;
- (b) the licensee shall pay to the Government such royalty as the Governor in Council may prescribe, and such royalty shall be calculated and paid in the manner prescribed in section 41;
- (c) the licence may be assigned only with the prior consent of the Governor in Council;

Special pro-
visions to be
included in
licence.

(d) no disqualified person may exercise control in a licensee company.

(2) Nothing in this section shall prevent a disqualified person from applying for and being granted a licence.

(3) For the purposes of this section—

“disqualified person” means—

- (a) an advertising agent;
- (b) a company which supplies material for broadcasting by a licensee;
- (c) a company which is a licensee under this Ordinance or which transmits sound or television material whether within or without the Colony or which operates any wired service; or
- (d) a person who exercises control in a company specified in paragraph (b) or (c);

“exercises control in a company” means holding office in that company or being the beneficial owner of more than fifteen per cent of the voting shares of that company.

Limitations
on contracts
by licensee.

12. (1) Except in respect of material for broadcasting for the supply of which a licensee is contracting, he shall not agree to broadcast or to refrain from broadcasting any material.

(2) Any provision in a contract which requires a licensee to broadcast or to refrain from broadcasting any material, other than material to be supplied under the contract, shall not be enforceable against the licensee.

Renewal of
licence.

13. (1) Not less than twelve months before the expiry of a licence the Board shall submit recommendations to the Governor in Council concerning the renewal of such licence and the conditions to be imposed upon such renewal.

(2) Having considered the recommendations submitted under subsection (1) the Governor in Council may renew the licence on such conditions as he may specify.

Revocation
of licence.

14. (1) Where the Governor in Council considers that there may be cause for revoking a licence he may order the Board to conduct an inquiry and submit recommendations concerning the revocation of the licence, and, after considering such recommendations and such other information, matter and advice as he may see fit, may revoke the licence.

(2) The revocation of a licence under subsection (1) shall take effect subject to the notice required to be given under section 16.

(3) Notwithstanding subsections (1) and (2), the Governor in Council may at any time revoke a licence—

(a) for failure by the licensee to pay, within one month after payment thereof has been demanded, any royalty owing by him or to pay any financial penalty imposed on him under section 37;

(b) where a financial penalty has been imposed on the licensee under section 37 on at least three occasions, whatever the reasons for which the penalties were imposed;

(c) if it appears to him that the security of the Colony so requires, and such revocation shall take effect forthwith or on such day as the Governor in Council specifies.

15. (1) When so ordered under subsection (1) of section 14 the Board shall conduct an inquiry for the purpose of making recommendations concerning the revocation of the licence specified in the order.

Enquiry by
Television
Advisory
Board.

(2) The Board may consider information and matter received from any source.

(3) The Board shall communicate to the licensee the grounds on which revocation may be recommended and the reasons therefor.

(4) The licensee may submit to the Board representations either orally or in writing.

(5) The Board shall consider any recommendations submitted by the licensee and such further information and matter as it may consider necessary by reason of such representations.

(6) The Board shall make recommendations to the Governor in Council.

16. (1) Notice of any decision not to renew a licence or to revoke a licence under subsection (1) of section 14 shall be given to the licensee in writing not less than eighteen months prior to the date on which the licence is to expire or be revoked, as the case may be.

Notice of
intended
revocation
or non-
renewal
and power to
continue
licence in
force.

(2) Where it is necessary for the due compliance with this section the Governor in Council may extend the term of any licence:

Provided that such extension shall not continue in force any exclusive right to broadcast.

17. (1) Where—

(a) notice is given under section 16; or

(b) a licence is or has been, or is to be, revoked under subsection (3) of section 14,

Compulsory
purchase of
land,
buildings,
etc.

the Governor in Council may direct the Colonial Treasurer Incorporated to acquire by purchase any lands (including any interest in land), build-

ings, installations and equipment belonging to and used by the licensee for the purposes of his licence.

(2) Not less than six months nor more than twelve months after the giving of notice under section 16 or, where a licence is or has been, or is to be, revoked under subsection (3) of section 14, at any time within twelve months after the giving of the direction under subsection (1), the Colonial Treasurer Incorporated may acquire by purchase such parts of the lands, buildings, installations and equipment belonging to and used by the licensee for the purposes of his licence as may be specified by the Colonial Treasurer Incorporated. In the event of the price offered by the Colonial Treasurer Incorporated being refused, the price shall be determined by an arbitrator appointed for the purpose by the Secretary of State.

(3) Where land is purchased under subsection (2), the Colonial Treasurer Incorporated shall, within one month after the purchase, register in the Land Office by memorial a declaration that it has been so purchased.

(4) All the property purchased under subsection (2) shall, as the case may be, vest in the Colonial Treasurer Incorporated—

- (a) on the date of the termination of the licence after notice of revocation;
- (b) upon the expiry of the licence after notice of a decision not to renew;
- (c) where the licence is revoked under subsection (3) of section 14, when the revocation takes effect or when a price is offered by the Colonial Treasurer Incorporated, whichever is the later,

and thereupon all rights in such property on the part of the licensee shall cease and determine.

(5) Nothing in this section shall confer on the licensee any right to require the Colonial Treasurer Incorporated to purchase any part of his lands, buildings, installations or equipment.

PART IV.

BROADCASTING TECHNICAL CONDITIONS.

Commence-
ment and
expansion of
service.

18. (1) A licensee shall commence broadcasting to the whole of the urban area, other than to such parts as the Governor in Council may specify, on such date as the Governor in Council may order, not being a date earlier than that which had been specified by the licensee when submitting his application.

(2) In addition to the areas to which a licensee begins broadcasting under subsection (1) he shall thereafter commence broadcasting to

such other areas by such dates as the Governor in Council may order, and shall be broadcasting to the whole of the Colony, other than to such parts as the Governor in Council may specify, not later than three years from the commencement of the licence.

(3) A licensee shall publish, in such manner as the Television Authority may direct, a notification of the commencement dates for broadcasting and the areas in which such broadcasts may be received.

(4) For the purposes of this section—

“the urban area” means the Island of Hong Kong, Kowloon and New Kowloon.

19. Broadcasting shall conform to the following specifications—

Broadcasting
requirements.

- (a) channels to be of eight megacycles per second band width;
- (b) frequencies to be in Band IV comprising four hundred and seventy to five hundred and eighty two megacycles per second;
- (c) the number of lines to be six hundred and twenty five.

20. (1) The Governor in Council may make regulations providing for the technical requirements with which a licensee shall comply in broadcasting.

Technical
requirements.

(2) The Television Authority may from time to time issue Codes of Practice relating to the technical standards to be maintained with respect to—

- (a) television channels;
- (b) scanning specifications;
- (c) pictures signal modulation;
- (d) sounds signal modulation;
- (e) transmitter characteristics;
- (f) design of technical equipment; and
- (g) maintenance of technical equipment.

Such Codes of Practice shall not be inconsistent with any regulations made under subsection (1).

(3) The decision of the Telecommunications Authority that a licensee is failing, or has failed, to comply with any regulation or Code of Practice made or issued under this section shall be final.

21. (1) Where the Television Authority is of the opinion that a licensee is failing to comply with any regulation or Code of Practice made or issued under section 20 he, or any public officer authorized by him or any agent appointed by him, or the Telecommunications Authority may at all reasonable times inspect any of the technical equipment used by the licensee in broadcasting, and may question any director or servant of the licensee.

Inspection of
technical
equipment.

(2) The directors and servants of the licensee shall assist any person exercising powers under this section.

PART V. PROGRAMMES.

Minimum service.

22. A licensee shall broadcast one programme service in the English language and one programme service in the Chinese language. Each programme service shall be broadcast for at least five hours each day.

Advertising.

23. (1) A licensee may broadcast advertising material for periods not exceeding seven minutes in any hour so that the daily total of such periods does not exceed ten per cent of the time during which broadcasting takes place in the twenty-four hour period commencing at 6 o'clock in the morning.

(2) Subject to the limit imposed by subsection (1) on the total period of advertising in each day, the Television Authority may permit the limit of seven minutes in any hour to be exceeded where he is satisfied that the programme arrangements so require.

(3) In addition to the broadcasting of advertising material permitted by subsection (1), a licensee may broadcast not more than two advertising magazine programmes in any seven day period and each such programme shall not exceed fifteen minutes in duration.

(4) A licensee shall publish, in such manner as the Television Authority may direct, the charges for broadcasting advertising material.

(4 of 1953).

(5) In broadcasting advertising material a licensee shall comply with any regulations made by the Governor in Council and with any Code of Practice and the Undesirable Medical Advertisements Ordinance, 1953, shall apply to such broadcasts.

News, announcements and programmes for schools.

24. The programmes broadcast under section 22 shall include such news programmes, programmes for schools and announcements of public interest, supplied by the Government, as may be required by the Television Authority. Such material shall be broadcast without charge and at such time as may be specified by the Television Authority. Nothing in this section shall prevent a licensee from broadcasting advertising material in accordance with section 23.

Government programmes.

25. In addition to the programmes broadcast under section 24, a licensee shall broadcast in each programme service any material supplied by the Government up to a maximum of one hour in each period of twenty four hours commencing at 6 o'clock in the morning. Such material shall be broadcast without charge and at such time as may be

specified by the Television Authority. Nothing in this section shall prevent a licensee from broadcasting advertising material in accordance with section 23.

26. A licensee shall at all times be responsible for ensuring that the programmes broadcast shall, except in respect of material supplied by the Government—

Standards of programmes.

- (a) comply with regulations made under section 27;
- (b) conform with the standards established by Codes of Practice;
- (c) comply with directions issued by the Television Authority under section 34; and
- (d) maintain a proper balance in their subject matter and a high general standard of quality.

Approval of any material to be broadcast by the panel of film censors or the public exhibition thereof shall not relieve the licensee of such responsibility.

27. (1) The Governor in Council may make regulations establishing standards for the programmes to be broadcast by licensees.

Standards established by regulations made by Governor in Council.

(2) Without derogating from the generality of subsection (1) the Governor in Council may make regulations establishing standards for—

- (a) the broadcasting of advertising material; and
- (b) the broadcasting of programmes containing political or religious material.

28. The Television Authority may from time to time issue Codes of Practice relating to programme and advertising standards. Such Codes of Practice shall not be inconsistent with the standards established by regulations made under section 27 and shall be supplemented or varied as may be required to comply with any directions issued by the Governor in Council under section 29.

Standards established by Codes of Practice issued by Television Authority.

29. The Governor in Council may from time to time, in addition to and not inconsistent with regulations made under section 27, issue directions to the Television Authority regarding the standards of programmes or advertisements being broadcast by a licensee, including the content and balance of such programmes, and in such directions may require the Television Authority to ensure compliance with the standards established.

Governor in Council may issue directions to Television Authority.

30. Notwithstanding the provisions of the Gambling Ordinance contests may be organized in connexion with programmes broadcast by a licensee and may form part of such programmes where—

Broadcasting contests. (Cap. 148).

- (a) no fee is payable either in money or money's worth for participation in such contests;

- (b) the results of such contests are determined by the skill or knowledge of the participant and not by chance; and
- (c) such contests comply with any regulations made by the Governor in Council and with any Codes of Practice which may provide for the maximum value of any prize awarded in such contests.

Defamatory material.

31. For the purposes of the law of defamation the broadcasting of words or other matter shall be treated as publication in permanent form.

PART VI.

CONTROL AND MISCELLANEOUS.

Broadcasting film material.
(G.N.A. 166/53).

32. All film material intended for broadcasting, other than that exposed by a licensee, shall be submitted to the panel of censors established under the Film Censorship Regulations, 1953, and may be broadcast only in such form as the panel may permit.

Material to be submitted to the Television Authority on demand.

33. A licensee shall supply to the Television Authority on demand any material, including the script thereof, which is intended for broadcasting.

Directions of the Television Authority.

34. The Television Authority may issue directions in writing to a licensee requiring him to take such action with regard to the contents of programmes or advertisements or to technical standards as the Television Authority considers necessary in order to comply with the provisions of this Ordinance including any Code of Practice.

Television Authority may prohibit programmes.

35. (1) On the advice of the Board the Television Authority may, by order in writing addressed to a licensee, prohibit the broadcasting of any programme, any part thereof or of any class of material.

(2) In making any order under subsection (1) the Television Authority shall have regard to the programme planning requirements of the licensee and any unreasonable disregard of such requirements shall be deemed to prejudice a licensee for the purpose of an appeal under section 38.

(3) Where the Television Authority is of the opinion that the peace or good order of the Colony is threatened he may either orally or in writing prohibit the broadcasting of any particular programme or part thereof, and shall signify such prohibition in writing to the licensee.

(4) The broadcasting of any programme prohibited under subsection (3) shall constitute an offence and on conviction the licensee and any other person shall be liable to a fine of ten thousand dollars and to imprisonment for six months.

36. On the advice of the Board the Television Authority may prohibit, by order in writing addressed to a licensee, the broadcasting of any material rendered, passed or selected by any person named in such order.

Television Authority may prohibit broadcasting of material rendered by certain individuals.

37. (1) On the advice of the Board the Television Authority may, by notice in writing addressed to the licensee, require the payment of the financial penalty specified in such notice.

Television Authority may impose financial penalty.

(2) Financial penalties may be imposed—

- (a) for failure to comply with any of the conditions of the licence;
- (b) for failure to comply with any regulation made by the Governor in Council;
- (c) for failure to comply with any Code of Practice;
- (d) for failure to comply with any direction or order issued or made by the Television Authority under section 34, 35 or 36;
- (e) for failure on the part of any director or servant of the licensee to answer any question asked him under section 21 or 45, or to assist any person engaged in inspecting, making extracts from or removing documents under section 42 or 45 or inspecting technical equipment under section 21;
- (f) for broadcasting any film material in contravention of section 32.

(3) The financial penalties imposed under this section shall not exceed ten thousand dollars for the first occasion on which a penalty is imposed, and shall not exceed twenty thousand dollars for the second occasion on which a penalty is imposed for whatever reason, and shall not exceed fifty thousand dollars for any subsequent occasion on which a penalty is imposed for whatever reason.

(4) No penalty shall be imposed under this section except where the Board is satisfied that the licensee has been afforded reasonable opportunity of complying with the particular requirement.

38. (1) Where a licensee is prejudiced by anything contained in any Code of Practice or in any direction issued by the Television Authority, or by reason of any decision of his in the exercise of any discretion vested in him under this Ordinance, the licensee may appeal to the Governor in Council by way of petition:

Appeal to the Governor in Council.

Provided that no appeal shall lie in respect of any prohibition on broadcasting any programme under subsection (3) of section 35.

(2) Any person named in an order prohibiting the licensee from broadcasting material rendered, passed or selected by such person may appeal to the Governor in Council by way of petition against the order so naming him made under section 36.

Determina-
tion of
appeal.

39. (1) In determining an appeal the Governor in Council may receive advice and information from any source including the Television Authority without disclosing the same to the appellant, who shall not be entitled to make any representations other than his petition.

(2) The Governor in Council may determine an appeal by confirming, varying or reversing any order or direction of the Television Authority or by amending any Code of Practice.

Licensee to
submit
returns.

40. (1) A licensee shall submit to the Television Authority not later than the month of April in each year a return in such form as he may prescribe showing—

- (a) the names of the directors and office holders in the licensee company;
- (b) the names of the beneficial owners of the voting shares in the licensee company.

(2) A licensee shall submit at the same time as the return made under subsection (1) a statutory declaration made by at least two directors of the licensee company showing whether or not any disqualified person has exercised any control in the licensee company during the year immediately preceding. The term disqualified person shall have the meaning attributed to it in subsection (3) of section 11.

(3) A licensee shall submit to the Television Authority on demand such other information as he may consider that he requires for the purposes of exercising his functions under this Ordinance.

Calculation
and payment
of royalty.

41. The following provisions shall apply to the calculation and payment of royalty—

- (a) the royalty shall be payable in respect of the gross takings for the accounting year of each licensee on such sliding scale as may be specified in the licence:

Provided that where the licence does not commence on the first day of the accounting year of the licensee, the royalty payable for the period between the commencement of the licence and the first day of the accounting year next ensuing and for the period between the last day of the accounting year immediately preceding the termination of the licence and the date of such termination shall be calculated after reducing the amount of the gross takings on each step of the sliding

scale in the proportion which the number of days in each such period bears to the number of days in the year in which each such period falls;

- (b) the royalty shall be paid in respect of every period of three months (hereinafter referred to as the payment period);

Provided that—

(i) the payment period immediately preceding the beginning of the accounting year of the licensee shall be reduced in such manner that the next payment period shall commence on the first day of the accounting year; and

(ii) the payment period immediately preceding the termination of the licence shall be reduced in such manner that it ends on the date of such termination;

- (c) the first payment period shall commence on the day on which the licence commences;
- (d) the royalty shall be paid within one month of the end of each payment period;
- (e) the Financial Secretary may determine the provisional royalty to be paid in respect of the first payment period in which the licensee receives any takings;
- (f) subject to paragraph (e) the royalty paid for each payment period shall be either—

(i) calculated on the gross takings for such payment period after reducing the amount of the gross takings on each step of the sliding scale in the proportion which the number of days in such payment period bears to the number of days in the year; or

(ii) a provisional sum which shall be the sum payable in respect of the previous payment period as adjusted in accordance with paragraph (g);

- (g) where a provisional royalty is paid for any payment period it shall be adjusted, and a further payment shall be made or a refund allowed when payment becomes due in respect of the next ensuing payment period;
- (h) in respect of the payment period on the expiry of which the licence terminates all gross takings earned by the licensee during the subsistence of the licence, and not already brought into account under these provisions, shall be deemed to be payable or accruing during such last payment period;
- (i) at the close of each accounting year royalties paid in respect of the payment periods in such accounting year shall be adjusted by reference to the audited accounts furnished under