

(b) by reason of any variance between the assessment and the notice thereof:

Provided that a notice of such assessment is duly served on the person intended to be charged and contains in substance and effect the particulars mentioned in paragraph (a) of this sub-section.

CHAPTER VII.

APPEALS.

*Appeals to the Commissioner.*

Procedure on appeals to the Commissioner.

39.—(1) Any person aggrieved by the amount of an assessment made under this Ordinance may within twenty-one days from the date of the notice of such assessment appeal to the Commissioner by notice of objection in writing to review and revise such assessment. Any person so appealing (hereinafter referred to as the appellant) shall state precisely in his notice the grounds of his objection and the notice shall not be valid unless it contains such grounds and is made within the period above mentioned:

Provided that the Commissioner, upon being satisfied that owing to absence from the Colony, sickness, or other reasonable cause the appellant was prevented from giving notice of objection within such period, shall grant an extension thereof:

Provided further that, where the assessment appealed against has been made in the absence of a return of income by the appellant, no notice of objection shall be valid unless and until such return has been duly made.

(2) On receipt of a valid notice of objection under sub-section (1), the Commissioner may cause further inquiry to be made by an Examiner, and if in the course of such inquiry an agreement is reached as to the amount at which the appellant is liable to be assessed, any necessary adjustment of the assessment shall be made.

(3) Where no agreement is reached between the appellant and the Examiner in the manner provided in sub-section (2), the Commissioner shall, subject to the provisions of section 43 fix a time and place for the hearing of the appeal.

(4) Every appellant shall attend before the Commissioner at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appeal in person or by an authorized representative. The Commissioner may, if he thinks fit, from time to time adjourn the hearing of an appeal for such time and place as he may fix for the purpose. In any case in which an authorized representative attends on behalf of the appellant, the Commissioner may adjourn the hearing of the appeal and may, if he considers that the personal attendance of the appellant is necessary for the determination of the appeal, require that the appellant shall attend in person at the time and place fixed for the

adjourned hearing of the appeal. If the appellant or his authorized representative fails to attend at the time and place fixed for the hearing or any adjourned hearing of the appeal, or if the appellant fails to attend in person when required so to attend by the Commissioner, the Commissioner may dismiss the appeal:

Provided that if the appellant shall within a reasonable time after the dismissal of an appeal satisfy the Commissioner that he or his representative was prevented from due attendance at the hearing or at any adjourned hearing of such appeal by absence from the Colony, sickness, or other unavoidable cause, the Commissioner may vacate the order of dismissal and fix a time and place for hearing of the appeal.

(5) The Commissioner shall have power to summon any person whom he may consider able to give evidence respecting the appeal to attend before him at the hearing and may examine such person on oath or otherwise. Any person so attending may be allowed by the Commissioner any reasonable expenses necessarily incurred by such person in so attending.

(6) In disposing of an appeal the Commissioner may confirm, reduce, increase, or annul the assessment, and shall record his determination in writing and announce it orally.

(7) Where the Commissioner authorizes an Assistant Commissioner to hear appeals, such authority shall not empower such Assistant Commissioner to hear an appeal against an assessment which he has himself signed and allowed or against a penalty which he has himself imposed.

*Appeals to the Board of Review.*

40.—(1) For the purpose of hearing appeals in the manner hereinafter provided, there shall be a panel for a Board of Review consisting of not more than twenty members who shall be appointed from time to time by the Governor. The members of the panel shall hold office for a term of three years but shall be eligible for reappointment.

Constitution of the Board of Review.

(2) There shall be a Clerk to the Board of Review (hereinafter referred to as the Board) who shall be appointed by the Governor.

(3) There shall be a Legal Adviser to the Board who shall be appointed by the Board.

(4) Three or more members of the panel, one of whom shall be nominated as chairman, shall be nominated by the Colonial Secretary and summoned by the Clerk to attend meetings of the Board at which appeals are to be heard. At any such a meeting a quorum shall consist of three members. All matters coming before the Board shall be decided by a majority of votes and in the case of an equality of votes the chairman shall have a second or casting vote.

(5) At the request of the Colonial Secretary, the Clerk to the Board shall summon a meeting of the Board consisting of all the members of the panel available in the Colony. At such a meeting a quorum shall consist of five members.

(6) The remuneration (if any) of the members of the Board, the Clerk, and the Legal Adviser shall be fixed by the Governor.

Right of appeal to the Board of Review.

41.—(1) Any appellant, or the authorized representative of any appellant, who is dissatisfied with the determination by the Commissioner of an appeal under section 39 may declare his dissatisfaction with that determination. Such declaration shall be made orally immediately after the announcement by the Commissioner of his determination or shall be communicated in writing to the Commissioner within one week from the date of such announcement.

(2) Where the appellant has declared or communicated his dissatisfaction in accordance with sub-section (1), the Commissioner shall, within one month of the determination of the appeal, transmit in writing to the appellant or his authorized representative his determination and reasons therefor.

(3) Within one month of the transmission of such written determination and reasons by the Commissioner, the appellant may give notice of appeal to the Board. Such notice shall not be entertained unless it is given in writing to the Clerk to the Board and is accompanied by a copy of the Commissioner's written determination, together with a statement of the grounds of appeal therefrom.

(4) Save with the consent of the Board and on such terms as the Board may determine the appellant may not at the hearing by the Board rely on any grounds of appeal other than the grounds stated in accordance with sub-section (3), and may not adduce any evidence other than evidence adduced at the hearing of the appeal before the Commissioner.

Commissioner may refer appeals to the Board of Review.

42. Notwithstanding the provisions of section 39 where the Commissioner is of opinion that no useful purpose would be served by his hearing an appeal, he may refer it to the Board of Review, and the Board shall hear and determine such appeal and the provisions of section 43 shall apply accordingly.

Hearing and disposal of appeals to the Board of Review.

43.—(1) As soon as may be after the receipt of a notice of appeal, the Clerk to the Board shall fix a time and place for the hearing of the appeal, and shall give fourteen clear days' notice thereof both to the appellant and to the Commissioner.

(2) Every appellant shall attend at the meeting of the Board at which the appeal is heard in person or by an authorized representative:

Provided always that the Board may postpone the hearing of the appeal for such time as it thinks necessary for the attendance of the appellant.

(3) The Examiner who made the assessment appealed against or some other person authorized by the Commissioner shall attend such meeting of the Board in support of the assessment.

(4) The onus of proving that the assessment as determined by the Commissioner on appeal, or as referred by him under section 42, as the case may be, is excessive shall be on the appellant.

(5) All appeals shall be heard in camera.

(6) The Board shall have power to summon to attend at the hearing any person whom it may consider able to give evidence respecting the appeal and may examine him as a witness either on oath or otherwise. Any person so attending may be allowed by the Board any reasonable expenses necessarily incurred by him in so attending.

(7) At the hearing of the appeal the Board may, subject to the provisions of section 41 (4), admit or reject any evidence adduced, whether oral or documentary, and the provisions of the Evidence Ordinance, 1889, relating to the admissibility of evidence shall not apply.

Ordinance No. 2 of 1889.

(8) After hearing the appeal, the Board shall confirm, reduce, increase, or annul the assessment as determined by the Commissioner on appeal, or as referred by him under section 42, as the case may be, or may remit the case to the Commissioner with the opinion of the Board thereon. Where a case is so remitted by the Board, the Commissioner shall revise the assessment as the opinion of the Board may require.

(9) Where under sub-section (8) the Board does not reduce or annul such assessment, the Board may order the appellant to pay as costs of the Board a sum not exceeding one hundred dollars, which shall be added to the tax charged and recovered therewith.

*Appeals to the Supreme Court.*

44.—(1) The decision of the Board shall be final:

Appeals to the Supreme Court.

Provided that either the appellant or the Commissioner may make an application requiring the Board to state a case on a question of law for the opinion of the Supreme Court. Such application shall not be entertained unless it is made in writing and delivered to the Clerk to the Board, together with a fee of fifty dollars, within one month of the date of the Board's decision. If the decision of the Board shall be notified to the Commissioner or to the appellant in writing, the date of the decision, for the purposes of determining the period within which either of such persons may require a case to be stated, shall be the date of the communication by which the decision is notified to him:

And provided also that the appellant or the Commissioner may appeal to the Supreme Court on a question of fact with the leave of such Court.

(2) The stated case shall set forth the facts and the decision of the Board, and the party requiring it shall transmit the case, when stated and signed, to the Supreme Court within fourteen days after receiving the same.

(3) At or before the time when he transmits the stated case to the Supreme Court, the party requiring it shall send to the other party notice in writing of the fact that the case has been stated on his application and shall supply him with a copy of the stated case.

(4) Any Judge of the Supreme Court may cause a stated case to be sent back for amendment and thereupon the case shall be amended accordingly.

(5) Any Judge of the Supreme Court shall hear and determine any question of law arising on the stated case and may in accordance with the decision of the court upon such question confirm, reduce, increase, or annul the assessment

determined by the Board, or may remit the case to the Board with the opinion of the court thereon. Where a case is so remitted by the court, the Board shall revise the assessment as the opinion of the court may require.

(6) In any proceedings before the Supreme Court under this section, the court may make such order in regard to costs in the Supreme Court and in regard to the sum paid under sub-section (1) as to the court may seem fit.

(7) Appeals from decisions of the Supreme Court under this section shall be governed by the provisions of the Supreme Court Ordinance, 1873, the Code of Civil Procedure, the Full Court Ordinance, 1933, and the Orders and Rules governing appeals to the Privy Council.

General.

Assessments or amended assessments to be final.

45. Where no valid objection or appeal has been lodged within the time limited by this Chapter against an assessment as regards the amount of the assessable income assessed thereby, or where the amount of the assessable income has been agreed to under section 39 (2), or where the amount of such assessable income has been determined on objection or appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Ordinance as regards the amount of such assessable income :

Provided that nothing in this Chapter shall prevent an Examiner from making an assessment or additional assessment for any year of assessment which does not involve re-opening any matter which has been determined on appeal for the year.

CHAPTER VIII.

PAYMENT AND RECOVERY OF TAX.

Provisions regarding payment of tax.

46.—(1) The tax charged by any assessment shall be paid in the manner directed in the notice of assessment on or before a date specified in such notice. Any tax not so paid shall be deemed to be in default, and the person by whom such tax is payable or, where any tax is payable by more than one person or by a partnership, then each of such persons and each partner in the partnership, shall be deemed to be a defaulter, for the purposes of this Ordinance.

(2) Tax shall be paid notwithstanding any notice of objection or appeal, unless the Commissioner orders that payment of tax or any part thereof be held over pending the result of such objection or appeal.

(3) Where the Commissioner is of opinion either that the tax or any part thereof held over under sub-section (2) is likely to become irrecoverable, or that the appellant is unreasonably delaying the prosecution of his appeal, he may cancel any order made under that sub-section and make such fresh order as the case may appear to him to require.

(4) Where, upon the final determination of an appeal under Chapter VII, or upon any order made by the Commissioner, any tax which has been held over under sub-section (2) becomes payable or the tax charged by the original assessment is increased, the Commissioner shall give to the appellant a notice in writing fixing a date on or before which any tax or balance of tax shall be paid. Any tax not so paid shall be deemed to be in default.

(5) Where any tax is in default, the Commissioner may in his discretion order that a sum or sums not exceeding five per centum in all of the amount in default shall be added to the tax and recovered therewith.

47. In the succeeding sections of this Chapter, "tax" includes any sum or sums added under section 46 (5) by reason of default, together with any fines, penalties, fees, or costs incurred. Tax to include fines, etc.

48.—(1) Save as provided in sub-section (2), tax in default shall be a first charge upon all the assets of the defaulter: Tax to be a first charge.

Provided that—

(i) such charge shall not extend to or affect any assets sold by the defaulter to a *bonâ fide* purchaser for value prior to the seizure of the same in accordance with the provisions of section 49;

(ii) as regards immovable property, the tax shall not rank in priority to any lease or encumbrance created *bonâ fide* for value and registered prior to the date of such seizure; and

(iii) as regards movable property, where tax for more than one year of assessment is in default, the tax for one year only, to be selected by the Commissioner, shall rank in priority to any lien or encumbrance created *bonâ fide* for value prior to the date of default.

(2) A receiver shall pay out of the assets under his control the tax charged or chargeable for one complete year of assessment prior to the date of the insolvency, bankruptcy, or liquidation, to be selected by the Commissioner, as a first charge on such assets and any other tax charged or chargeable for periods prior to such date shall be an unsecured debt :

Provided that where the receiver proves to the satisfaction of the Commissioner that any tax to which this sub-section applies is excessive, the Commissioner may, notwithstanding the provisions of section 45, review the assessment in respect of which the tax is charged and make such adjustment as he may in his discretion think reasonable.

49.—(1) The Commissioner may appoint persons to be Collectors. Recovery of tax by seizure and sale.

(2)—(a) Where any tax is in default, the Commissioner may issue a certificate to any Collector or bailiff containing particulars of such tax and the name of the defaulter, and the

officer to whom such certificate is issued shall be empowered and is hereby required to cause the tax to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

(b) The said seizure shall be effected in such manner as the said officer shall deem most expedient in that behalf, and any property so seized shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the tax in default together with the costs and charges within the said five days, the Collector or bailiff shall cause the said property to be sold by public auction.

(c) The sum realized by the sale shall be applied—

(i) firstly, in payment of the costs and charges of seizing, keeping, and selling the property, and

(ii) secondly, in satisfaction of the tax in default, and any balance shall be restored to the owner of the property seized.

(3) Whenever the Commissioner issues a certificate under this section, he shall at the same time issue to the defaulter a notification thereof by personal service, registered post, or telegraph; but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

Recovery of tax from persons leaving the Colony.

50.—(1) Where the Commissioner is of opinion that any person is about to or likely to leave the Colony without paying all tax assessed upon him, he may issue a certificate containing particulars of such tax and the name of such person to a Magistrate, who shall on receipt thereof issue a direction to the Commissioner of Police to take such measures as may be necessary to prevent such person from leaving the Colony without paying the tax or furnishing security to the satisfaction of the Commissioner for payment thereof.

(2) At the time of issue of his certificate to the Magistrate, the Commissioner shall issue to such person a notification thereof by personal service, or registered post; but the non-receipt of any such notification by such person shall not invalidate proceedings under this section.

(3) Production of a certificate signed by the Commissioner, Deputy Commissioner, or an Assistant Commissioner stating that the tax has been paid or that security has been furnished for payment of the tax to a police officer in charge of a police station, shall be sufficient authority for allowing such person to leave the Colony.

Use of more than one means of recovery.

51. Where the Commissioner is of opinion that application of any of the provisions of this Chapter has failed or is likely to fail to secure payment of the whole of the tax due from any person it shall be lawful for him to proceed to recover any sum remaining unpaid by any other means of recovery provided in this Chapter.

CHAPTER IX.

REPAYMENT.

52.—(1) If it is proved to the satisfaction of the Commissioner by claim duly made in writing within three years of the end of a year of assessment that any person has paid tax in excess of the amount with which he was properly chargeable for the year, such person shall be entitled to have refunded the amount so paid in excess: Tax paid in excess to be refunded.

Provided that nothing in this section shall operate to extend or reduce any time limit for appeal or repayment specified in any other section or to validate any objection or appeal which is otherwise invalid, or to authorize the revision of any assessment or other matter which has become final and conclusive.

(2) Where through death, incapacity, bankruptcy, liquidation, or other cause a person who would but for such cause have been entitled to make a claim under sub-section (1) is unable to do so, his executor, trustee, or receiver, as the case may be, shall be entitled to have refunded to him for the benefit of such person or his estate any tax paid in excess within the meaning of sub-section (1).

CHAPTER X.

PENALTIES AND OFFENCES.

53.—(1) Every person who without reasonable excuse— Penalties for failure to make returns, making incorrect returns, etc.  
(a) fails to comply with the requirements of a notice given to him under any of the following sections or sub-sections:—21 (2), 27 (1), 27 (3), 27 (4) (a), 28 (1), 28 (2), or 29, or

(b) fails to attend in answer to a notice or summons issued under sections 27 (4) (b), 39 (5), or 43 (6), or having attended fails without sufficient cause to answer any questions lawfully put to him; or

(c) fails to comply with the requirements of sections 27 (2), 27 (7), or 48 (2),

shall be guilty of an offence and shall for such offence be liable on summary conviction to a fine not exceeding five hundred dollars.

(2) Every person who without reasonable excuse—

(a) makes an incorrect return by omitting or understating any income of which he is required by this Ordinance to make return, either on his own behalf or on behalf of another person or a partnership; or

(b) makes an incorrect statement in connexion with a claim for any deduction or allowance under this Ordinance; or

(c) gives any incorrect information in relation to any matter or thing affecting his own liability to tax or the liability of any other person or of a partnership,

shall be guilty of an offence and shall for such offence be liable on summary conviction to a fine not exceeding the total of five hundred dollars and the amount of tax which has been undercharged in consequence of such incorrect return, statement, or information, or would have been so undercharged if the return, statement, or information had been accepted as correct.

(3) No person shall be liable to any penalty under this section unless the complaint concerning such offence was made in the year of assessment in respect of or during which the offence was committed or within three years after the expiration thereof.

(4) The Commissioner may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

**54. Every person who—**

- (1) acts under this Ordinance without taking an oath of secrecy as required by section 4 (2); or
- (2) acts contrary to the provisions of section 4 (1) or to an oath taken under section 4 (2); or
- (3) aids, abets, or incites any other person to act contrary to the provisions of this Ordinance,

shall be guilty of an offence, and shall for each such offence be liable on summary conviction to a fine not exceeding one thousand dollars.

**55.—(1) Any person who wilfully with intent to evade or to assist any other person to evade tax—**

- (a) omits from a return made under this Ordinance any income which should be included; or
- (b) make any false statement or entry in any return made under this Ordinance; or
- (c) make any false statement in connexion with a claim for any deduction or allowance under this Ordinance; or
- (d) signs any statement or return furnished under this Ordinance without reasonable grounds for believing the same to be true; or
- (e) gives any false answer whether verbally or in writing to any question or request for information asked or made in accordance with the provisions of this Ordinance; or
- (f) prepares or maintains or authorizes the preparation or maintenance of any false books of account or other records or falsifies or authorizes the falsification of any books of accounts or records; or
- (g) makes use of any fraud, art, or contrivance, whatsoever or authorizes the use of any such fraud, art, or contrivance,

shall be guilty of a misdemeanor and shall be liable (a) on summary conviction to a fine not exceeding five hundred dollars and treble the amount of tax for which he is liable under this Ordinance for the year of assessment in respect of or during which the offence was committed, and to

Breach of secrecy and other matters to be offences.

Penal provisions relating to fraud, etc.

imprisonment for any term not exceeding six months and (b) if convicted on indictment to a fine not exceeding five thousand dollars and treble the amount of the tax and to imprisonment for any term not exceeding three years.

(2) The Commissioner may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

**56.** The institution of proceedings for, or the imposition of, a penalty, fine, or term of imprisonment under this Chapter shall not relieve any person from liability to assessment, or payment of any tax for which he is or may be liable.

Tax to be payable notwithstanding any proceedings for penalties, etc.

**57.** No prosecution in respect of an offence under section 53 or section 55 may be commenced except at the instance of or with the sanction of the Commissioner.

Prosecutions to be with the sanction of the Commissioner.

CHAPTER XI.

GENERAL.

**58.—(1)** The Board of War Taxation may from time to time make rules generally for carrying out the provisions of this Ordinance and for the ascertainment and determination of any class of income.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power such rules may—

- (a) prescribe the procedure to be followed on application for refunds and reliefs;
- (b) provide for any matter which by this Ordinance is to be or may be prescribed.

(3) Such rules may prescribe fines recoverable on summary conviction for any contravention thereof or failure to comply therewith not exceeding in each case a sum of two hundred dollars.

(4) All such rules made by the Board of War Taxation shall be submitted to the Governor, and shall be subject to the approval of the Legislative Council.

**59.** The Board of War Taxation may prescribe any forms which may be necessary for carrying this Ordinance into effect.

Board of War Taxation to prescribe forms.

**60.** Taxes under this Ordinance shall, subject to the provisions of this Ordinance and notwithstanding anything contained in any other written law or in any convention grant or agreement, be charged at the rates specified in Chapters II, III and IV for the year of assessment commencing on the first day of April, 1940, and for each subsequent year of assessment in respect of the property, income and profits of every person for the year preceding the year of assessment,

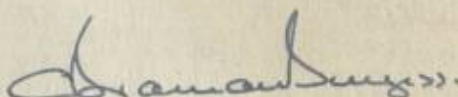
Incidence of taxes under this Ordinance.

but without prejudice to any provisions of this Ordinance which enact that tax is to be charged in particular cases in respect of property, income and profits for a period other than the year preceding the year of assessment.

Taxes  
not to be  
collectable  
in respect  
of years of  
assessment  
subsequent  
to termina-  
tion of the  
War.

61. No tax shall be collectable in respect of any year of assessment subsequent to the year of assessment in which the war which began on the 3rd September, 1939, is terminated.

Passed the Legislative Council of Hong Kong, this 25th day of April, 1940.



*Deputy Clerk of Councils.*

**HONG KONG.**

No. 14 of 1940.

I assent.



*N. L. Smith*

*Officer Administering the Government.*

31st May, 1940.

An Ordinance to amend the Prevention of Eviction Consolidation and Amendment Ordinance, 1939.

[31st May, 1940.]

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 Prevention of Eviction Amendment Ordinance, 1940. Short title.

2. Sub-section (3) of section 3 of the Prevention of Eviction Consolidation and Amendment Ordinance, 1939, (hereinafter referred to as "the principal Ordinance") is amended by substituting a comma instead of a full stop at the end of that sub-section, and by adding the following words at the end of that sub-section, "but not allowing any increase or anticipated increase in respect of any property tax imposed by the War Revenue Ordinance, 1940". Amendment of Ordinance No. 44 of 1939, s. 3 (5).

3. Section 4 of the principal Ordinance is amended by the insertion after the words "thinks proper" in the ninth line, of the words "but not allowing any increase or anticipated increase in respect of any property tax imposed by the War Revenue Ordinance, 1940". Amendment of Ordinance No. 44 of 1939, s. 4.

4. Section 6 of the principal Ordinance is amended by substituting a comma for a full stop at the end of sub-section (1), and by adding at the end of that sub-section the following words, "but not allowing any increase or anticipated increase in respect of any property tax imposed by the War Revenue Ordinance, 1940". Amendment of Ordinance No. 44 of 1939, s. 6.

5. Section 9 of the principal Ordinance is amended by the substitution of the figures "1941" for the figures "1940". Amendment of Ordinance No. 44 of 1939, s. 9.

Passed the Legislative Council of Hong Kong, this 30th day of May, 1940.

*Deputy Clerk of Councils*

*Deputy Clerk of Councils.*

HONG KONG.

No. 15 OF 1940.

I assent.



*N. L. Smith*

*Officer Administering the Government.*

21st June, 1940.

An Ordinance to provide machinery for fixing minimum wages, determining normal working hours, and fixing overtime rates in trades where the wage standards are unreasonably low.

[21st June, 1940.]

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 Trade Boards Ordinance, 1940. Short title.

2.—(1) The Governor in Council may, at any time he thinks fit, by Government Notification published in the Gazette, fix minimum rates of wages for any trade in the Colony either generally or in any specified area or district in any case in which he is satisfied that the minimum rates of wages being paid to any persons employed in any such trade are unreasonably low. Fixing minimum wages in certain cases.

Every Notification fixing minimum rates of wages may be varied from time to time or revoked.

(2) For the purpose of instituting, making, and conducting any inquiry that may be deemed advisable in connexion with fixing any minimum rates of wages in any trade under this Ordinance, and for reporting thereon, the Governor may at any time establish for any trade, or for any branch of work in a trade, a Trade Board, consisting of members representing employers and members representing workers (in this Ordinance referred to as representative members) in equal proportions, and of appointed members, provided that the number of appointed members shall be less than half the total number of representative members. Establishment of Trade Boards for trades to which Ordinance applies.  
9 Edw. 7, c. 22, s. 11.  
9 Edw. 7, c. 22, s. 13.

Where a Trade Board has been established for any branch of work in a trade, any reference in this Ordinance to the trade for which the Board is established shall be construed as a reference to the branch of work in the trade for which the Board has been established. 9 Edw. 7, c. 22, s. 2 (2).

(3) Women shall be eligible as members of Trade Boards as well as men.

(4) The Chairman of a Trade Board shall be the Labour Officer or such other public officer as the Governor may appoint.

(5) All members shall be appointed by the Governor, but the employers and workers may nominate representatives for appointment, subject to the Governor's approval, as representative members.

9 Edw. 7, c. 22, s. 11 (6).

(6) In order to constitute a meeting of a Trade Board, at least one third of the whole number of the representative members and at least one appointed member must be present.

General duties of Trade Boards.

9 Edw. 7, c. 22, s. 3.

(7) A Trade Board for any trade shall consider, as occasion requires, any matter referred to them by the Governor with reference to the industrial conditions of the trade, and shall make a report upon the matter to the Governor.

Application of Ordinance No. 13 of 1886.

3. The provisions of sections 3 to 10, inclusive, of the Commissioners Powers Ordinance, 1886, shall apply to any Board so appointed.

Duties and powers of Trade Boards with respect to minimum rates of wages.

9 Edw. 7, c. 22, s. 4.

4.—(1) Every Trade Board shall, subject to the provisions of this section, recommend a minimum rate of wages for time-work in their trade (in this Ordinance referred to as "a general minimum time-rate") and may also recommend for their trade—

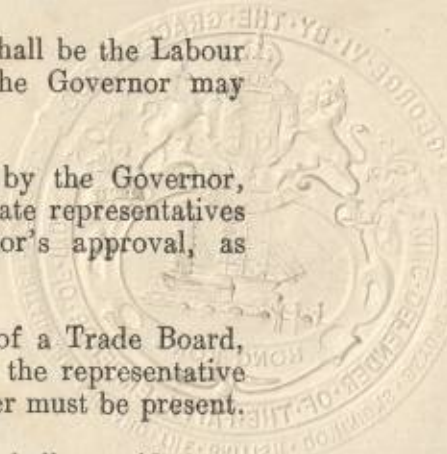
(a) A general minimum rate of wages for piece-work (in this Ordinance referred to as "a general minimum piece-rate");

(b) A minimum time-rate (which shall not be higher than the general minimum time-rate) to apply in the case of workers employed on piece-work for the purpose of securing to such workers a minimum rate of remuneration on a time-work basis (in this Ordinance referred to as "a guaranteed time-rate");

(c) A minimum rate (whether a time-rate or a piece-rate) to apply, in substitution for the minimum rate which would otherwise be applicable, in respect of hours worked by a worker in any week or on any day in excess of the number of hours considered by the Trade Board to be the normal number of hours of work per week or for that day in the trade (in this Ordinance referred to as "an overtime rate");

Any of the minimum rates aforesaid may be fixed so as to apply universally to the trade or so as to apply to any special process in the work of the trade or to any special area, or to any class of workers in the trade, or to any class of workers in any special process or in any special area.

If a Trade Board report to the Governor that it is impracticable in any case to fix a general minimum time-rate in accordance with this section, the Governor may so far as respects that case relieve the Trade Board of their duty.



5.—(1) Where any minimum rate of wages has been fixed by the Governor in Council under this Ordinance, an employer shall, in cases to which the minimum rate is applicable, pay wages to the person employed at not less than the minimum rate clear of all deductions, and if he fails to do so shall be liable on summary conviction in respect of each offence to a fine not exceeding two hundred and fifty dollars and to a fine not exceeding fifty dollars for each day on which the offence is continued after conviction therefor.

Penalty for not paying wages in accordance with minimum rate which has been made obligatory. 9 Edw. 7, c. 22, s. 6.

(2) On the conviction of an employer under this section for failing to pay wages at not less than the minimum rate to a person employed, the court may by the conviction adjudge the employer convicted to pay, in addition to any fine, such sum as appears to the court to be due to the person employed on account of wages, the wages being calculated on the basis of the minimum rate, but the power to order the payment of wages under this provision shall not be in derogation of any right of the person employed to recover wages by any other proceedings.

(3) Where an employer has been convicted for failing to pay wages at not less than the minimum rate to any worker then if notice of intention so to do has been served with the summons warrant or complaint evidence may be given of any failure on the part of the employer to pay wages at not less than the minimum rate to that worker at any time during the two years immediately preceding the date on which the information was laid or the complaint was served and on proof of the failure the court may order the employer to pay such sum as in the opinion of the court represents the difference between the amount which having regard to the provisions of this Ordinance ought properly to have been paid to the worker by way of wages during those years and the amount actually so paid.

8 & 9 Geo. 5, c. 32, s. 9 (1).

(4) It shall be the duty of every employer in a trade to which a minimum rate is applicable, to keep such records of wages as are necessary to show that the provisions of this Ordinance are being complied with as respects persons in his employment, and if he fails to do so he shall be liable on summary conviction in respect of each offence to a fine not exceeding fifty dollars and also to a fine not exceeding twenty five dollars for every day during which the default continues after conviction.

On any prosecution of a person for failing to pay wages at not less than the minimum rate, it shall lie on that person to prove that he has not paid wages at less than the minimum rate.

(5) Any agreement for the payment of wages in contravention of this provision shall be void.

6.—(1) Where an offence for which an employer is by virtue of this Ordinance liable to a fine has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were the employer, and either together with, or before or after the conviction of, the employer, and shall be liable on conviction to the same punishment as that to which the employer is liable.

Liability of agents and other persons. 8 & 9 Geo. 5, c. 32, s. 5.

(2) Where an employer who is charged with an offence against this Ordinance proves to the satisfaction of the court that he has used due diligence to enforce the execution of the Ordinance and that the offence was in fact committed by his agent or some other person without his knowledge, consent, or connivance, he shall, in the event of the conviction of that agent or other person for the offence, be exempt from any fine in respect of the offence, without prejudice, however, to the power of the court under sub-sections (2) and (3) of section 5 to adjudge him to pay any sum which appears to the court to be due to the person employed on account of wages.

(3) Where the immediate employer of any worker to whom a minimum rate of wages applies is himself in the employment of some other person and that worker is employed on the premises of that other person, that other person shall for the purposes of the provisions of this Ordinance relating to the penalty for not paying wages in accordance with the minimum rate be deemed to be the employer of the worker jointly with the immediate employer.

7.—(1) An employer shall, in cases where persons are employed on piece-work and a general minimum time-rate but no general minimum piece-rate has been fixed, be deemed to pay wages at less than the minimum rate—

(a) in cases where a special minimum piece-rate has been fixed under the provisions of this Ordinance for persons employed by that employer, if the rate of wages paid is less than that special minimum piece-rate; and

(b) in cases where a special minimum piece-rate has not been so fixed, unless he shows that the piece-rate of wages paid would yield, in the circumstances of the case, to an ordinary worker at least the same amount of money as the basis rate.

(2) For the purpose of this section the expression "basis rate" means the general minimum time-rate or, where a rate (in this Ordinance referred to as a "piece-work basis time-rate") has been fixed by the Governor in Council for the purpose of being substituted for the general minimum time-rate as the basis rate, the rate so fixed.

The Governor in Council may fix a piece-work basis time-rate in any case in which, having regard to all the circumstances of the case, he is of opinion that the general minimum time-rate does not form a proper basis for the purposes of paragraph (b) of sub-section (1) of this section, and a piece-work basis time-rate may be higher or lower than the general minimum time-rate and may be fixed so as to apply universally to the trade or so as to apply to any special process in the work of the trade or to any special area, or to any class of workers in the trade or to any class of workers in any special process or in any special area.

8. Any shopkeeper, dealer or trader, who by way of trade makes any arrangement express or implied with any worker in pursuance of which the worker performs any work for which a minimum rate of wages has been fixed under this Ordinance, shall be deemed for the purposes of this Ordinance to be the employer of the worker, and the net

Provision for case of persons employed by piece-work where a minimum time-rate but no general minimum piece-rate has been fixed.

9 Edw. 7, c. 22, s. 8.

Prevention of evasion. 9 Edw. 7, c. 22, s. 9.

remuneration obtainable by the worker in respect of the work after allowing for his necessary expenditure in connexion with the work shall be deemed to be wages.

9.—(1) Where a worker in any trade, being a person to whom a minimum rate of wages fixed by the Governor in Council applies, is an apprentice or learner, it shall not be lawful for his employer to receive directly or indirectly from him, or on his behalf or on his account, any payment by way of premium.

Employers not to receive premium where minimum rates in force.

8 & 9 Geo. 5, c. 32, s. 7.

Provided that nothing in the foregoing provisions shall apply to any such payment duly made in pursuance of any instrument of apprenticeship not later than four weeks after the commencement of the employment.

(2) If any employer acts in contravention of this provision, he shall be liable on summary conviction in respect of each offence to a fine not exceeding two hundred and fifty dollars, and the court may by the conviction, in addition to imposing a fine, adjudge him to repay to the worker or other person by whom the payment was made the sum improperly received by way of premium.

10.—(1) Any officer of any Government Department for the time being assisting in carrying this Ordinance into effect shall have power for the performance of his duties—

Powers of officers.

9 Edw. 7, c. 22, s. 15.

(a) to require the production of wages sheets or other record of wages by an employer, and records of payments made to outworkers by persons giving out work and to inspect and examine the same and copy any material part thereof;

(b) to require any person giving out work and any outworker to give any information which it is in his power to give with respect to the names and addresses of the persons to whom the work is given out or from whom the work is received, as the case may be, and with respect to the payments to be made for the work;

(c) at all reasonable times to enter any factory or workshop or any place used for giving out work to outworkers;

(d) to inspect and copy any material part of any list of outworkers kept by an employer or person giving out work to outworkers; and

(e) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Ordinance any person whom he finds in any factory or workshop or any place used for giving out work to outworkers, or whom he has reasonable cause to believe to be or to have been a worker in any trade to which a minimum rate under this Ordinance is applicable, and to require every such person to be so examined, and to sign a declaration of the truth of the matters in respect of which he is so examined.

(2) If any person fails to furnish the means required by an officer as necessary for any entry or inspection or the exercise of his powers under this section, or if any person hinders or molests any officer in the exercise of the powers given by this section, or refuses to produce any document or give any information which any officer requires him to produce or give under the powers given by this section, that

person shall be liable on summary conviction in respect of each offence to a fine not exceeding one hundred dollars; and, if any person makes, or causes to be made, or knowingly allows to be made any wages sheet, or record of wages, or record of payments, or any list of outworkers which is false in any material particular, or produces or causes to be produced, or knowingly allows to be produced any such sheet, record or list to any officer acting in the exercise of the powers given by this section, knowing the same to be false, or furnishes any information to any such officer knowing the same to be false, he shall be liable, on summary conviction, to a fine not exceeding two hundred and fifty dollars, or to imprisonment for a term not exceeding three months.

Officers  
to produce  
certificates  
when  
required.

9 Edw. 7, c.  
22, s. 16.

**11.** Every officer of any Government Department for the time being assisting in carrying this Ordinance into effect, shall be furnished by the Labour Officer with a certificate of his appointment, and when acting under any or exercising any power conferred upon him by this Ordinance, shall, if so required, produce the said certificate to any person or persons affected.

Power to  
conduct  
proceedings.

9 Edw. 7, c.  
22, s. 17 (2).

**12.** Any such officer may although not a barrister or solicitor prosecute or conduct before a court of summary jurisdiction any proceedings arising under this Ordinance.

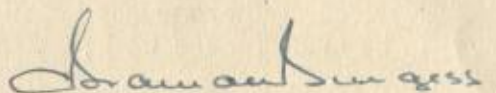
Labour  
Officer's  
consent to  
prosecution

**13.** No prosecution under this Ordinance shall be commenced without the consent of the Labour Officer.

Repeal of  
Ordinance  
No. 28 of  
1932.

**14.** The Minimum Wage Ordinance, 1932, is repealed.

Passed the Legislative Council of Hong Kong, this  
20th day of June, 1940.



*Deputy Clerk of Councils.*



**HONG KONG.**

No. 16 OF 1940.

I assent.

*N. L. Smith*

*Officer Administering the Government.*

21st June, 1940.

An Ordinance to amend the Advertisements Regulation Ordinance, 1912.

[21st June, 1940.]

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 Advertisements Regulation Amendment Ordinance, 1940. Short title.

2. Section 3 of the Advertisements Regulation Ordinance, 1912, is amended by the substitution of the words "Urban Council" for the words "Governor in Council" in the first line thereof. Amendment of Ordinance No. 19 of 1912, s. 3.

3. Section 5 of the Advertisements Regulation Ordinance, 1912, is repealed and the following section substituted therefor— Amendment of Ordinance No. 19 of 1912, s. 5.

5.—(1) If any person—

(a) against whom an order for the removal of an advertisement is made by a magistrate, or

(b) on whom a notice under the hand of the Secretary of the Urban Council is served requiring the removal of an advertisement on such grounds as may be prescribed by by-laws,

fails to remove the advertisement as required by such order or notice, then without prejudice to the liability of such person to any penalty for non-compliance with the order or the liability of such person or owner for any breach of by-laws, it shall be lawful for any person authorized in that behalf by the Chairman of the Urban Council at any time in the daytime to enter into and upon the land or building on or in which the advertisement is erected or exhibited and to remove or obliterate the advertisement.

(2) It shall be lawful for the Chairman of the Urban Council or any person deputed by him for that purpose to enter at any time into and upon any premises and remove any sky sign erected or maintained in contravention of by-laws.

(3) The materials of any advertisement removed in pursuance of this section shall be forfeited to the Crown.

(4) The Chairman of the Urban Council and any person so authorized or deputed by him as aforesaid shall not be held liable for any damage done by him in course of the removal or obliteration of any advertisement in pursuance of this section.

Power to Chairman of Urban Council to enter premises and remove advertisements.

Amendment of Ordinance No. 19 of 1912, ss. 3, 4 and 7.

4. The advertisements Regulation Ordinance, 1912, is amended by the substitution of "by-law" or "by-laws" for "regulation" or "regulations" respectively where these words occur—

- (1) in the second line of section 3 and in the marginal note thereto;
- (2) in the second line of section 4; and
- (3) in the second line of section 7.

Amendment of Ordinance No. 19 of 1912, s. 6.

5. Section 6 of the Advertisements Regulation Ordinance, 1912, is amended by the substitution of the words "Chairman of the Urban Council" for the words "Director of Public Works" where these words occur—

- (1) in the marginal note thereto;
- (2) in the first and second lines and in the seventh and eighth lines of sub-section (1); and
- (3) in the third and fourth lines of sub-section (2).

New sections 8, 9 and 10 added to Ordinance No. 19 of 1912.

6. The following sections are inserted in the Advertisements Regulation Ordinance, at the end thereof—

8.—(1) Whenever any person is dissatisfied with the exercise of the discretion of the Urban Council or of any person to whom discretionary power is given under this Ordinance in respect of any act, matter or thing which is by this Ordinance made subject to the exercise of the discretion of such authority, or with any action or decision of the Council or of any such person either as to the carrying out of or the meaning of any of the provisions of this Ordinance, or whenever any of the provisions of this Ordinance are, owing to the special conditions, undesirable, the person so dissatisfied may, unless proceedings have already been taken before a magistrate in relation thereto, appeal to the Governor in Council, who, if in his opinion the exercise of such discretion or such action or decision requires modification, revocation or setting aside, or such special conditions exist as render any such provision undesirable, may make such order in respect thereof as may be just.

(2) The grounds of such appeal shall be concisely stated in writing, and the appellant may, if he so desires, be present at the hearing of such appeal and be heard in its support either by himself or by his representative, and the Governor in Council shall thereafter determine the matter in the absence of, and without further reference to, the Urban Council.

9.—(1) In any appeal under the provisions of section 8 the Governor in Council may at any time in his discretion direct a case to be stated for the opinion of the Full Court on any question of law involved in any appeal submitted to him. The terms of such case shall be agreed upon by the parties concerned, or in the event of their failure to agree shall be settled by the Full Court. The Full Court shall hear and determine the question of law arising on any case stated as aforesaid, and shall remit the matter to the Governor in

Governor in Council empowered in any appeal to state case for the opinion of Full Court on question of law.



Council who shall give effect by order to the finding of the court. The costs of such hearing shall be in the discretion of the court.

(2) Any party to the appeal shall be entitled to be heard by counsel on the hearing of any case so stated.

(3) No proceedings by way of *mandamus*, injunction, prohibition or other order shall be taken against the Governor in Council in respect of anything arising out of this section.

(4) The Clerk of Councils shall give the appellant seven days' notice of the hearing of the appeal, and shall at the same time furnish the appellant with a copy of the evidence and documents submitted by the respondent for the consideration of the Governor in Council:

Provided that nothing herein contained shall be deemed to prevent any person from applying to the Supreme Court for a *mandamus*, injunction, prohibition or other order, should he elect so to do instead of appealing to the Governor in Council under section 8.

10. Every order of the Governor in Council on any appeal shall be final and may be enforced by the Supreme Court as if it had been an order of that court.

Order of Governor in Council enforced by the Court.

7. The regulations made under the Advertisements Regulation Ordinance and contained in the Regulations of Hong Kong (1937 Edition) Vol. II pages 720-722, are amended as follows:—

Amendment of Ordinance No. 19 of 1912, Regs. 1, 2, 3, 4 and 7.

(1) by the substitution of the words "Urban Council" for the words "Governor in Council"—

- (a) in No. 2 (1), line six;
- (b) in No. 2 (2), line two; and
- (c) in No. 7, line one.

(2) by the substitution of the words "Secretary of the Urban Council" for the words "Clerk of Councils" in the fourth line of No. 7.

(3) by the substitution of "by-law" or "by-laws" for "regulation" or "regulations" respectively where these words occur—

- (a) in the heading thereto;
- (b) in No. 1, line ten;
- (c) in No. 2 (3), line one;
- (d) in No. 2 (5), line three;
- (e) in No. 3 (2), line one; and
- (f) in No. 4 line one.

Passed the Legislative Council of Hong Kong, this 20th day of June, 1940.

Deputy Clerk of Councils.

HONG KONG.

No. 17 of 1940.

I assent.



*N. L. Smith*

*Officer Administering the Government.*

21st June, 1940.

An Ordinance to amend the New Territories Regulation Ordinance, 1910.

[21st June, 1940.]

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

1. This Ordinance may be cited as the New Territories Regulation Amendment Ordinance, 1940. Short title.

2. Sub-section (1) of section 6A of the New Territories Regulation Ordinance, 1910, as amended by section 2 of the New Territories Regulation Amendment Ordinance, No. 18 of 1938, is further amended—

(a) by the insertion of the words " the Public Health (Food) Ordinance, 1935," after the word "under" in the eighth line thereof, and

(b) by the insertion of the number "13" before the number "15" in the marginal note thereto.

Amendment of s. 6A (1) of Ordinance No. 34 of 1910 as amended by s. 2 of Ordinance No. 18 of 1938.

Passed the Legislative Council of Hong Kong, this 20th day of June, 1940.

*James Burgess*

*Deputy Clerk of Councils.*

HONG KONG.

No. 18 OF 1940.

I assent.



*N. L. Smith*

*Officer Administering the Government.*

21st June, 1940.

An Ordinance to amend the Defences (Sketching Prevention) Ordinance, 1895.

[21st June, 1940.]

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 Defences (Sketching Prevention) Amendment Ordinance, 1940. Short title.

2. The Defences (Sketching Prevention) Ordinance, 1895, is amended— Amendments to Ordinance No. 1 of 1895, ss. 1A, 2, 4, 4A and 6.

(i) by the insertion of the words "or air force" after the words "naval or military" in sections 1A (b), 2 (1), 4 and 4A;

(ii) by the insertion of the words "or of the field of fire of any weapon therein" after the word "battery" in section 2 (1);

(iii) by the insertion of the words "or aircraft" after the word "ships" in sections 2 (1) and 4;

(iv) by the insertion of the words "or landing, firing, bombing or minefield areas" after the word "anchorage" in sections 1A (b), 2 (1) and 4;

(v) by the insertion of the words "or air" after the words "naval or military" in section 6.

Passed the Legislative Council of Hong Kong, this 20th day of June, 1940.

*James Murray*

*Deputy Clerk of Councils.*

**HONG KONG.**

No. 19 of 1940.

I assent.



*N. L. Smith*  
Officer Administering the Government.

21st June, 1940.

An Ordinance to Prevent the Passing On of War Property Tax.

[21st June, 1940.]

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 Prevention of Passing On of War Property Tax Ordinance, 1940. Short title

2.—(1) In this Ordinance—

(a) "Landlord" and "tenant" include any person from time to time deriving title under the original landlord or tenant.

(b) "Landlord" also includes in relation to any tenement any person, other than the tenant, who is or would be entitled to possession of the tenement.

(c) "Tenant" and "tenancy" include sub-tenant and sub-tenancy.

(d) "Tenement" means any land with or without buildings, which is held or occupied as a distinct or separate holding or tenancy, including a bed-space so held or occupied.

(e) The "Assessor" means the Assessor appointed by the Governor under Section 3 of the Rating Ordinance, 1901.

(2) This Ordinance shall not apply to the New Territories except New Kowloon.

3.—(1) In respect of any tenement to which this Ordinance applies, a landlord or tenant may apply to the Assessor for a certificate under his hand stating what, in his opinion, is the fair and reasonable rent of such tenement, after taking into account that any property tax imposed by section 5 of the War Revenue Ordinance, 1940, shall be borne by the owner.

Application  
& inter-  
pretation.  
cf. Ord.  
No. 44  
of 1939,  
s. 2.

Assessor  
to issue  
certificates  
of fair rent.  
cf. Ord.  
No. 44  
of 1939, s. 6.

(2) Any such application shall be made to the Assessor on a form of certificate obtainable at the Treasury on payment of a fee of \$5.00, or such other sum as the Governor in Council may prescribe as a fee for such certificate, and such certificate shall be completed by the Assessor and returned to the applicant or his representative within 14 days.

(3) In relation to any proceedings under this Ordinance a certificate of the Assessor given under this section shall be *prima facie* evidence of what is a fair and reasonable rent in respect of the tenement.

Restriction on demand for rent increases.

4. As from 31st March, 1940, no landlord shall demand any increase of rent from his tenant in respect of a tenement which is in excess of the rent of the tenements as certified by the Assessor under the provisions of Section 3 of this Ordinance, or as adjudged by the Court under Section 6 of this Ordinance.

Restriction on recovery of rent increases. *cf. Ord. No. 14 of 1922, s. 3 (1).*

5. Notwithstanding any agreement to the contrary, whether made before or after the commencement of this Ordinance, and whether oral or in writing—

(1) No rent which has been raised since the 31st day of March, 1940, shall be recoverable in respect of any tenement from the tenant in excess of the rent permitted under Section 4, or as adjudged by the Court under Section 6.

(2) Any rent which has been raised since the 31st day of March, 1940, paid by a tenant in excess of the rent permitted by Section 4 or adjudged by the Court under Section 6 shall be deemed to be a debt due by the landlord or his legal representatives to the tenant or his legal representatives, and shall be recoverable from the landlord or his legal representatives within a period of six years.

Power of Summary Court to determine questions relating to rent in Chambers. *cf. Ord. No. 44 of 1939 s. 4.*

6. Where a notice of increase of rent in respect of any tenement has been given by a landlord, such landlord and the tenant, notwithstanding anything contained in the Supreme Court (Summary Jurisdiction) Ordinance, 1873, may apply in a summary way to a judge in Chambers in the Summary Jurisdiction to decide whether the proposed increase of rent is fair and reasonable, and on such application the judge may give such directions in the matter as he thinks proper. The decision of a judge under this section shall be final as between the landlord and the tenant.

Money not to be demanded for the grant renewal or continuance of tenancies. 10 & 11 Geo. 5, c. 17, s. 8.

7.—(1) No person shall, as a condition or pretended condition of the grant renewal or continuance by himself or by any other person of a tenancy of any tenement, demand payment of any sum of money whatsoever in addition to the rent.

*cf. Ord. No. 14 of 1922, s. 16.*

(2) Every person demanding any payment in contravention of this section shall upon summary conviction be liable to a fine not exceeding one thousand dollars, and the magistrate by whom such person is convicted may order the amount to be repaid to the person by whom the same was paid.

8. The Chief Justice may make such rules and give such directions as he thinks fit for the purpose of giving full effect to the provisions of this Ordinance relative to legal proceedings.

Rules as to procedure. 13 & 14 Geo. 5, c. 32, s. 16. *cf. Ord. No. 44 of 1939, s. 8.*

9. As long as the Prevention of Eviction Consolidation and Amendment Ordinance, 1939, shall be in force, this Ordinance shall not apply to any dwelling house to which that Ordinance applies.

Temporary-Non-application to dwelling houses.

10. This Ordinance shall continue in force as long as the War Revenue Ordinance, 1940, shall be in force.

Duration of the Ordinance.

Passed the Legislative Council of Hong Kong, this 20th day of June, 1940.

Deputy Clerk of Councils.

HONG KONG.

No. 20 of 1940.

I assent.



*N. L. Smith*

*Officer Administering the Government.*

28th June, 1940.

An Ordinance to amend the Immigration and Passports Ordinance, 1934.

[28th June, 1940.]

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 Immigration and Passports Amendment Ordinance, 1940. Short title.

2. Sub-section (3) of Section 11 of the Immigration and Passports Ordinance, 1934, is amended by the addition, after the words "shall be paid" at the end thereof, of the words— Amendment of Ordinance No. 8 of 1934, s. 11 (3).

"unless reciprocal arrangements exist with the country of which the holder is a national for dispensing with fees for permits of the same or similar effect".

Passed the Legislative Council of Hong Kong, this 27th day of June, 1940.

*Chambers*

*Deputy Clerk of Councils.*

HONG KONG.

No. 21 of 1940.

I assent.



*N. L. Smith*

*Officer Administering the Government.*

28th June, 1940.

An Ordinance to amend the War Revenue Ordinance, 1940.

[28th June, 1940.]

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

1. This Ordinance may be cited as the War Revenue Short title.  
Amendment Ordinance, 1940.

2. Section 60 of the War Revenue Ordinance, 1940, is Amendment  
amended by the repeal of all the words after the words "and of Ordinance  
for each subsequent year of assessment" in the sixth and No. 13 of  
seventh lines thereof. 1940, s. 60.

Passed the Legislative Council of Hong Kong, this  
27th day of June, 1940.

*Samuel Messers.*

*Deputy Clerk of Councils.*

**HONG KONG.**

No. 22 of 1940.

I assent.



*N. L. Smith*

*Officer Administering the Government.*

28th June, 1940.

An Ordinance to amend the Post Office Ordinance, 1926.

[28th June, 1940.]

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 Post Office Amendment Ordinance, 1940. Short title.

2. Sub-section (1) of section 6 of the Post Office Ordinance, 1926, is amended by the addition of the following paragraph at the end thereof:— Amendment of Ordinance No. 7 of 1926, s. 6 (1).

(v) letters of merchants, owners of vessels or aircraft of merchandise, or the cargo or loading therein, sent by those vessels or aircraft of merchandise or by any person employed by those owners for the carriage of those letters, according to their respective directions, and delivered to the respective persons to whom they are directed, without paying or receiving hire or reward, advantage or profit for the same in anywise.

Passed the Legislative Council of Hong Kong, this 27th day of June, 1940.

*Chamberlaine*

*Deputy Clerk of Councils.*

HONG KONG.

No. 23 of 1940.

I assent.



*N. L. Smit*

*Officer Administering the Government.*

28th June, 1940.

An Ordinance to amend the Compulsory Service Ordinance, 1939.

[28th June, 1940.]

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

1. This Ordinance may be cited as the Compulsory Service Amendment Ordinance, 1940. Short title.

2. Sub-section (2) of Section 11 of the Compulsory Service Ordinance, 1939, as amended by Government Notifications No. 855 of 1939 and No. 604 of 1940, is repealed and the following sub-section is substituted therefor:— Substitution  
for Ordinance No. 32  
of 1939,  
s. 11 (2).

(2) The said reserve shall be divided into groups, to which the members shall be respectively assigned by the tribunal, namely—

(a) a combatant group;

(b) a key-posts group consisting of persons who, in the event of any emergency contemplated by the Compulsory Service Tribunal, will be primarily required, in the opinion of the tribunal, to continue in the work in which they are normally engaged;

(c) a general group for essential services consisting of persons who, in the event of any emergency contemplated by the Compulsory Service tribunal will be primarily required, in the opinion of the tribunal, to perform essential services which are not those in which they are normally engaged:

Provided that, subject to the provisions of section 8 as to appeals, the Compulsory Service tribunal may at any time revoke or vary an assignment of a person to a particular group and may assign him to another group:

HONG KONG



— 2 —

Provided also that no person who has attained the age of forty six years, or who expresses a conscientious objection to the undertaking of combatant service, shall without his consent be assigned to the combatant group :

Provided further that any male British subject of whatever age may at any time, with the consent of the proper military authority, voluntarily enrol himself in the key-posts group or the essential services group of the reserve.

Passed the Legislative Council of Hong Kong, this 27th day of June, 1940.

A handwritten signature in cursive script, appearing to read 'D. A. ...', is written in dark ink.

Deputy Clerk of Councils.



HONG KONG.

No. 24 of 1940.

I assent.

*Officer Administering the Government.*

30th August, 1940.

An Ordinance to amend the Fire and Marine Insurance Companies Deposit Ordinance, 1917.

[30th August, 1940.]

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 Fire and Marine Insurance Companies Deposit Amendment Ordinance, 1940. Short title.

2. Sub-section (2) of section 5 of the Fire and Marine Insurance Companies Deposit Ordinance, 1917, is repealed and the following sub-section is substituted therefor:— Amendment of Ordinance No. 32 of 1917, s. 5 (2).

(2) The deposit shall consist of securities of the following nature—

(a) fixed deposits in banks approved by the Governor in Council;

(b) stocks, funds or securities, other than the security of a charge on land by way of legal mortgage or otherwise, authorized by the Trustee Act, 1925, or in any manner which may be authorized by any Act amending or replacing the said Act;

(c) any Government securities of the Colony:

Provided that any company which has, before the 1st day of July, 1940, deposited securities not of the aforesaid nature shall have a period of three years from such date to replace such securities by securities of the aforesaid nature.

Passed the Legislative Council of Hong Kong, this 29th day of August, 1940.

*Deputy Clerk of Councils.*



**HONG KONG.**

No. 25 OF 1940.

I assent.

*Officer Administering the Government.*

30th August, 1940.

An Ordinance to amend the Life Insurance Companies Ordinance, 1907.

[30th August, 1940.]

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 Life Insurance Companies Amendment Ordinance, 1940. Short title.

2. Sub-section (5) of section 3 of the Life Insurance Companies Ordinance, 1907, is repealed and the following sub-section is substituted therefor— Amendment of Ordinance No. 11 of 1907, s. 3 (5).

(5) The deposit shall consist of securities of the following nature— Nature of deposit. [cf. Ordinance No. 18 of 1934, s. 4].

(a) fixed deposits in banks approved by the Governor in Council;

(b) stocks, funds or securities, other than the security of a charge on land by way of legal mortgage or otherwise, authorized by the Trustee Act, 1925, or in any manner which may be authorized by any Act amending or replacing the said Act;

(c) any Government securities of the Colony:

Provided that any company which has, before the 1st day of July, 1940, deposited securities not of the aforesaid nature shall have a period of three years from such date to replace such securities by securities of the aforesaid nature.

3. Sub-section (8) of section 3 of the Life Insurance Companies Ordinance, 1907, is amended by the deletion of the words "other than bank deposits in the name of the Official Trustee". Amendment of Ordinance No. 11 of 1907, s. 3 (8).

Passed the Legislative Council of Hong Kong, this 29th day of August, 1940.

*Deputy Clerk of Councils.*



**HONG KONG.**

No. 26 of 1940.

I assent.

*W. J. M. ...*

*Officer Administering the Government.*

30th August, 1940.

An Ordinance to authorize the Appropriation of a Supplementary sum of two million four hundred and eighty-four thousand nine hundred and ninety-one dollars and forty-seven cents to defray the charges of the year 1939 and also to appropriate a sum of eighty thousand three hundred and thirty-one dollars and twenty-five cents from the Waterworks Renewals and Improvements Fund in the said year.

WHEREAS it has become necessary to make further provision for the public service of the Colony for the year 1939 in addition to the charge upon the revenue of the Colony for the service of the said year already provided for, and also to make provision for expenditure from the Waterworks Renewals and Improvements Fund in the said year:

[30th August, 1940.]

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 (1939 Supplementary) Appropriation Ordinance, 1940. Short title.

2. A sum of two million four hundred and eighty-four thousand nine hundred and ninety-one dollars and forty-seven cents is hereby charged upon the revenue of the Colony for the service of the year 1939, the sum so charged being expended as hereinafter specified; that is to say:— Appropriation from general revenues.

Charitable Services .....	\$ 725,278.90
Defence:—	
(a) Hong Kong Volunteer Defence Corps .....	312,111.22
(b) Hong Kong Naval Volunteer Force ...	148,711.91
(c) Air Raid Precautions .....	508,291.65
Fire Brigade .....	5,254.91
Imports and Exports Office .....	33,098.72
Legal Departments .....	3,267.65
Magistracy, Kowloon .....	4,191.10
Miscellaneous Services .....	3,432.99
Police Force .....	137,937.90
Public Works Department and Water Works:—	
(b) Water Works .....	5,147.14
Royal Observatory .....	18,933.28
Sanitary Department .....	34,996.29
Secretariat for Chinese Affairs .....	31,504.24
Stores Department .....	383,972.06
Public Works Extraordinary .....	128,861.51
	<hr/>
	\$2,484,991.47



3. An additional sum of eighty thousand three hundred and thirty-one dollars and twenty-five cents is hereby charged upon the Waterworks Renewals and Improvements Fund for the service of the said year 1939, the sum so charged being expended as hereinafter specified, that is to say—

Additional  
Appropriation from  
Waterworks  
Renewals  
and Im-  
provements  
Fund.

(a) Replacement Nos. 1 and 2 Pumping Sets, Tytam Tuk .....	\$ 27,877.99
(b) Aberdeen and Applichau Supply .....	45,894.24
(c) Pokfulam District Supply, Conversion to Filtered Supply .....	6,559.02

\$ 80,331.25

Passed the Legislative Council of Hong Kong, this  
29th day of August, 1940.

Deputy Clerk of Councils.



HONG KONG.

No. 27 OF 1940.

I assent.

*Edmond*

*Officer Administering the Government.*

13th September, 1940.

An Ordinance to amend the Buildings Ordinance, 1935.

[13th September, 1940.]

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 Amend- Short title.  
ment Ordinance, 1940.

2. Paragraph (2) of the proviso to section 85 of the Amendment  
Buildings Ordinance, 1935, is amended by the substitution of of Ordinance  
the date "1941" for the date "1940" at the end thereof. No. 18 of  
1935, s. 85.

Passed the Legislative Council of Hong Kong, this  
12th day of September, 1940.

*Chambers*

*Deputy Clerk of Councils.*



**HONG KONG.**

No. 28 OF 1940.

I assent.

*Officer Administering the Government.*

13th September, 1940.

An Ordinance to amend the Public Lighting Ordinance, 1914.

[13th September, 1940.]

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

1. This Ordinance may be cited as the Public Lighting Amendment Ordinance, 1940. Short title.

2. Section 2 of the Public Lighting Ordinance, 1914, is amended— Amendments  
of Ordinance  
No. 13 of  
1914, s. 2.

(i) by the insertion of the words "or for the control of pedestrian and vehicular traffic therein" after the word "Colony" in the fourth line.

(ii) by the insertion of the words "or control" after the words "such lighting" in the fifth line.

(iii) by the insertion of the words "or control" after the words "the lighting" in the penultimate line.

Passed the Legislative Council of Hong Kong, this 12th day of September, 1940.

*Deputy Clerk of Councils.*



HONG KONG.

No. 29 OF 1940.

I assent.

*E. M. M. M.*  
X

*Officer Administering the Government.*

13th September, 1940.

An Ordinance to amend further the War Revenue Ordinance,  
1940.

[13th September, 1940.]

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 War Revenue Short title.  
(No. 2) Amendment Ordinance, 1940.

2. Section 8 of the War Revenue Ordinance, 1940, Amendment  
of Ordin-  
ance No.  
13 of 1940,  
s. 8.  
(hereinafter referred to as the principal Ordinance) is  
amended by the addition of the following paragraph at the  
end of the proviso of exemptions thereto:—

(v) any income exempted by order of the Governor in  
Council under section 62.

3. Section 10 of the principal Ordinance is repealed and Substitution  
for Ordin-  
ance No.  
13 of 1940,  
s. 10.  
the following section is substituted therefor:—

10.—(1) The assessable income chargeable to salaries Ascertain-  
ment of  
assessable  
income.  
tax for any year of assessment shall be computed, where  
practicable, on the income of the recipient as defined in  
section 9 for the year preceding that year of assessment so  
that—

(a) if the recipient resides in the Colony for the whole  
of both years the assessable income shall be the income of  
the year preceding the year of assessment;

(b) if the recipient resides in the Colony for the whole  
of the preceding year, but only for a portion of the year of  
assessment, the assessable income shall be a proportionate  
fraction of the income of the preceding year;

(c) if the recipient resides in the Colony for a portion of the preceding year, but for the whole of the year of assessment, the assessable income shall be a proportionate multiple of the income of the preceding year;

(d) if the recipient resides in the Colony for a portion only of each year the assessable income shall be calculated by increasing or decreasing the income of the previous year so that it shall proportionately represent the period of residence during the year of assessment;

(e) if the recipient does not reside in the Colony during the year of assessment no assessment shall be made for that year;

(f) if the recipient resides in the Colony for the whole or a portion of the year of assessment, but with no income of the previous year on which to base a practicable assessment, a special assessment shall be made on the basis of the probable income of the recipient during the period of his residence in the year of assessment.

(2) For the purposes of this section—

(a) absence from the Colony on leave pay or pension during a year of assessment shall be deemed to be residence in the Colony unless the income payable in respect of that leave pay or pension is liable to Income Tax in the United Kingdom or in any other part of the British Empire;

(b) any periods of temporary residence in the Colony not exceeding in all three months during a year of assessment shall not be regarded as residence in the Colony.

Amendment of Ordinance No. 13 of 1940, s. 11 (3).

4. Sub-section (3) of section 11 of the principal Ordinance is amended by the insertion of the words "and of the exemption under paragraph (iii) of the proviso to section 8" after the words "allowances under this section".

Amendment of Ordinance No. 13 of 1940, s. 18.

5. Section 18 of the principal Ordinance is amended—

(a) by the insertion of the words "computed, where practicable, on" between the words "shall be" and "the full amount" in the third line of sub-section (1);

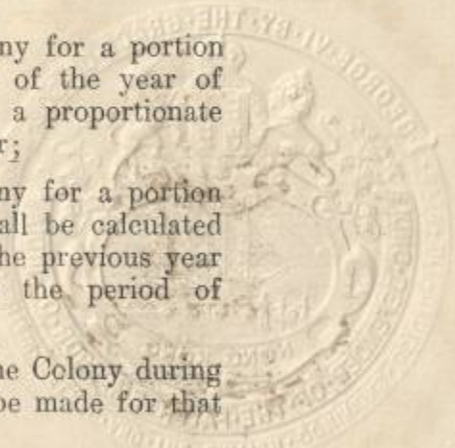
(b) by the addition after sub-section (4) thereof of the following new sub-section:—

(5) Where, by reason of the fact that any trade, profession or business has not been carried on during the whole or a sufficient portion of the year preceding the year of assessment, or where otherwise it is in the opinion of the Commissioner impracticable to make a reasonable computation based on the profits during the year preceding the year of assessment, a special assessment shall be made on the basis of the probable profits during the year of assessment.

Amendment of Ordinance No. 13 of 1940, s. 46.

6. Section 46 of the principal Ordinance is amended by the addition of the following sub-section at the end thereof:—

(6) Notwithstanding anything contained in the previous sub-sections of this section the Commissioner may agree to accept payment of tax by instalments in any case in which it may appear to him that payment of the tax in a single amount will result in hardship.



7. The principal Ordinance is amended by the addition of the following section at the end thereof:—

New section 62 added to Ordinance No. 13 of 1940.

62. The Governor in Council may by Order exempt any person, office or institution from payment of the whole or any portion of any tax chargeable under this Ordinance.

General power of Governor in Council to exempt.

8. The Amendments effected by this Ordinance and by Ordinance No. 21 of 1940 shall operate retrospectively to the commencement of the principal Ordinance and any payment that may have been made in excess of the payment authorized by the principal Ordinance as so amended shall be refunded.

Retrospective operation of amendments.

Passed the Legislative Council of Hong Kong, this 12th day of September, 1940.

Deputy Clerk of Councils.

**HONG KONG.**

No. 30 of 1940.

I assent.



*E. M. M. M.*

*Officer Administering the Government.*

18th October, 1940.

An Ordinance to regulate the pension rights of officers in the public service released for service with His Majesty's Forces in time of war.

[18th October, 1940.]

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

1. This Ordinance may be cited as the Pensions (War Service) Ordinance, 1940, and shall be construed as one with the Pensions Ordinance, 1932, (as amended by the Pensions Amendment Ordinances, 1934, 1935, 1936, 1937 and 1939), hereinafter called the principal Ordinance.

Short title.

Ordinances  
No. 21 of  
1932,  
No. 12 of  
1934,  
No. 29 of  
1935,  
No. 3 of  
1936,  
No. 3 of  
1937,  
No. 28 of  
1939.

2. Where an officer shall have served with His Majesty's Forces in time of war, with the approval of the Governor of the territory in the service of which he was last employed before so serving or of the Secretary of State, the following provisions shall have effect:—

War Service  
to count for  
pension  
purposes.

(1) During the period of such service in His Majesty's Forces, including any period after the termination of the war (in this section referred to as "military service"), he shall be deemed, for the purposes of the principal Ordinance and the Pensions regulations thereunder, to have been on leave on full salary from the public service in which he was last employed, and to have held the substantive office last held by him in that service, prior to military service.

(2) During any period between his leaving the public service for the purpose of serving in His Majesty's Forces and the date of his commencing military service, he shall, for the purposes of the principal Ordinance and of the said



Regulations, be deemed to be on leave without pay, not granted on grounds of public policy, from the public service in which he was last employed, and to have held the substantive office last held by him in that service, prior to military service; and during any period between the termination of his military service and the date of his re-entering the public service he shall, for the said purposes, be deemed to be on leave as aforesaid from the service, and to have held the substantive office, in which he is re-employed: Provided that—

(a) This section shall not apply when either period mentioned in paragraph (2) of this section exceeds three months, or such longer period as the Governor, with the approval of the Secretary of State, may in any special case determine; or if the officer fails, after serving with His Majesty's Forces, to re-enter the public service otherwise than in circumstances in which he would be permitted, under the law applicable to the public service in which he is last employed prior to military service, to retire on pension or gratuity, such circumstances arising not later than the expiration of three months, or such longer period as may be determined as aforesaid, after the termination of his military service;

(b) If during any period mentioned in paragraph (1) of this section the officer shall have qualified for pension, or received emoluments in lieu of pension rights, actually in respect of military service, paragraph (1) of this section shall, as respects that period, have effect as if the words "leave without salary not granted on grounds of public policy" were substituted for the words "leave on full salary";

(c) If during his military service the officer shall be injured or killed, he shall not, for the purposes of any provision of the principal Ordinance or of the Regulations thereunder relating to injury awards be deemed to have been injured or killed in the discharge of his duty;

(d) The provisions of this section which require that the officer shall be deemed to have held a specified office and to have been on leave from a specified service shall not apply in respect of any period during which he shall actually have held any other substantive office and have been on leave from any public service;

(e) Save where in any particular case the Governor otherwise directs, this section shall not apply where the office in the public service last held by the officer prior to military service was not a pensionable office.

Passed the Legislative Council of Hong Kong, this 17th day of October, 1940.

Deputy Clerk of Councils.

HONG KONG.

No. 31 of 1940.

I assent.



*E. M. M. M.*  
*Officer Administering the Government.*

22nd November, 1940.

An Ordinance to amend the Factories and Workshops Ordinance, 1937.

[22nd November, 1940.]

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

1. This Ordinance may be cited as the Factories and Workshops Amendment Ordinance, 1940. Short title.

2. Sub-sections (1) and (2) of section 8 of the Factories and Workshops Ordinance, 1937, are repealed and the following sub-sections are substituted therefor:— Substitution for Ordinance No. 18 of 1937, ss. 8 (1) and (2).

8.—(1) Every person who contravenes or attempts to contravene or fails to comply with any provision of this Ordinance or of any by-law made thereunder shall be guilty of an offence against this Ordinance and shall be liable on summary conviction to a fine not exceeding two hundred and fifty dollars: Provided that in the case of a continuing offence the magistrate, if satisfied that the offence has been knowingly and wilfully committed during a period exceeding ten days, may in addition to the said fine impose a further fine not exceeding fifty dollars per day in respect of each day of such excess. Offences and penalties.

(2) The proprietor of every factory, workshop or industrial undertaking in respect of which any offence against this Ordinance has been committed shall be guilty of a like offence.

Passed the Legislative Council of Hong Kong, this 21st day of November, 1940.

*S. S. S.*  
*Deputy Clerk of Councils.*

HONG KONG.

No. 32 of 1940.

I assent.



*Officer Administering the Government.*

29th November, 1940.

An Ordinance to regulate the entry and departure of persons into and out of the Colony, to prohibit the entry of undesirable immigrants and to confer various powers in connexion therewith.

[29th November, 1940.]

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 Immigration Control Ordinance, 1940. Short title.

2. In this Ordinance—

“Depôt” means a depôt established under section 4;

“Master” means the person, other than a pilot licensed and registered under the Pilots Ordinance, 1930, having command or charge of any vessel;

“Passenger” means any person, other than the master, pilot and seamen, carried in a vessel, and includes a stowaway and a seaman seeking to land for discharge;

“Through passenger” means any passenger who is travelling to a place outside the Colony and who is to continue his journey in the vessel by which he arrived;

“Port of the Colony” means any port for the time being included as a port of the Colony in Table W of the Regulations under the Merchant Shipping Ordinance, 1899;

“Seaman” includes every person (except masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity on board any vessel;

“Vessel” includes any description of vessel used in navigation.

Interpretation.

Ordinance No. 11 of 1930.

cf. Ordinance No. 3 of 1924.

cf. Ordinance No. 10 of 1899, s. 2(m).

cf. Ordinance No. 10 of 1899, s. 2(q).

3.—(1) The Governor may appoint any person, either by name or office, to be the Immigration Officer for the purpose of carrying out the provisions of this Ordinance, and also such number of Deputy Immigration Officers and Assistant Immigration Officers as he may think fit.

Appointment of Immigration Officer, Deputies & Assistants.



(2) A Deputy Immigration and an Assistant Immigration Officer shall, subject to such limitations as may be prescribed or as may be imposed on them by superior administrative instructions, have all the powers and may perform any of the duties of the Immigration Officer.

Establishment of depôts.

4. The Governor may by notification in the Gazette appoint a depôt or any number of depôts for the admission and examination of passengers and seamen and generally for the purposes of this Ordinance.

Duties of masters of vessels on arrival.

5.—(1) The master of every vessel (not being or having the status of a ship of war) arriving at or approaching a port of the Colony shall hoist the signal flag "S" over the code pennant, or such other signals as may be prescribed by the Governor in Council, and shall keep such signals hoisted until authorized by the Immigration Officer to take them down.

(2) Every such master shall, if so ordered by the Immigration Officer, anchor or tie up his vessel at such place as may be ordered and shall remain there until the Immigration Officer gives him permission to leave.

(3) Every such master shall when required to do so by the Immigration Officer—

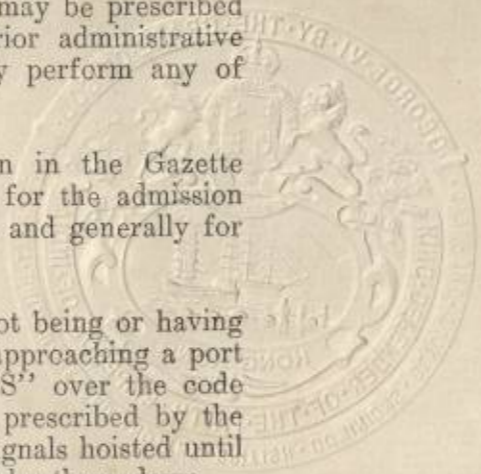
- (a) produce all his ship's papers,
- (b) furnish complete lists of the seamen and passengers on board,
- (c) muster such seamen with his own and their identification cards for interrogation and inspection,
- (d) muster all passengers for interrogation and inspection,
- (e) report the presence of any stowaway or deportee on board.

(4) Every person so mustered shall truthfully answer all questions and inquiries, tending to establish his identity, nationality or occupation, put to him by the officer in charge of the examination notwithstanding that the answer to any such question may tend to incriminate him, and any such person shall on demand disclose and produce to such officer all documents in his possession tending to establish his identity, nationality or occupation. All such answers and documents shall be admissible in evidence in any proceedings under this Ordinance against the person making, disclosing or producing the same: Provided that nothing in this section shall be construed as rendering such answers or documents inadmissible in any other proceedings in which they would otherwise be admissible.

No external communication pending examination.

6.—(1) Until the release of the vessel from examination no person (other than a licensed pilot or officers of the Immigration, Harbour, Medical, Revenue or Police Departments, and persons in their vessels, or a person authorized thereto by an Immigration Officer) shall approach within thirty yards of the vessel under inspection or hold any communication with such vessel or with any person on board thereof and no seaman or passenger under inspection may leave or attempt to leave such vessel or land or attempt to land without the permission of the Immigration Officer.

(2) Every passenger who conceals or attempts to conceal his presence on board or falsely represents himself to be a seaman employed in the vessel shall be deemed, until the



contrary is proved, to have attempted to land in contravention of sub-section (1) of this section.

7. Every person who arrives in the Colony shall, if so ordered by the Immigration Officer, proceed as directed from the vessel on which he has arrived, or from the point of entry on the frontier at which he has entered, to a depôt and shall remain at such depôt until permitted to leave by the Immigration Officer.

Transfer of arrivals to a depôt if ordered.

8. No person shall enter the Colony across its northern frontier, between Sha-tau-kok and the estuary of the Sham Chun River inclusive, except at such entry points as the Governor may appoint by notification in the Gazette.

Closure of northern frontier to entry except at authorized places.

9. The Immigration Officer may in his discretion refuse permission to land, or to remain after landing in the Colony or to enter or to remain after entering, beyond such period as he may sanction, to any person who—

Conditions of entry.

- (a) is a through passenger; or
- (b) is not in possession of either—
  - (i) a valid passport; or
  - (ii) some other valid travel document, establishing his nationality and identity and authorizing him to travel to and enter the Colony, issued or endorsed, in the case of a British subject or British protected person, by a competent British official and in other cases by an official having authority to issue or endorse such document in respect of the person in question; or
  - (iii) a valid Entry Permit or Certificate of Residence or Frontier Pass issued under this Ordinance:

Provided also that the Immigration Officer shall not exercise the powers conferred by this section if the person is a child who appears to him to be of or under the age of fifteen years and to be accompanied by and to be a member of the family of a person whose landing or permission to remain has been sanctioned under this section:

Provided further that neither the possession of a valid passport or travel document nor any visa or endorsement thereon nor any Entry Permit or Certificate of Residence shall be deemed to imply that the holder will be permitted to land in the Colony, or, if allowed to land, that he will be permitted to stay in the Colony; nor shall it serve as any excuse for disobeying any deportation, banishment or expulsion order or any order or regulation made under the Emergency Powers (Colonial Defence) Orders in Council, 1939 and 1940, or under the Emergency Regulations Ordinance, 1922, or any Quarantine Regulation for the time being in force.

10. No passport or travel document shall be deemed to be valid unless—

Requirements for the validity of passports and travel documents.

- (a) an indication, either specific or in general terms, which is not invalidated by any other endorsement, appears thereon to the effect that the passport or travel document is valid for Hong Kong;
- (b) it was issued or renewed to the holder, in the case of a passport, by or on behalf of the Government of the country or state of which he is a subject or citizen, and in

the case of a travel document, by a competent official, not more than five years before the arrival of the holder in the Colony, and that it is still within the period of its validity if any such period be stated.

(c) it has a photograph of the person or persons to whom it relates so affixed as to obviate the possibility of its removal and the substitution of another photograph: Provided that this paragraph shall not apply in the case of any Pardashin or Gosha woman; and

(d) in the case of a person who is neither a British subject nor a British protected person, it bears a visa, by a British Consular Officer in a foreign country or state or by a duly authorized official in some part of His Majesty's dominions, or in any British protectorate or protected state or any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty which was granted not more than one year before the arrival of such person in the Colony and is still within the period of its validity, and which is either specifically or generally applicable to the journey on which the holder is engaged or which he has completed by his arrival in the Colony: Provided that this paragraph shall not apply in the case of a person included in any agreement, applicable to this Colony, between His Majesty's Government in the United Kingdom or the Government of this Colony and any other Government, for the mutual abolition or waiver of visas.

Provisions as to transit visas and limiting endorsements.

11.—(1) The holder of a valid passport or travel document or entry permit with a visa authorizing transit only through the Colony shall not remain in the Colony longer than is reasonably necessary to enable him to tranship or to find other means by which to proceed to his destination; and the holder of a passport, travel document or entry permit with a visa authorizing direct transit only shall proceed to his destination by the earliest means of transport of which he can reasonably avail himself: Provided that in either case the duration of the stay in the Colony of any such holder may be extended with the consent in writing of the Immigration Officer for which consent there shall be charged either the fee of \$5 or a fee equal to the difference between the cost of a transit visa and the cost of an ordinary visa in the case in question, whichever fee be the higher.

(2) Where the holder of a valid passport, travel document or entry permit is an alien, who has not resided in the Colony for more than one month since his last arrival therein, it shall be lawful for the Immigration Officer to make an endorsement thereon, without fee, defining a limited period during which the alien may stay in the Colony.

(3) The holder of a valid passport, travel document or entry permit which bears an endorsement defining a limited period of stay in the Colony shall not remain in the Colony after the period has expired: Provided that the period of his stay may be extended with the consent in writing of the Immigration Officer, for which consent the fee of \$5 shall be paid unless reciprocal arrangements exist with the country of which the holder is a national for dispensing with fees for permits of the same or similar effect.

12.—(1) The Immigration Officer may issue Entry Permits, Frontier Passes and Certificates of Residence (in such forms and on payment of the fees specified in the Schedule or of such other fees as the Governor in Council may prescribe) to such persons as he may deem to be entitled thereto. Entry Permits & Certificates of Residence. Schedule.

(2) The Immigration Officer shall not, however, unless authorized thereto by the Governor in Council or the Court under section 19 or by regulation or exemption by the Governor in Council under section 20, issue such permits, passes or certificates to any person who—

(a) is diseased, maimed, blind, idiot, lunatic or decrepit, and without the means of subsistence and may be hindered by his state from earning a livelihood;

(b) cannot show that he has in his possession, or that he is physically able to earn, the means of decently supporting himself and his dependants if any, or that he will be able to obtain such support in the Colony;

(c) is a professional beggar or vagrant or a person likely to become a charge upon the public or upon any public charitable institution;

(d) is a person suffering from a contagious disease which is loathsome or dangerous;

(e) being a person for whom a passport is necessary, is not in possession of a valid passport, or is in possession of a forged or altered passport or of a passport which does not comply with any regulation in force relating to passports;

(f) has been deported, banished or expelled from any country or state or has been shipped by the Government authorities of any country or state with a view to his being repatriated;

(g) is suspected of being likely to promote sedition or to cause a disturbance of public tranquillity;

(h) cannot show that he has definite employment awaiting him, or that he has a reasonable prospect of obtaining employment;

(i) is a prostitute or a person living on the earnings of prostitution;

(j) is not in possession of such certificates as may be required under Quarantine Regulations for the time being in force; or

(k) is prohibited from entering the Colony under any enactment for the time being in force.

(3) The master of every ship having or suspecting that he has on board persons of the classes mentioned in sub-section (2) shall give to the Immigration Officer such information as he may have concerning them.

13.—(1) The Immigration Officer may by order, notice or otherwise impose such conditions either general or special as he may deem fit to attach to any permission granted to a person described in paragraph (a) or (b) of section 9 to land or disembark, whether for the purpose of residence or sojourn in the Colony or for transhipment at a port in the Colony or, in the case of a through passenger, during the stay in port of the ship in which he arrived, and may at any time vary or add to such conditions as he may deem fit. Conditions may be attached to permission to land or disembark.

(2) The Immigration Officer may demand and take such security, not exceeding in value two hundred and fifty dollars, as he may deem fit to ensure the due fulfilment of any such condition.

(3) Any person who fails to furnish any security demanded under sub-section (2) may—

(a) be refused permission to land or disembark in the Colony and be detained on board the vessel in which he arrived; or

(b) be removed to a place of detention ashore and there detained pending an opportunity of returning him to his port of embarkation or of sending him to his destination; or

(c) if he is in a depôt be either returned to the vessel in which he arrived or detained in the depôt or other suitable place of detention pending an opportunity of removing him from the Colony.

(4) Any person who fails to comply with any condition imposed under sub-section (1) may be dealt with in the same manner as a person who fails to furnish security may be dealt with under sub-section (3) and the Immigration Officer may also, in his discretion, forfeit any security taken from such person under sub-section (2).

(5) The Immigration Officer may at any time vary or remove wholly or in part any of the conditions imposed under sub-section (1).

Procedure on refusal to grant permission to land or disembark, etc.

14.—(1) Whenever under any provision of this Ordinance any person has been refused permission to land or disembark, or whenever any person has landed or disembarked in the Colony in contravention of any provision of this Ordinance, the master of the vessel, if so ordered by the Immigration Officer shall when necessary, re-embark such person and shall remove such person from the Colony in his vessel. If such vessel shall have left the Colony before such person could be re-embarked thereon, or in any other case with the consent of the Immigration Officer, such person may be detained at the depôt or other suitable place of detention pending an opportunity of removing him from the Colony and all or any of the following persons, that is to say, the master, owner, agent, charterer and consignee of the vessel shall be liable to pay to the Immigration Officer all costs and charges incurred in respect of such maintenance and removal.

(2) If any person to whom permission to land or disembark has been refused shall find security to the satisfaction of the Immigration Officer that he will leave the Colony in a particular vessel approved by the Immigration Officer, such person may be released from detention pending his departure from the Colony in the said vessel. If such person fails to depart by the approved vessel he shall be liable to the penalties provided by section 22.

Powers of master.

15. Every master may use and employ, with such assistance as he may require, all reasonable means, including force and restraint if he deems it necessary, to secure the continued presence on board of any person who has not been permitted to land or disembark.

Special provisions for seamen.

16.—(1) No seaman shall land or disembark from any vessel except with the permission of the Immigration Officer. Such permission may be subject to any condition which the Immigration Officer may think fit to impose.

(2) The Immigration Officer may take such security as he deems fit, whether by way of deposit or otherwise from the master, owner, charterer, agent or consignee of the vessel from which he has reasonable cause to suspect that any seaman is about to land contrary to, or to secure the fulfilment of any condition imposed by, sub-section (1), and may refuse to release the vessel from examination until such security is furnished.

(3) When any seaman is about to be, or is discharged or paid off in the Colony the master shall as soon as practicable notify the Immigration Officer.

(4) Any seaman so discharged or paid off may be required to attend before the Immigration Officer for inquiry, and for this purpose the Immigration Officer may by general notice or otherwise designate the class or classes of seamen or any particular seaman required to attend for such inquiry.

(5) The master of any vessel may detain any of his seamen, to whom a notice under sub-section (4) applies, until an opportunity occurs of bringing him before the Immigration Officer for such inquiry: Provided that such seaman shall be brought before the Immigration Officer as soon as conveniently may be after his discharge or paying off.

(6) If any seaman is left behind in the Colony he may be kept and maintained in a depôt or other suitable place pending an opportunity of returning him to his port of engagement or discharge or to the country of which he is a national, and all or any of the following persons that is to say the master, owner, agent, charterer and consignee of the vessel leaving him behind shall be liable to pay to the Immigration Officer all costs and charges incurred in respect of his maintenance and removal.

17. The provisions of this Ordinance relating to vessels and the masters, seamen, stowaways, and passengers therein, shall apply equally, as far as practicable, to aircraft and the pilots, crew, stowaways and passengers therein.

Application to immigration by air.

18. In addition to the issuing of the documents referred to in section 12 the Immigration Officer shall be charged with the duty of the administration of the Passport Office in the Colony and shall be authorized to collect in relation thereto the fees mentioned in the Schedule.

Passport Office to be administered by the Immigration Officer. Schedule.

19.—(1) Whenever any person is dissatisfied with the exercise of the discretion of any person to whom discretionary power is given under this Ordinance in respect of any act, matter, or thing, which is by this Ordinance made subject to the exercise of the discretion of such authority, or with any action or decision of any such person either as to the carrying out of or the meaning of any of the provisions of this Ordinance, or whenever any of the provisions of this Ordinance are, owing to special conditions, undesirable, the person so dissatisfied may, unless proceedings have already been taken before a magistrate in relation thereto, appeal to the Governor in Council, who, if in his opinion the exercise of such discretion or such action or decision requires modification, revocation, or setting aside, or such special conditions exist as render any such provision undesirable, may make such order in respect thereof as may be just.

Appeal to Governor in Council. cf. Ordinance No. 18 of 1935, ss. 161-3.

The grounds of such appeal shall be concisely stated in writing, and the appellant may, if he so desires, be present at the hearing of such appeal and be heard in its support either by himself or by his representative, and the Governor in Council shall thereafter determine the matter in the absence of, and without further reference to, the Immigration Officer.

The Clerk of Councils shall give the appellant seven days notice of the hearing of the appeal, and shall at the same time furnish the appellant with a copy of the evidence and documents submitted by the respondent for the consideration of the Governor in Council :

Provided that nothing herein contained shall be deemed to prevent any person from applying to the Supreme Court for a *mandamus*, injunction, prohibition or other order should he elect so to do, instead of appealing to the Governor in Council under this section.

(2) In any appeal under the provisions of sub-section (1) the Governor in Council may at any time in his discretion direct a case to be stated for the opinion of the Full Court on any question of law involved in any appeal submitted to him. The terms of such case shall be agreed upon by the parties concerned, or in the event of their failure to agree shall be settled by the Full Court. The Full Court shall hear and determine the question of law arising on any case stated as aforesaid, and shall remit the matter to the Governor in Council who shall give effect by order to the finding of the court. The costs of such hearing shall be in the discretion of the court.

Any party to the appeal shall be entitled to be heard by counsel on the hearing of any case so stated.

No proceedings by way of *mandamus*, injunction, prohibition, or other order shall be taken against the Governor in Council in respect of anything arising out of this section.

(3) Every order of the Governor in Council on any appeal shall be final and may be enforced by the Supreme Court as if it had been an order of that court.

Regulations.

20. The Governor in Council may make regulations for—

- (a) defining the powers and duties, other than those expressly conferred by some provision of this Ordinance, of the Immigration Officer, his deputies, assistants and staff;
- (b) prescribing forms;
- (c) appointing places of detention;
- (d) providing for the regulation and management of depôts;
- (e) cancelling or withdrawing passports, travel documents, permits, certificates, passes or other documents issued under this Ordinance;
- (f) granting exemptions;
- (g) altering the Schedule in any manner whatsoever;
- (h) generally to facilitate the carrying out of the provisions of this Ordinance.

Power of entry, search and arrest. cf. Ordinance No. 2 of 1917 s. 3 (1).

21. The Immigration Officer, and any officer of his department authorized thereto in writing by him, either generally or for a particular occasion may enter and search any place or vessel (not being or having the status of a ship of war), and may arrest without warrant any person whom he may reasonably suspect of having committed, or of

attempting to commit, or of aiding or assisting any person to commit, an offence against any provision of this Ordinance, and to take any person so arrested to a police station, or first to the office of the Immigration Officer for directions and then to a police station, to be brought before a magistrate and dealt with according to law.

22.—(1) Every act, failure, neglect or omission whereby any requirement of this Ordinance or of any regulation made, or condition attached to any permission granted, thereunder is contravened shall be deemed an offence and shall be punishable on summary conviction by a fine not exceeding one thousand dollars and imprisonment for any term not exceeding twelve months and by expulsion from the Colony on the order of the convicting magistrate; and any security furnished shall be liable to be forfeited by order of such magistrate. General penalty.

(2) Any expulsion order under sub-section (1) shall have the effect of authorizing any Police or Immigration Officer to arrest and detain the offender and to do all such other acts as may be necessary to enable such person to be expelled from the Colony by such vessel or route as the Commissioner of Police or the Immigration Officer may determine.

23. The Immigration and Passports Ordinance, 1934, and the Immigration and Passports Amendment Ordinances, 1935 and 1940 are repealed. Repeal of Ordinances No. 8 of 1934, No. 23 of 1935 and No. 20 of 1940.

24. This Ordinance shall come into force on such date as the Governor may appoint by Proclamation. Commencement.

Passed the Legislative Council of Hong Kong, this 28th day of November, 1940.

*[Signature]*  
Deputy Clerk of Councils.

**SCHEDULE.** [ss. 12, 18 and 20]

Nature of Document.	Fee.
	\$
Entry Permit (valid for 6 months) .....	2.00
Entry Permit (valid for 2 years) .....	6.00
Frontier Pass (valid for one year) .....	2.00
Certificate of four years' Residence (valid for 5 years) .....	6.00
Certificate of ten years' Residence (valid for 5 years) .....	2.00
Passport (valid for 5 years) .....	10.00
Travel document. (valid for journey or period stated therein) .....	4.00
Renewal of Passport, for each year of renewal .....	2.00
Endorsement of Passport, otherwise than at the time of issue or renewal .....	4.00
Transit visa, normal fee .....	1.10
Entry visa, normal fee .....	11.00

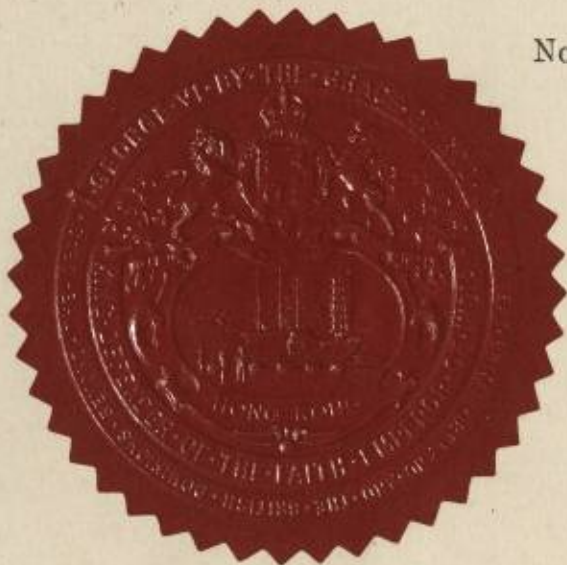
In the case of visas granted to nationals of those countries which charge British subjects visa fees in excess of those quoted above, reciprocal charges will be enforced, converted at the following rates of exchange:—

- Hong Kong \$0.80 = 1 shilling (sterling)
- Hong Kong \$1.50 = 1 shilling (gold)
- Hong Kong \$4.75 = U.S. \$1.
- Hong Kong \$1.30 = 1 franc (gold)

HONG KONG.

No. 33 of 1940.

I assent.



*E. Johnston*

*Officer Administering the Government.*

29th November, 1940.

An Ordinance to amend the Betting Duty Ordinance, 1931.

[29th November, 1940.]

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 Betting Duty Amendment Ordinance, 1940. Short title.

2. The Proviso to section 2 of the Betting Duty Ordinance, 1931, is repealed and the following Proviso is substituted therefor— Substitution for Ordinance No. 40 of 1931, Proviso.

Provided that not less than eighty-nine per cent., or in the case of a club organizing the race not less than seventy-eight per cent., of the total contributions or subscriptions, after deduction of the duty, shall be devoted to prizes for the subscribers.

3. Section 6 (2) of the Betting Duty Ordinance, 1931, is amended by the substitution of the words "ten per cent." for the words "five per cent." Amendment of Ordinance No. 40 of 1931, s. 6 (2).

4. This Ordinance shall not apply to cash-sweep tickets or cash-sweep chances allocated by list on races run before the 1st day of January, 1941. Saving as to races run before 1st January, 1941.

Passed the Legislative Council of Hong Kong, this 28th day of November, 1940.

*Chambers*

*Deputy Clerk of Councils.*

HONG KONG.

No. 34 of 1940.

I assent.



*E. Johnston*

*Officer Administering the Government.*

29th November, 1940.

An Ordinance to amend further the Advertisements Regulation Ordinance, 1912.

[29th November, 1940.]

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 Advertisements Regulation (No. 2) Amendment Ordinance, 1940. Short title.

2. Sub-section (4) of section 5 of the Advertisements Regulation Ordinance, 1912, enacted by section 3 of the Advertisements Regulation Amendment Ordinance, 1940, is repealed. Repeal of section 5 (4) of Ordinance No. 19 of 1912 enacted by Ordinance No. 16 of 1940, s. 3.

Passed the Legislative Council of Hong Kong, this 28th day of November, 1940.

*J. A. M. S. S.*

*Deputy Clerk of Councils.*