

be either a member of the Colonial legal service or a barrister or solicitor of not less than five years standing, and of two members of the tenancy tribunal panel appointed under paragraph (a) of section 30.”;

- (c) by the insertion in the seventh line of subsection (6) after the word “excluded” of the following—

“, either absolutely or subject to such conditions (being conditions not repugnant to any of the provisions of this Ordinance) as the tribunal may think fit to impose,”;

- (d) by the deletion from the second and third lines of subsection (7) of the words “Such costs shall be allowable as would be granted in an action before the court.”;

- (e) by the addition of the following new subsections—

“(g) (a) Whenever a tenancy tribunal has recommended that exclusion from the operation of this Ordinance shall be subject to conditions, the Governor in Council may—

- (i) reject the recommendation;
- (ii) accept the recommendation but delete or modify the conditions or insert new conditions (being conditions not repugnant to any of the provisions of this Ordinance): Provided that save where the Governor in Council proposes to make an order to exclude any premises unconditionally, the Governor in Council shall not proceed to make an order under this section until such notice as is hereinafter provided for has been given and shall not in any event make such order if the application for exclusion is withdrawn as is hereinafter mentioned.

(b) The notice mentioned by paragraph (a) shall be a notice to the applicant of the order which the Governor in Council proposes to make and requiring him within fourteen days after the day upon which such notice was given to inform the Clerk of Councils whether he wishes to maintain or withdraw his application.

(c) It shall be lawful for the applicant within the period of fourteen days aforesaid to withdraw his application by notice in that behalf to the Clerk of Councils.

(10) Any conditions contained in an order of the Governor in Council made after the provisions of paragraph (a) of subsection (9) have been complied with may be enforced by any party aggrieved by the non-performance thereof in like manner as if the performance of the condition had lawfully been ordered by the Supreme Court. For the purpose of this section, the Attorney General shall represent the public and shall be deemed to be a party aggrieved.

(11) Where any class of premises has been excluded from the further application of this Ordinance by an order made under subsection (1), a tenancy tribunal shall have jurisdiction to determine whether any particular premises fall within such class and in so doing shall be guided by the primary user of such premises.”

21. The principal Ordinance is amended by the addition after section 31 of the following new section—

Addition of new section 31A.

“Appeals in proceedings under section 31.

31A. (1) Any party aggrieved by the decision of a tenancy tribunal in any proceedings under section 31 may, within fourteen days after the decision has been communicated to him, appeal therefrom by way of petition to the Governor in Council.

(2) A person appealing to the Governor in Council under the provisions of subsection (1) shall, within the said period of fourteen days, serve a copy of the petition upon each of the other parties to the proceedings wherein the decision appealed from was given, and each of the other parties may, within twenty-eight days after the decision of the tribunal has been communicated to him, cross-petition the Governor in Council, and in such event shall serve a copy of such cross-petition upon the appellant.

(3) Every petition and cross-petition shall be lodged with the Clerk of Councils.

(4) No person lodging a petition or cross-petition as aforesaid shall be entitled to appear before the Governor in Council, but every petition and cross-petition lodged in due time shall be considered by the Governor in Council who may thereafter confirm, modify or reverse the decision appealed against.

(5) The decision of the Governor in Council shall be final.

(6) Where the decision of the Governor in Council is to the effect that the tribunal whose decision is appealed against ought to have recommended that certain premises be excluded from the further application of this Ordinance, the decision of the Governor in Council shall be deemed to be a recommendation of a tenancy tribunal in relation to those premises for the purposes of subsection (2) of section 31."

Amendment of section 32.

22. Section 32 of the principal Ordinance is amended by being re-numbered subsection (1) of section 32, and by the addition thereto of the following new subsection—

"(2) The provisions of subsection (1) shall not apply in respect of the service of any notice under section 3B, 3C, 3E or 12, but in such cases service shall be effected by posting the prescribed form of notice in English, together with a copy in Chinese, upon the main door or entrance of the premises affected, and by re-posting the same if necessary upon the second and third day thereafter, and upon the expiration of the third day such notice shall be deemed to have been served upon all persons including sub-tenants affected thereby."

Amendment of section 33.

23. Section 33 of the principal Ordinance is amended—

(a) by the deletion from the last line of subsection (1) of the word "one" and the substitution therefor of the following—

"two";

(b) by the deletion from the second and third lines of subsection (2) of the words "whether the defendant is convicted or not and".

Increase of rent of business premises.

24. (1) Notwithstanding anything contained in the principal Ordinance, the landlord of business premises to which that Ordinance applies may, subject to the provisions of section 28, increase the rent lawfully chargeable therefor in the manner following, that is to say—

(a) in respect of occupation on and after the 1st day of September, 1953, the rent lawfully chargeable may be increased by a sum equal to twenty-five *per cent* of the standard rent of the premises;

(b) in respect of occupation on and after the 1st day of March, 1954, the rent lawfully chargeable may be increased by a further sum equal to twenty-five *per cent* of the said standard rent.

(2) The rent lawfully chargeable for any business premises which has been increased in accordance with the provisions of subsection (1) shall, with effect from the expiration of the period of notice mentioned in subsection (1) of section 28, be deemed to be the permitted rent of such premises for the purposes of the principal Ordinance.

25. (1) Notwithstanding anything contained in the principal Ordinance, the landlord of domestic premises to which that Ordinance applies may, subject to the provisions of section 28, increase the rent lawfully chargeable therefor in respect of occupation on and after the 1st day of March, 1954, by a sum equal to twenty-five *per cent* of the standard rent of the premises.

Increase of rent of domestic premises.

(2) The rent lawfully chargeable for any domestic premises which has been increased in accordance with the provisions of subsection (1) shall, with effect from the expiration of the period of notice mentioned in subsection (1) of section 28, be deemed to be the permitted rent of such premises for the purposes of the principal Ordinance.

26. For the purposes of sections 24 and 25, the expression "rent lawfully chargeable" means—

Interpretation of "rent lawfully chargeable" in sections 24 and 25.

(a) in relation to the first increase of rent authorized by section 24 and the increase authorized by section 25, the permitted rent chargeable under the principal Ordinance immediately before the provision authorizing such increase takes effect; and

(b) in relation to the further increase of rent authorized by section 24, the permitted rent chargeable under this and the principal Ordinance immediately before the provision authorizing such further increase takes effect.

Penalty for increases made in contravention of this Ordinance.

27. Any person who makes any demand for the payment of any increase of rent authorized by the provisions of this Ordinance save in accordance with sections 28 and 29 shall be guilty of an offence and liable to a fine of four thousand dollars.

Provisions relating to increases of rent by landlords not being also principal tenants.

Schedule A, form 1 or 2.

28. (1) A landlord, not being also a principal tenant, who desires to increase, by virtue of section 24 or 25, the rent lawfully chargeable for any premises shall give the tenant thereof notice of increase of rent in the appropriate prescribed form, and the increase so notified shall accrue as from the twenty-eighth day after the date of service of such notice: Provided that the increase of rent first so accruing shall only become payable upon demand made by the landlord after he has served upon the tenant a copy of a certificate of the standard rent of the premises issued under subsection (3).

(2) Any increase of the rent of any premises of which notice has been given under subsection (1) shall be adjusted where adjustment is necessary having regard to the rate of standard rent certified under the proviso to that subsection in relation to the premises: Provided that where the rate of standard rent so certified exceeds that stated in the notice of increase, such adjustment shall only be made as from the twenty-eighth day after service upon the tenant of a copy of the certificate of standard rent.

(3) Upon the application of a landlord, not being also a principal tenant, and upon production by him of a copy of the notice of increase of rent given to his tenant pursuant to subsection (1), an officer of the Department of Rating and Valuation (not below the rank of Rating and Valuation Surveyor) shall issue a certificate in the prescribed form certifying what, in his opinion, is the rate of standard rent of the premises in relation to which the application is made, and such certificate shall be *prima facie* evidence of the rate of such standard rent.

Schedule A, form 3.

(4) Upon the application of a landlord or tenant who is dissatisfied with the rate of standard rent so certified as aforesaid, it shall be lawful for a tenancy tribunal to determine the rate of standard rent in relation to the premises to which the certificate relates, and to confirm or vary such certificate accordingly.

(5) The decision of a tenancy tribunal upon any application made under subsection (4) shall be final, and a certificate of standard rent issued under subsection (3), and confirmed or varied as aforesaid, shall be conclusive evidence of the rate of standard rent of the premises to which it relates.

(6) Whenever it is necessary for an officer of the Department of Rating and Valuation to assess the standard rent of any premises under this section, he shall have power—

- (a) at any time, during daylight, without notice, to enter and inspect, and take measurements in, such premises;
- (b) to enforce the attendance of the landlord and the tenant of the premises, and any of their witnesses, at such time and place as he may determine, and to examine them on oath or otherwise; and
- (c) to compel the discovery, inspection and production of documents,

and a summons or order under the hand of such officer issued or made for the purpose of exercising any of the powers mentioned in paragraph (b) or (c) shall be of like force and effect as the corresponding form of process issued in any action or suit for the like purpose and may be enforced by a bailiff or other officer of the court in like manner as such forms of process would be enforced.

29. (1) A principal tenant who is served with a notice of increase of rent in accordance with subsection (1) of section 28 and who, in consequence thereof, desires to increase the rent lawfully payable by any sub-tenant of the premises shall, within fourteen days after the date of service of the notice aforesaid, give such sub-tenant notice of increase of rent in the prescribed form, and the increase so notified shall accrue as from the date upon which the increase of rent notified to the principal tenant accrues by virtue of subsection (1) of section 28: Provided that the increase of rent first so accruing to the principal tenant shall only become payable upon demand made by the principal tenant after he has served upon the sub-tenant a copy of a certificate of such increase issued under the provisions of subsection (2).

Provisions relating to increases of rent by principal tenants.

Schedule A, forms 4 and 5.

(2) Upon the application of a principal tenant, and upon the production by him of the copy of the certificate of standard rent served by his landlord, the Secretary for Chinese Affairs or some duly authorized officer of his department shall issue a certificate in the prescribed form certifying the rate of rent payable to the principal tenant from each of his sub-tenants calculated by

Schedule A, form 6.

reference to the standard rent so certified as aforesaid and such certificate shall be conclusive evidence for all purposes of the rate of increased rent payable by each sub-tenant.

(3) Any increase of the rent of any premises of which notice has been given under subsection (1) shall be adjusted where adjustment is necessary having regard to the rate of rent certified to be payable by a certificate issued under subsection (2): Provided that where the rate of rent so certified exceeds that stated in the notice of increase, such adjustment shall only be made as from the twenty-eighth day after service upon the sub-tenant of a copy of the certificate issued under subsection (2).

(4) Whenever it is necessary for the Secretary for Chinese Affairs to assess the rent of any premises under the provisions of this section, he shall have power—

- (a) to enforce the attendance of the landlord and the tenant thereof, and of any of their witnesses, at such place and time as he may determine, and to examine them on oath or otherwise; and
- (b) to compel the discovery, inspection and production of documents,

and a summons or order under the hand of the Secretary for Chinese Affairs or some duly authorized officer of his department issued or made for the purpose of exercising any of the aforesaid powers shall be of like force and effect as the corresponding form of process issued in any action or suit for the like purpose and may be enforced by a bailiff or other officer of the court in like manner as such forms of process would be enforced.

(5) The Secretary for Chinese Affairs may authorize by name or office and by notice published in the *Gazette* such officers of his department as he may think fit to exercise on his behalf his functions under this section.

Admissibility in evidence of certificates issued under sections 28 and 29.

30. A certificate purporting to be issued in pursuance of the provisions of subsection (3) of section 28 or subsection (2) of section 29 shall be admissible in evidence in all legal proceedings, whether civil or criminal, upon production of the certificate and without proof of the signature thereon, unless objection to its admission in evidence is taken by some party opposed to the party tendering it.

Forms for use under sections 28 and 29. Schedule A.

31. The forms in schedule A hereto are prescribed for use under sections 28 and 29 and shall in each case be accompanied by a translation thereof in the Chinese language.

32. Sections 34 and 35 of the principal Ordinance are repealed. Repeal of sections 34 and 35.

33. (1) Section 29 of the principal Ordinance is amended by the deletion from the second line of subsection (2) of the words "the Schedule to this Ordinance" and the substitution therefor of the following—

"the first schedule".

(2) The schedule to the principal Ordinance is amended by the deletion of the heading "SCHEDULE" wherever it appears and by the substitution therefor of the following—

"FIRST SCHEDULE".

(3) The principal Ordinance is amended by the addition after section 36 of the following new section—

37. The forms in the second schedule are prescribed for use under this Ordinance and shall in each case be accompanied by a translation thereof in the Chinese language." Addition of forms as a second schedule to the principal Ordinance and amendments consequential thereon.

(4) The principal Ordinance is amended by the addition at the end thereof of a second schedule as set out in schedule B hereto. Schedule B.

34. (1) The Government Printer shall, if directed by the Governor, cause to be prepared and published a reprint of the principal Ordinance incorporating therein all additions, omissions, substitutions and amendments effected by this Ordinance and by any other enactment amending the principal Ordinance, and shall, if so directed, print as part of such reprint and as an appendix thereto section 1 and sections 24 to 31 inclusive of this Ordinance together with this section and together with Schedule A to this Ordinance. Provision for a reprint of the principal Ordinance as amended and of this Ordinance.

(2) The publication of such reprint and appendix shall be notified by the Colonial Secretary in the *Gazette* and, with effect from the date of such notification, such reprint and appendix shall be deemed authentic copies of the principal Ordinance as amended and of this Ordinance and shall be judicially noticed as such, and further shall be deemed to be official copies for the purposes of subsection (3) of section 7 of the Interpretation Ordinance.

(Cap. 1.)

(3) If any inconsistency is shown to exist between a provision of any enactment authorized to be published in such reprint and appendix and that provision as published in such reprint and appendix, the provision as enacted shall prevail.

SCHEDULE A. [s. 31.

FORM 1. [s. 28(1)

NOTICE OF RENT INCREASE OF BUSINESS PREMISES.

(by a landlord not being also a principal tenant).

To (1)

TAKE NOTICE that pursuant to the provisions of sections 24, 26 and 28 of the Landlord and Tenant (Amendment) Ordinance, 1953, the rent lawfully chargeable for the premises situate at (2) which you hold of me as a (3) tenant will be increased as shown hereunder.

Rent lawfully chargeable as at the date of this notice is dollars per (4)..... Standard rent is dollars per (4)..... Increase at 25% of the standard rent is per (4).....

The said increase will take effect from the (5)..... day of 195 . BUT PLEASE READ WHAT IS PRINTED ON THE BACK OF THIS NOTICE.

Dated the day of, 195 .

Landlord.

NOTES.

- (1) State full name of tenant. (2) State whereabouts of premises. (3) State whether weekly, monthly, quarterly tenant, etc. (4) State whether per week, month, quarter, etc. (5) This date must be the twenty-eighth day after service of this notice.

(Back of Notice).

Section 24 of the Landlord and Tenant (Amendment) Ordinance, 1953, provides for two increases of rent of business premises, the first on 1st September, 1953, and the second on 1st March, 1954. These increases are both at the rate of twenty-five per cent of the STANDARD RENT and can only be added to the RENT LAWFULLY CHARGEABLE.

The increase of which notice is given overleaf takes effect on the twenty-eighth day after service of this notice.

The first increase of which notice is given only becomes payable upon demand by your landlord after he has served you with a copy of a certificate of standard rent issued by the Department of Rating and Valuation. This does not apply to the second increase on 1st September, 1954.

If you are dissatisfied with the rate of standard rent stated in the certificate, you are at liberty to apply, under section 28(4) of the Landlord and Tenant (Amendment) Ordinance, 1953, to a tenancy tribunal to determine the rate of standard rent, but you should pay the increase stated in the notice overleaf until such time as the tribunal adjudicates upon your application.

The increase of which notice is given overleaf must be adjusted in accordance with section 28(2) of the Ordinance where the standard rent certified by the Department of Rating and Valuation is different from that stated overleaf.

SCHEDULE A—(Contd.)

FORM 2. [s. 28(1)

NOTICE OF RENT INCREASE OF DOMESTIC PREMISES.

(by a landlord not being also a principal tenant).

To (1)

TAKE NOTICE that pursuant to the provisions of sections 25, 26 and 28 of the Landlord and Tenant (Amendment) Ordinance, 1953, the rent lawfully chargeable for the premises situate at (2) which you hold of me as a (3) tenant will be increased as shown hereunder.

Rent lawfully chargeable as at the date of this notice is dollars per (4)..... Standard rent is dollars per (4)..... Increase at 25% of the standard rent is per (4).....

The said increase will take effect from the (5)..... day of 195 . BUT PLEASE READ WHAT IS PRINTED ON THE BACK OF THIS NOTICE.

Dated the day of, 195 .

Landlord.

NOTES.

- (1) State full name of tenant. (2) State whereabouts of premises. (3) State whether weekly, monthly, quarterly tenant, etc. (4) State whether per week, month, quarter, etc. (5) This date must be the twenty-eighth day after service of this notice.

(Back of Notice).

Section 25 of the Landlord and Tenant (Amendment) Ordinance, 1953, provides for one increase of rent of domestic premises on the 1st March, 1954. This increase is at the rate of twenty-five per cent of the STANDARD RENT and can only be added to the RENT LAWFULLY CHARGEABLE.

The increase of which notice is given overleaf takes effect on the twenty-eighth day after service of this notice.

The increase of which notice is given only becomes payable upon demand by your landlord after he has served you with a copy of a certificate of standard rent issued by the Department of Rating and Valuation.

If you are dissatisfied with the rate of standard rent stated in the certificate, you are at liberty to apply, under section 28(4) of the Landlord and Tenant (Amendment) Ordinance, 1953, to a tenancy tribunal to determine the rate of standard rent, but you should pay the increase stated in the notice overleaf until such time as the tribunal adjudicates upon your application.

The increase of which notice is given overleaf must be adjusted in accordance with section 28(2) of the Ordinance where the standard rent certified by the Department of Rating and Valuation is different from that stated overleaf.

SCHEDULE A—(Contd.)

FORM 3.

[s. 28(3)]

CERTIFICATE OF STANDARD RENT.

To (1)

Pursuant to the provisions of section 28(3) of the Landlord and Tenant (Amendment) Ordinance, 1953, I hereby certify that in my opinion the rate of standard rent for (2) is dollars per (3)

Dated this day of, 195 ..

(4)

(5)

NOTES.

- (1) State full name of applicant.
(2) Give description sufficient to identify the premises.
(3) State whether per week, month etc.
(4) Signature of officer.
(5) Post of officer.

FORM 4.

[s. 29(1)].

NOTICE OF RENT INCREASE OF BUSINESS PREMISES.

(by a principal tenant to a sub-tenant).

To (1)

TAKE NOTICE that pursuant to the provisions of section 29(1) of the Landlord and Tenant (Amendment) Ordinance, 1953, the rent lawfully payable by you for (2) at (3) will be increased as shown hereunder.

(1) I certify that the standard rent of which notice has been given to me by my landlord is (5) per (4) and that the standard rent of the premises you occupy is (5) per (4)

(2) The increases (if any) authorized by or under the principal Ordinance as at the date of this notice are as follows:—

(3) Twenty-five per cent of the standard rent of the premises you occupy, being the increase authorized by section 24 of the Landlord and Tenant (Amendment) Ordinance, 1953, equals (5) per (4)

The increase mentioned in paragraph (3) above will take effect from the (6) day of, 195..... BUT PLEASE READ WHAT IS PRINTED ON THE BACK OF THIS NOTICE.

Dated the day of, 195.....

Principal Tenant.

NOTES.

- (1) State full name of sub-tenant.
(2) State type of premises occupied, i.e. shop, office, godown, etc.
(3) State whereabouts of premises.
(4) State whether per week, month etc.
(5) State sum in dollars and cents (if necessary).
(6) This date must be the date on which increase of rent notified to the principal tenant takes effect.

(Back of Notice).

NOTICE TO SUB-TENANTS.

The scheme of section 29 of the Landlord and Tenant (Amendment) Ordinance, 1953, is as follows—

SCHEDULE A—(Contd.)

(1) A principal tenant who receives a notice of increase of rent from his landlord, and who, in consequence, desires to increase the rent of his sub-tenants, must give due notice of the appropriate increase to his sub-tenants.

(2) The increase so notified will take effect from the date on which the principal tenant's obligation to pay to his landlord an increase becomes effective (this date should be that mentioned in the last paragraph overleaf).

(3) The first increase will only be payable on demand made by the principal tenant after service on you of a copy of a certificate of apportionment of rent obtained by your principal tenant from the Secretary for Chinese Affairs.

(4) The rent you are notified to pay must be adjusted where the increase stated in the principal tenant's notice to you is different from that certified by the Secretary for Chinese Affairs.

SUB-TENANTS PLEASE NOTE WELL.

IF YOU FEEL YOU NEED ADVICE ABOUT ANYTHING TO DO WITH THIS NOTICE, DO NOT FAIL TO CONSULT A SOLICITOR OR THE SECRETARY FOR CHINESE AFFAIRS.

FORM 5.

[s. 29(1)]

NOTICE OF RENT INCREASE OF DOMESTIC PREMISES.

(by a principal tenant to a sub-tenant).

To (1)

TAKE NOTICE that pursuant to the provisions of section 29 (1) of the Landlord and Tenant (Amendment) Ordinance, 1953, the rent lawfully payable by you for (2) at (3) will be increased as shown hereunder.

(1) I certify that the standard rent of which notice has been given to me by my landlord is (5) per (4) and that the standard rent of the premises you occupy, calculated in accordance with the provisions contained in the definition of the expression "standard rent" in section 2 of the Landlord and Tenant Ordinance, (hereinafter called the principal Ordinance), is (5) per (4)

(2) Thirty per cent of the standard rent of the premises you occupy, chargeable under the provisions of section 6A of the principal Ordinance, equals (5)

(3) The increases (if any) authorized by or under the principal Ordinance as at the date of this notice are as follows:—

(4) Twenty-five per cent of the standard rent of the premises you occupy, being the increase authorized by section 25 of the Landlord and Tenant (Amendment) Ordinance, 1953, equals (5) per (4)

The increase mentioned in paragraph (4) above will take effect from the (6) day of, 195..... BUT PLEASE READ WHAT IS PRINTED ON THE BACK OF THIS NOTICE.

Dated the day of, 195 ..

Principal Tenant.

NOTES.

- (1) State full name of sub-tenant.
(2) State type of premises occupied, i.e. bed-space, cubicle etc.
(3) State whereabouts of premises.
(4) State whether per week, month etc.
(5) State sum in dollars and cents (if necessary).
(6) This date must be the date on which increase of rent notified to the principal tenant takes effect.

SCHEDULE A—(Contd.)

(Back of Notice).

NOTICE TO SUB-TENANTS

The scheme of section 29 of the Landlord and Tenant (Amendment) Ordinance, 1953, is as follows:—

- (1) A principal tenant who receives a notice of increase of rent from his landlord, and who, in consequence, desires to increase the rent of his sub-tenants, must give due notice of the appropriate increase to his sub-tenants.
- (2) The increase so notified will take effect from the date on which the principal tenant's obligation to pay to his landlord an increase becomes effective (this date should be that mentioned in the last paragraph overleaf).
- (3) The first increase will only be payable on demand made by the principal tenant after service on you of a copy of a certificate of apportionment of rent obtained by your principal tenant from the Secretary for Chinese Affairs.
- (4) The rent you are notified to pay must be adjusted where the increase stated in the principal tenant's notice to you is different from that certified by the Secretary for Chinese Affairs.

SUB-TENANTS PLEASE NOTE WELL

IF YOU FEEL YOU NEED ADVICE ABOUT ANYTHING TO DO WITH THIS NOTICE, DO NOT FAIL TO CONSULT A SOLICITOR OR THE SECRETARY FOR CHINESE AFFAIRS.

FORM 6. [s. 29(2)]

CERTIFICATE OF RENTS PAYABLE TO A PRINCIPAL TENANT.

To (1)

Pursuant to the provisions of section 29(2) of the Landlord and Tenant (Amendment) Ordinance, 1953, I hereby certify in respect of (2), premises of which you are the principal tenant, that the rates of rent per (3) payable to you by your sub-tenants are as follows:—

Name or description of sub-tenant	Rate of rent

Dated this day of, 195 ..

(4)

(5)

NOTES.

- (1) State full name of principal tenant.
- (2) Give description of premises.
- (3) State whether per week, month etc.
- (4) Signature of officer.
- (5) Post of officer.

SCHEDULE B.

[s. 33.]

"SECOND SCHEDULE

[s. 37

FORM 1.

[s. 3B

To all tenants and sub-tenants in occupation of

NOTICE OF PROPOSAL THAT RE-BUILDING CERTIFICATE SHALL BE GRANTED.

YOU ARE INFORMED, in accordance with section 3B of the Landlord and Tenant Ordinance, that because of a building covenant to which I/we say I am/we are liable as a lessee of the Crown I/we have applied to the Director of Public Works for a certificate that it is reasonable for me/us to obtain vacant possession of the whole of the above premises to enable me/us to re-build.

On the 195....., the Director gave me/us notice that he proposes to give such a certificate subject to your right to appeal and after you have had opportunity to do so.

If I am/we are given such a certificate I/we shall be able under the Ordinance to evict you without regard to any contractual tenancy.

The Ordinance therefore requires me/us to inform you that within three weeks of my/our serving this notice by posting it on the main door or entrance you may appeal by petition to the Governor in Council to be lodged with the Clerk of Councils at the Secretariat, Victoria.

If you appeal you are also required under the Ordinance to deliver a copy of the petition to the Governor in Council to me/us at the address beneath within the same period of three weeks.

Sgd.

Address

Date

FORM 2. [s. 3C

To all tenants and sub-tenants in occupation of

NOTICE OF CROWN LESSEE'S APPEAL AGAINST PROPOSAL THAT RE-BUILDING CERTIFICATE SHALL NOT BE GRANTED.

YOU ARE INFORMED, in accordance with section 3C of the Landlord and Tenant Ordinance, that because of a building covenant to which I/we say I am/we are liable as a lessee of the Crown I/we have applied to the Director of Public Works for a certificate that it is reasonable for me/us to obtain vacant possession of the whole of the above premises to enable me/us to re-build. Such a certificate would enable me/us under the Ordinance to evict you.

The Director of Public Works has given me/us notice that he does not propose to give me/us such a certificate and I/we have appealed to the Governor in Council against such notice.

A copy of my/our petition is herewith. The Ordinance requires me/us to inform you that within fourteen days of the service of this notice by posting it on the main door or entrance you may present a cross-petition by delivering the same to the Clerk of Councils, Secretariat, Victoria.

SCHEDULE B—(Contd.)

If you present a cross-petition you are also required under the Ordinance to deliver a copy thereof to me/us at the address beneath.

Sgd.
Address
Date

FORM 3. [s. 3E

TO all persons in occupation of

NOTICE TO QUIT AS A CONSEQUENCE OF GRANT OF A RE-BUILDING CERTIFICATE.

YOU ARE INFORMED that on the 195.... the Director of Public Works granted me/us a re-building certificate under the Landlord and Tenant Ordinance after the procedure of that Ordinance had been complied with.

THIS NOTICE posted on the main door or entrance is therefore notice to all persons in occupation of to quit peaceably on or before the expiration of two months from the giving of the said certificate, namely on or before the 195....

[Add, if contractual tenancy exists under which period of notice exceeds one month and if expiration of such contractual period of notice would be later than the two months period under the Ordinance—

The period of two months from the grant of the re-building certificate is extended under the Ordinance to the 195.... to enable this notice to operate as notice under the contractual tenancy which it is deemed under the Ordinance to be.]

Sgd.
Address
Date

FORM 4. [s. 11(1)

NOTICE OF RENT PAYABLE BY PRINCIPAL TENANT TO LANDLORD.

To all tenants in occupation of (1)

YOU ARE INFORMED, in accordance with section 11(1) of the Landlord and Tenant Ordinance, that the rent payable by me, to (2) my landlord in respect of (1) is dollars per (3) and is made up as follows—

(1) Standard rent is dollar per (3)

(2) Permitted increase(s) is/are— (4)

Dated the day of, 195....

Principal Tenant.

NOTES.

- (1) Identify premises.
(2) Give full name and address of landlord.
(3) State whether per week, month, etc.
(4) Give particulars of any permitted increase and state authority for charging the same (i.e. section of Ordinance or date of decision of tribunal).

SCHEDULE B—(Contd.)

FORM 5. [s. 12

TO the principal tenant in occupation of

NOTICE OF TERMINATION OF PRINCIPAL TENANCY.

I/WE HEREBY TERMINATE the tenancy of you (name) the principal tenant of the above premises, under section 12 of the Landlord and Tenant Ordinance and require you peaceably to deliver up the premises [on or before the expiration of one month from the third consecutive day of posting this notice on the main door or entrance, namely on or before the 195*].

You may elect either to deliver up the whole of the premises or to retain for your own use any part of the premises used by you before service of the notice for your own occupation. If you retain such portion you will pay a proportionate part of the rent previously paid to me/us with an addition of 30% under the Ordinance and will be a monthly tenant. You are required to elect by notice in writing to me/us within 14 days of service of this notice.

* [Substitute, if a period of notice is required by the contract between the landlord and the principal tenant— on or before the 195.....]

TO all tenants and sub-tenants in occupation of

TAKE NOTICE that with effect from the said date the 195 , you will be a tenant of me/us upon the same terms and conditions as you were a tenant of the principal tenant and the permitted rent under the Ordinance is thereafter to be paid to me/us. I/we shall be responsible for any obligations previously undertaken by the principal tenant.

Sgd.
Address
Date

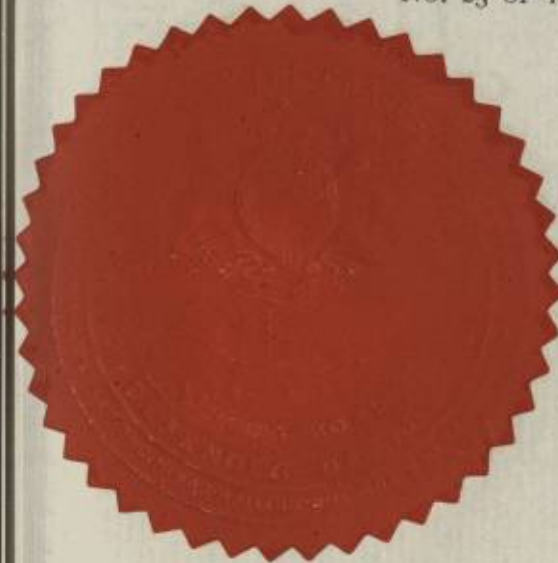
Passed the Legislative Council of Hong Kong, this 15th day of July, 1953.

[Signature]
Deputy Clerk of Councils.

(Secretariat T.C.2/53)

HONG KONG

No. 23 OF 1953.



McHannan
assent.

Governor.

27th August, 1953.

An Ordinance further to amend the Trade Marks Register
(Reconstruction) Ordinance, Chapter 262.

[28th August, 1953.]

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

1. This Ordinance may be cited as the Trade Marks Register Short title.
(Reconstruction) (Amendment) Ordinance, 1953.

2. Section 8 of the Trade Marks Register (Reconstruction) Amendment
Ordinance is amended by the deletion from the second line of of section
paragraph (b) of subsection (3) of the words "two years" and 8.
the substitution therefor of the following— (Cap. 262).

"seven years and ten months".

Passed the Legislative Council of Hong Kong, this 26th day
of August, 1953.

[Signature]
Deputy Clerk of Councils.

(Secretariat L/M 47/3231/47)

HONG KONG

No. 24 OF 1953.



I assent.

Governor.

27th August, 1953.

An Ordinance to amend the Verandahs and Balconies (Inclosure for Office Accommodation) Ordinance, Chapter 263.

[28th August, 1953.]

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

1. This Ordinance may be cited as the Verandahs and Balconies (Inclosure for Office Accommodation) (Amendment) Ordinance, 1953. Short title.

2. Section 4 of the Verandahs and Balconies (Inclosure for Office Accommodation) Ordinance is amended by the deletion of the figures "1953" and the substitution therefor of the following— Amendment of section 4. (Cap. 263).
"1955".

Passed the Legislative Council of Hong Kong, this 26th day of August, 1953.

Deputy Clerk of Councils.

(Secretariat 72/661/46)



HONG KONG

No. 25 OF 1953.



I assent.

W. Carrington
Governor.

10th September, 1953.

An Ordinance to amend the Fire and Marine Insurance Companies
Deposit Ordinance, Chapter 34.

[11th September, 1953.]

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

1. This Ordinance may be cited as the Fire and Marine Insurance Companies Deposit (Amendment) Ordinance, 1953. Short title.

2. Section 11 of the Fire and Marine Insurance Companies Deposit Ordinance (hereinafter referred to as the principal Ordinance) is repealed and replaced by the following new section— Repeal and replacement of section 11. (Cap. 34).

“Exemption.

(9 Edw. 7,
c. 49, 9 &
10 Geo. 6,
c. 28).

11. (1) An insurance company which after production to the Registrar of Companies of such evidence as he may require obtains from him a declaration that he is satisfied that it has complied with the Assurance Companies Acts, 1909 to 1946, shall, so long as it complies with the said Acts be exempted from the provisions of sections 4 and 5 hereof.

(2) Any insurance company entitled to exemption under subsection (1) shall also be exempt from the provisions of section 6 but shall deposit with such Registrar three copies of every account, balance sheet or other document which is required by the Assurance Companies Acts, 1909 to 1946, to be deposited with the Board of Trade duly signed as required by the said Acts, or by section 6 hereof, within one year of the close of the period to which such account, balance sheet or other document relates.

(3) Where a deposit has been made under section 4 or 5 and an insurance company becomes entitled under subsection (1) hereof to exemption from making such a deposit, or where a company incorporated outside the Colony satisfies the Registrar by such evidence as he may require that it has ceased to carry on insurance business in the Colony in the class of business in respect of which such deposit was made and that it has no outstanding liabilities under policies in that class issued in the course of carrying on business in the Colony such insurance company shall notwithstanding the provisions of section 4 be entitled to withdraw the deposit made.

(4) An insurance company which proves to the Registrar by such evidence as he may require and obtains a declaration from him that he is satisfied that it is maintaining a deposit in respect of fire or marine insurance business under any enactment in force in any part of the Commonwealth shall be exempt to the extent of such deposit from making a deposit under this Ordinance in respect of the class of insurance business to which such deposit relates.

(5) For the purpose of subsection (4) the rate to be employed in calculating the Hong Kong dollar equivalent of another Commonwealth currency shall be the rate that shall be certified by the Accountant General to be the opening selling rate of exchange quoted by the Hongkong & Shanghai Banking Corporation in respect of such currency on the date of the Registrar's declaration."

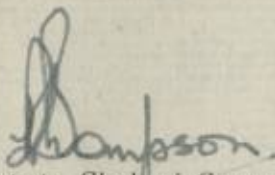
3. The Ordinance is amended by the addition at the end thereof of the following new section—

Addition of
new section
12.

"Extension
of time for
compliance
with
section 6.

12. The failure by an insurance company to comply with the provisions of section 6 during the period between the 25th day of December, 1941, and the 31st July, 1953, or in respect of any financial year of an insurance company ended during that period shall not be deemed to constitute default under the provisions of this Ordinance provided that the requirements of section 6 are fully performed and observed within six months from the 1st August, 1953, or within such further period not exceeding a further six months as the Registrar may permit, in respect of the last complete financial year of the insurance company preceding such date."

Passed the Legislative Council of Hong Kong, this 9th day of September, 1953.


Deputy Clerk of Councils.

(Secretariat 2/3231/47)

HONG KONG

No. 26 OF 1953.



I assent.

McArthur
Governor.

10th September, 1953.

An Ordinance to amend the Life Insurance Companies Ordinance,
Chapter 36.

[11th September, 1953.]

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

1. This Ordinance may be cited as the Life Insurance Short title.
Companies (Amendment) Ordinance, 1953.

2. Section 7 of the Life Insurance Companies Ordinance Amendment
(hereinafter referred to as the principal Ordinance) is amended by of section
the addition at the end thereof of the following new subsection— 7.
(Cap. 36).

“(3) This section shall not apply in the case of a com-
pany which being entitled to exemption under the provisions
of section 31 is entitled to withdraw a deposit under sub-
section (4) of that section.”

Repeal and replacement of section 31.

3. Section 31 of the principal Ordinance is repealed and replaced by the following—

“Exemptions.

(9 Edw. 7, c. 39, 9 & 10 Geo. 6, c. 28).

31. (1) A company which after production to the Registrar of such evidence as he may require obtains from him a declaration that he is satisfied that it has complied with the Assurance Companies Acts, 1909 to 1946, shall, so long as it complies with the said Acts, be exempted from the provisions of sections 3, 9 to 13 and 15 and 16 hereof.

(2) Any such company shall deposit with the Registrar three copies of every account, balance sheet, abstract statement or other document which is required by the Assurance Companies Acts, 1909 to 1946, to be deposited with the Board of Trade, duly signed as required by the said Acts or by section 15 hereof, within one year of the close of the period to which such account, balance sheet or other document relates.

(3) The Governor in Council may at any time in his discretion and for such period and subject to such conditions as he may think fit exempt any company from all or any of the provisions of this Ordinance.

(4) Where a deposit has been made under section 3 and a company becomes entitled under subsection (1) or (3) hereof to exemption from making such deposit the company shall be entitled to withdraw the deposit made.”

Addition of new section 33.

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

“Extension of time for compliance with certain sections.

33. (1) The failure by any company to comply with any applicable provisions of sections 10, 11, 12, 13 or 15, during the period between the 25th day of December, 1941, and the 31st day of July, 1953, or in respect of any financial year of a company ended during that period, shall not be deemed to constitute a default provided that

(a) in the case of a failure to prepare a statement required by sections 10 and 11 or to deposit the same under section 15 a statement in the prescribed form in respect of the last completed financial year of the company ended

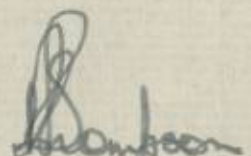
prior to the 31st day of July, 1953, is prepared and the signed original together with three copies are deposited within twelve months of that date,

and

(b) in the case of any default under sections 12 and 13 or in depositing any abstract or statement required by those sections pursuant to section 15 an investigation into the financial position of the company as it existed at a date not earlier than the 31st day of December, 1951, is made and that the actuarial report and abstract of report required under section 12 together with the statement required under section 13 is prepared and the signed original thereof together with three copies are deposited within twelve months from the 31st day of July, 1953.

(2) For the purpose of section 12, the period within which the investigation prescribed thereunder shall take place shall be computed from the date that the last investigation was made thereunder or under subsection (1)(b) hereof, whichever is the later.”

Passed the Legislative Council of Hong Kong, this 9th day of September, 1953.


Deputy Clerk of Councils.

(Secretariat 2/3231/47)

HONG KONG

No. 27 OF 1953.

I assent.

W. Hamilton
Governor.

24th September, 1953.

An Ordinance to amend The Hongkong and Shanghai Banking Corporation Ordinance (Chapter 70).

[25th September, 1953.]

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

1. This Ordinance may be cited as The Hongkong and Shanghai Banking Corporation (Amendment) Ordinance, 1953. Short title.

2. Section 11 of The Hongkong and Shanghai Banking Corporation Ordinance is amended by the deletion from the fourth line of subsection (1) and from the fourth line of subsection (3) of the words "forty-six million dollars" and the substitution therefor in each case of the following— Amendment of section 11. (Cap. 70).

"thirty million dollars".

Passed the Legislative Council of Hong Kong, this 23rd day of September, 1953.

[Signature]
Deputy Clerk of Councils.

(Secretariat 7/2961/46)



An Ordinance to provide for the payment of compensation to workmen who are injured in the course of their employment.

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

1. This Ordinance may be cited as the Workmen's Compensation Ordinance, 1953, and shall come into operation on such day as the Governor may appoint by Proclamation in the *Gazette*.

2. Section 17 of the Workmen's Compensation Ordinance, 1947, shall be amended by substituting for the words "workman" in section (1) of the said Ordinance the words "workman" as defined in section 2 of this Ordinance.

3. In this Ordinance, unless the context otherwise requires, the expression "workman" shall mean any person who has, either before or after the commencement of this Ordinance, entered into or works under a contract of service or apprenticeship with an employer in any employment as is for the time being



I assent.

[Signature]
Governor.

24th September, 1953.

An Ordinance to provide for the payment of compensation to workmen who are injured in the course of their employment.

[]

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

1. This Ordinance may be cited as the Workmen's Compensation Ordinance, 1953, and shall come into operation on such day as the Governor may appoint by Proclamation in the *Gazette*.

Short title and commencement.

2. (1) In this Ordinance, unless the context otherwise requires, the expression "workman", subject to section 4 and the proviso to this subsection, means any person who has, either before or after the commencement of this Ordinance, entered into or works under a contract of service or apprenticeship with an employer in any employment as is for the time being

Meaning of "workman."

specified in the First Schedule hereto, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing :

Provided that the following persons are excepted from the definition of "workman"—

- (a) any person employed otherwise than by way of manual labour whose average earnings at the time of the accident calculated in accordance with the provisions of section 10 exceed seven hundred dollars per month; or
 - (b) any person whose employment is of a casual nature, and who is employed otherwise than for the purposes of the employer's trade or business, not being a person employed for the purposes of any game or recreation and engaged or paid through a club; or
 - (c) an outworker; or
 - (d) a member of the employer's family dwelling in his house; or
 - (e) domestic servants employed in or about the affairs of a private household whether such servants reside with the household or otherwise; or
 - (f) any class of persons whom the Governor in Council may by order declare not to be workmen for the purposes of this Ordinance.
- (2) If, in any proceedings for the recovery of compensation under this Ordinance, it appears to the Court that the contract of service or apprenticeship under which the injured person was working, at the time when the accident causing the injury happened, was illegal, the Court may, if having regard to all the circumstances of the case it thinks proper so to do, deal with the matter as if the injured person had at the time aforesaid been a person working under a valid contract of service or apprenticeship.
- (3) Save for the purposes of section 16 or where the context otherwise requires, any reference to a workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative, or to his dependants or any of them or the Official Administrator or such other officer as the Governor may appoint to act on behalf of the dependants of the workman.

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

"Commissioner of Labour" includes the Deputy Commissioner of Labour and any labour officer appointed in that behalf in writing by the Commissioner of Labour;

"compensation" means compensation as provided by this Ordinance;

"Court" means the District Court of Hong Kong established under the District Courts Ordinance, 1953;

(1 of 1953).

"dependants" means those members of the family of a workman who were wholly or in part dependent upon his earnings at the time of his death, or would but for the incapacity due to the accident have been so dependent, and, where the workman, being the parent or grandparent of an illegitimate child, leaves such child so dependent upon his earnings, or being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child or parent or grandparent respectively :

Provided that a person shall not be deemed to be a partial dependant of another person unless he was dependant partially on contributions from that other person for the provision of the ordinary necessities of life suitable for persons in his class and position :

And provided further that where on application being made by a woman in accordance with rules made under this Ordinance the Court is satisfied that—

- (a) such woman and the deceased were living together as man and wife at the time of the accident; and
- (b) such woman was wholly or partially dependent on the earnings of the deceased at the time of his death or would but for the incapacity due to the accident have been so dependent,

the Court may, in its absolute discretion, order that such woman be deemed to be a dependant for the purposes of this Ordinance;

“earnings” means any wages paid in cash to the workman by the employer and any privilege or benefit which is capable of being estimated in money and includes the value of any food, fuel, or quarters supplied to the workman by the employer if as a result of the accident the workman is deprived of such food, fuel or quarters; and any overtime payments or other special remuneration for work done, whether by way of bonus, allowance or otherwise, if of constant character or for work habitually performed and including tips if the employment be of such a nature that the habitual giving and receiving thereof is open and notorious and is recognized by the employer: but shall not include remuneration for intermittent overtime, or casual payments of a non-recurrent nature, or the value of a travelling allowance, or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund, or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

“employer” includes Her Majesty in Her Government of the Colony and any body of persons corporate or incorporate and the legal personal representative of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Ordinance, be deemed to continue to be the employer of the workman whilst he is working for that other person; and in relation to a person engaged, employed or paid through a club or hostel, the manager or members of the managing committee of the club or hostel shall, for the purposes of this Ordinance, be deemed to be the employer;

“insurer” includes any insurance society, association, company or underwriter;

(Cap. 161) “medical practitioner” means a medical practitioner registered under the Medical Registration Ordinance or any medical practitioner employed by the Hong Kong Government;

“member of the family” means wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister, daughter-in-law, sister-in-law

and such persons are included whether the relationship is created by blood or by any adoption recognized as valid by the law of the Colony:

Provided that, in the case of a lawful Chinese customary marriage “wife” shall mean the *kil fat* or *tin fong* wife;

“outworker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the materials or articles;

“partial incapacity” means, where the incapacity is of a temporary nature, such incapacity as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the incapacity, and, where the incapacity is of a permanent nature, such incapacity as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Provided that every injury specified in the Second Schedule, except such injury or combination of injuries in respect of which the percentage or aggregate percentage of the loss of earning capacity as specified in that Schedule against such injury or injuries amounts to one hundred *per centum* or more shall be deemed to result in permanent partial incapacity;

Second
Schedule.

“total incapacity” means such incapacity whether of a temporary or permanent nature as incapacitates a workman for any employment which he was capable of undertaking at the time of the accident resulting in such incapacity:

Provided that permanent total incapacity shall be deemed to result from an injury or from any combination of injuries specified in the Second Schedule where the percentage or aggregate percentage of the loss of earning capacity as specified in that Schedule against such injury or injuries, amounts to one hundred *per centum* or more.

Second
Schedule.

Application to workmen employed under the Crown.

4. This Ordinance shall apply to workmen employed by or under the Crown in the same way and to the same extent as if the employer were a private person, except in the case of persons in the naval or military or air service of the Crown, persons in the Civil employment of Her Majesty otherwise than in Her Government of the Colony and persons in the Royal Hong Kong Defence Force, the Essential Services Corps, the Police Force, the Special Constabulary and the Hong Kong Police Reserve:

Provided that this Ordinance shall not apply in the case of a workman in, or selected for appointment to, the service of the Government of the Colony before the date upon which this Ordinance comes into operation where, in consequence of injury received by any such workman in the discharge of his duties, a pension or gratuity which would not be payable if such injury were received otherwise, is paid to him or, in the case of his death, to any of his dependants as defined in this Ordinance, under any Ordinance or regulation providing for the grant of such pension or gratuity.

Employer's liability for compensation for death or incapacity resulting from accident.

5. (1) If, in any employment, personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, subject as hereinafter provided, be liable to pay compensation in accordance with the provisions of this Ordinance and, for the purposes of this Ordinance, an accident resulting in the death or serious and permanent incapacity of a workman shall be deemed to arise out of and in the course of his employment, notwithstanding that the workman was at the time when the accident happened acting in contravention of any statutory or other regulation applicable to his employment, or of any orders given by or on behalf of his employer, or that he was acting without instructions from his employer, if such act was done by the workman for the purposes of and in connexion with his employer's trade or business:

Provided that—

- (a) the employer shall not be liable under this Ordinance in respect of any injury which incapacitates the workman for a period of less than three days from earning full wages at the work at which he was employed; and
- (b) if it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall be disallowed: Provided that where the injury results in death or serious and permanent incapacity, the Court

on consideration of all the circumstances may award the compensation provided by this Ordinance or such part thereof as it shall think fit.

(2) No compensation shall be payable under this Ordinance in respect of any incapacity or death resulting from a deliberate self-injury.

(3) No compensation shall be payable under this Ordinance in respect of any incapacity or death resulting from personal injury if the workman has at any time represented to the employer that he was not suffering or had not previously suffered from that or a similar injury, knowing that the representation was false.

(4) No compensation shall be payable under this Ordinance in respect of any injury, not resulting in death or serious and permanent incapacity, caused by an accident which is directly attributable to the workman's addiction to drugs or his having been at the time of the accident under the influence of alcohol.

6. Where death results from the injury—

Compensation in fatal cases.

- (a) if the workman leaves any dependants wholly dependent on his earnings, the amount of compensation shall be a sum equal to thirty-six months' earnings or ten thousand dollars whichever is less: but where in respect of the same accident compensation has been paid under the provisions of section 7, section 8, or section 9, there shall be deducted from the sum payable under this paragraph any sums so paid as compensation;
- (b) if the workman does not leave any dependants wholly dependent on his earnings, but leaves any dependants in part so dependent, the amount of compensation shall be such sum, not exceeding in any case the amount payable under paragraph (a), as may be determined by the Court to be reasonable and proportionate to the injury to the said dependants;
- (c) if the workman leaves no dependants, the reasonable expenses of the burial of the deceased workman and the reasonable expenses of medical attendance on the deceased workman, not exceeding in all the sum of four hundred dollars shall be paid by the employer.

7. Where permanent total incapacity results from the injury, the amount of compensation shall be a sum equal to forty-eight months' earnings or fourteen thousand dollars whichever is less.

Compensation in the case of permanent total incapacity.

Compensation in the case of permanent partial incapacity. Second Schedule.

8. (1) Where permanent partial incapacity results from the injury the amount of compensation shall be—

- (a) in the case of an injury specified in the Second Schedule, such percentage of the compensation which would have been payable in the case of permanent total incapacity as is specified therein as being the percentage of the loss of earning capacity caused by that injury; and
- (b) in the case of an injury not specified in the Second Schedule, such percentage of the compensation which would have been payable in the case of permanent total incapacity as is proportionate to the loss of earning capacity permanently caused by the injury.

(2) Where more injuries than one are caused by the same accident, the amount of compensation payable under the provisions of this section shall be aggregated, but not so in any case as to exceed the amount which would have been payable if permanent total incapacity had resulted from the injuries.

Compensation in the case of temporary incapacity.

9. (1) Where temporary incapacity whether total or partial results from the injury, the compensation shall be the periodical payments hereinafter mentioned payable at such intervals as may be agreed upon or as the Court may order, or a lump sum calculated accordingly, having regard to the probable duration, and probable changes in the degree, of the incapacity. Such periodical payments shall be, or shall be at the rate proportionate to, a monthly payment of half the difference between the monthly earnings which the workman was earning at the time of the accident and the monthly earnings which he is earning, or is capable of earning, in some suitable employment or business after the accident :

Provided that—

- (a) no periodical payment under the provisions of this section shall be at a higher rate than two hundred and fifty dollars a month;
- (b) if the incapacity lasts less than fourteen days, no compensation shall be payable in respect of the first three days;
- (c) neither the aggregate of the periodical payments nor the lump sum payable under this subsection shall exceed the lump sum which would be payable in respect of the same degree of incapacity under the provisions of section 7 or section 8, as the case may be, if the incapacity were permanent.

(2) In fixing the amount of the periodical payment, the Court shall have regard to any payment, allowance or benefit which the workman may receive from the employer during the incapacity.

(3) On the ceasing of the incapacity before the date on which any periodical payment falls due, there shall be payable in respect of that period a sum proportionate to the duration of the incapacity in that period.

(4) Where a workman in receipt of periodical payments under the provisions of this section intends to leave the Colony, for the purpose of residing elsewhere, he shall give notice of such intention to the Court which shall have jurisdiction to order the redemption of such periodical payments and to determine the amount to be paid :

Provided that any lump sum so ordered to be paid together with the periodical payments already made to the workman shall not exceed the lump sum which would be payable in respect of the same degree of incapacity under the provisions of section 7 or section 8, as the case may be, if the incapacity were permanent.

(5) If a workman in receipt of periodical payments under the provisions of this section leaves the Colony, for the purpose of residing elsewhere, without giving notice as provided in subsection (4), he shall not be entitled to any benefits under this Ordinance during or in respect of the period of his absence. If the period of such absence shall exceed three months, the workman shall cease to be entitled to any benefits under this Ordinance.

10. (1) For the purpose of this Ordinance, the monthly earnings of a workman shall be computed in such manner as is best calculated to give the rates per month at which the workman was being remunerated during the previous twelve months if he has been so long employed by the same employer, but, if not, then for any less period during which he has been in the employment of the same employer :

Method of calculating earnings.

Provided that where by reason of the shortness of the time during which the workman has been in the employment of his employer or of the casual nature of the employment, or of the terms of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average monthly amount which, during the twelve months previous to the accident, was being earned by a person of similar earning capacity in the same grade employed at the same work

by the same employer, or, if there is no person so employed, by a person of similar earning capacity in the same grade employed in the same class of employment and in the same district :

Provided further that any workman whose earnings calculated as aforesaid amount to less than fifty dollars per month, shall, for the purposes of this Ordinance, be deemed to have earnings of fifty dollars per month.

(2) For the purposes of the preceding subsection, employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

(3) Where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his monthly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident :

Provided that the earnings of the workman under the concurrent contract shall be taken into account only so far as the workman is incapacitated from performing the concurrent contract :

Provided further that this subsection shall not apply where a workman is in the full time employment of that employer for whom he was working at the time of the accident, in which case the earnings of such workmen shall be his earnings in such full time employment. For the purposes of this proviso, full time employment means employment for not less than forty-four hours during a minimum period of five days in any one week.

(4) Upon request of the workman or of the Commissioner of Labour to the employer liable to pay compensation, that employer shall furnish in writing a list of the earnings which have been earned by that workman upon which the amount of the monthly earnings may be calculated for the purpose of this section.

11. (1) The compensation shall be payable to or for the benefit of the workman, or, where death results from the injury, to or for the benefit of his dependants as provided by this Ordinance.

Persons entitled to compensation.

(2) Where there are both total and partial dependants nothing in this Ordinance shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

(3) Where a dependant dies before a claim in respect of death is made under this Ordinance, or, if a claim has been made, before an order for the payment of compensation has been made, the legal personal representative of the dependant shall have no right to payment of compensation, and the claim for compensation shall be dealt with as if that dependant had died before the workman.

12. (1) Compensation payable where the death of a workman has resulted from an injury shall be paid to the Court, and the Court may order any sum so paid in to be apportioned among the dependants of the deceased workman or any of them in such proportion as the Court thinks fit, or in the discretion of the Court, to be allotted to any one such dependant, and the sum so allotted to any dependant shall be paid to him or be invested, applied or otherwise dealt with for his benefit in such manner as the Court thinks fit.

Distribution of compensation.

Where, on application being made in accordance with rules made under this Ordinance, it appears to the Court that, on account of the variation of the circumstances of the various dependants, or for any other sufficient cause, an order made under this subsection ought to be varied, the Court may make such order for the variation of the former order as in the circumstances of the case the Court may think just :

Provided that no such order shall be made which requires the repayment by a dependant of any compensation already paid to him except where such payment has been obtained by fraud, impersonation or other improper means.

(2) Compensation payable under the provisions of section 7 or 8 and lump sums payable under the provisions of section 9 shall be paid to the Court, and any sum so paid shall be paid to the person entitled thereto or be invested, applied or otherwise dealt with for his benefit in such manner as the Court thinks fit.

(3) Nothing in this section shall prevent an employer from making any payment to a workman or dependant not exceeding five hundred dollars pending the settlement or determination of the claim, and the Court may order that the whole or any part of such payment shall be deducted from the amount of compensation payable to him under the provisions of this section.

(4) Any other compensation payable under this Ordinance shall be paid to the Court and when paid to the Court shall be paid by the Court to the person entitled thereto :

Provided that where compensation in the form of periodical payments for temporary incapacity has been agreed and approved in accordance with the provisions of section 16, then the Commissioner of Labour may direct in writing that such periodical payments shall be paid by the employer direct to the workman or to such other person for the benefit of the workman as the Commissioner of Labour may consider best fitted to provide for the welfare of the workman, and the receipt of such other person shall be a sufficient discharge in respect of the amount of any periodical payments so directed to be paid to such other person.

(5) The receipt of the Registrar of the Court shall be a sufficient discharge in respect of any amount paid to the Court under the provisions of this Ordinance.

(6) No appeal shall lie from any order or direction of the Court made or given under this section.

13. (1) Proceedings for the recovery under this Ordinance of compensation for an injury shall not be maintainable unless notice of the accident has been given to the employer by or on behalf of the workman, in the manner hereinafter provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the application for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury or, in the case of death, within six months from the date of death :

Provided that the want of, or any defect or irregularity in, a notice shall not be a bar to the maintenance of proceedings—

(a) if the application is made in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

Requirements as to notice of accident and application for compensation.

(b) if the employer is proved to have had knowledge of the accident from any other source at or about the time of the accident, or if it is found in the proceedings for settling that claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect or irregularity, or that such want, defect or irregularity was occasioned by mistake, absence from the Colony, or other reasonable cause.

(2) A notice under this section may be given either in writing or orally to the employer (or, if there is more than one employer, to one of such employers), or to any foreman or other official under whose supervision the workman is employed, or to any person designated for the purpose by the employer, and shall specify the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date on which and the place at which the accident occurred.

(3) The Court may receive and determine any application for compensation in any case notwithstanding that the notice required by subsection (1) has not been given, or that the application has not been made in due time as required by that subsection, if it is satisfied that there was reasonable excuse for the failure so to give notice or to make an application, as the case may be.

14. (1) Notice of an accident which results in personal injury to a workman shall be given in the prescribed form to the Commissioner of Labour by the employer of such workman as soon as practicable after the happening thereof.

Employer to report the injury to or death of a workman and method of notification.

(2) When the death of a workman from any cause whatever is brought to the notice of, or comes to the knowledge of, his employer, the employer shall, as soon as practicable after the occurrence of the death, give notice thereof to the Commissioner of Labour, and such notice shall state the circumstances of the death of the workman if they are known to the employer.

(3) For the purposes of subsection (2) the death of a workman on the premises of his employer shall be deemed to be within the knowledge of such employer.

(4) Any employer who, without reasonable cause, fails to comply with the provisions of subsection (1) or (2) shall be guilty of an offence and shall be liable on summary conviction therefor to a fine not exceeding one thousand dollars.

(5) Nothing contained in this section shall prevent any person from making a claim for compensation under this Ordinance.

Medical
examina-
tion and
treatment.

15. (1) Where a workman has given notice of an accident he shall, if the employer, before the expiry of seven days from the time at which notice has been given, offers to have him examined free of charge by a medical practitioner named by the employer, submit himself for such examination, and any workman who is in receipt of a periodical payment under section 9 shall, if so required by the employer, submit himself for such examination from time to time.

(2) The workman shall, when required, attend upon that medical practitioner at the time and place notified to the workman by the employer or that medical practitioner, provided such time and place is reasonable.

(3) In the event of the workman being, in the opinion of any medical practitioner, unable or not in a fit state to attend on the practitioner named by the employer, that fact shall be notified to the employer, and the medical practitioner so named shall fix a reasonable time and place for a personal examination of the workman and shall send him notice accordingly.

(4) If the workman fails to submit himself for such examination, his right to compensation shall be suspended until such examination has taken place; and if such failure extends over a period of fifteen days from the date when the workman was required to submit himself for examination under subsection (2) or subsection (3), as the case may be, no compensation shall be payable, unless the Court is satisfied that there was reasonable cause for such failure.

(5) The workman shall be entitled to have his own medical practitioner present at such examination, but at his own expense.

(6) Where the workman is not attended by a medical practitioner he shall, if so required by the employer, submit himself for treatment by a medical practitioner without expense to the workman.

(7) If the workman fails to submit himself for treatment by a medical practitioner when so required under the provisions of subsection (6), or having submitted himself for such treatment disregards the instructions of such medical practitioner, then if it is proved that such failure or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting incapacity shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had submitted himself for

treatment by, and duly carried out the instructions of, such medical practitioner, and compensation, if any, shall be payable accordingly.

(8) Where under this section a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension.

(9) Notwithstanding the previous provisions of this section, where a claim for compensation is made in respect of the death of a workman, then if the workman failed to submit himself to examination by a medical practitioner when so required under the provisions of this section, or failed to submit himself for treatment by a medical practitioner when so required under the provisions of this section or having submitted himself for such treatment disregarded the instructions of such medical practitioner, and if it is proved that such failure or disregard was unreasonable in the circumstances of the case and that the death of the workman was caused thereby, the death shall not be deemed to have resulted from the injury, and no compensation shall be payable in respect of the injury.

16. (1) An employer and workman may, after the injury in respect of which a claim to compensation has arisen, agree in writing as to the compensation to be paid by the employer: Provided that the compensation agreed upon shall not be less than the amount payable under the provisions of this Ordinance: Provided further that no such agreement shall be binding on any party thereto until the Commissioner of Labour has signified his approval thereof in writing.

Agreement
as to
compensation.

(2) Where the Commissioner of Labour has reason to believe that the interests of the workmen require that such agreement be read over and explained to him, then the Commissioner of Labour shall not signify his approval of such agreement until he has so read and explained it to him.

(3) Any such agreement shall be executed in triplicate and one copy retained by the employer and workman respectively, and one copy lodged with the Commissioner of Labour within three days after the date of the execution of such agreement.

(4) Any such agreement which has been approved by the Commissioner of Labour may, on application to the Court by any party thereto or by the Commissioner of Labour, be made an order of the Court.

(5) Where any such agreement has been approved by the Commissioner of Labour the Court may, notwithstanding that the agreement has been made an order of the Court under the provisions of subsection (4), on application by any party thereto or by the Commissioner of Labour within three months after the date of the signification of the Commissioner of Labour's approval, cancel it and make such order (including an order as to any sum already paid under the agreement) as in the circumstances the Court may think just, if it is proved—

- (a) that the sum paid or to be paid was or is not in accordance with the provisions of this Ordinance; or
- (b) that the agreement was entered into in ignorance of, or under a mistake as to, the true nature of the injury; or
- (c) that the agreement was obtained by such fraud, undue influence, misrepresentation or other improper means as would, in law, be sufficient ground for avoiding it.

(6) No stamp duty shall be leviable or payable on any agreement made pursuant to the provisions of this section.

Determina-
tion of
claims.

17. (1) If an employer on whom notice of the accident has been served under section 13 does not within twenty-one days after the receipt of the notice agree in writing with the workman as to the amount of compensation to be paid, the workman may, in the prescribed form and manner, make an application for enforcing his claim to compensation to the Court.

(2) All claims for compensation under this Ordinance, unless determined by agreement, and any matter arising out of proceedings thereunder shall be determined by the Court whatever may be the amount involved, and the Court may, for that purpose, call upon any person to give evidence, if the Court is of opinion that such person is, by virtue of his expert knowledge, able to assist the Court.

Review.

18. (1) Any periodical payment payable under this Ordinance either under agreement between the parties or under an order of the Court, may be reviewed by the Court on the application either of the employer or of the workman :

Provided that where the application for review is based on a change in the condition of the workman any such application shall be supported by a certificate of a medical practitioner.

(2) Subject to the provisions of this Ordinance, any periodical payment may, on review under this section, be continued, increased, diminished, converted to a lump sum, or ended. If

the accident is found to have resulted in permanent incapacity, the periodical payment shall be converted to the lump sum to which the workman is entitled under the provisions of section 7 or section 8, as the case may be, less any amount which he has already received by way of periodical payments :

Provided that if the aggregate of the periodical payments already paid exceeds the amount of the lump sum so awarded, the injured person, or his dependants, shall not be required to repay any excess so received.

(3) Where application is made by an employer under this section for any periodical payment to be ended or diminished and the application is supported by the certificate of a medical practitioner, the employer may pay into Court the periodical payment, or so much thereof as is equal to the amount by which he contends that the periodical payment should be diminished, to abide the decision of the Court made on a review under this section.

(4) In making a review under this section, the Court shall have regard only to the capacity for work of the workman as affected by the accident.

19. Subject to the provisions of subsection (5) of section 9, subsection (4) of section 15 and subsection (3) of section 18, an employer shall not be entitled, otherwise than in pursuance of an order of the Court—

Limitation
of power
of employer
to end or
decrease
periodical
payments.

- (a) to end periodical payments except—
 - (i) where a workman resumes work and his earnings are not less than the earnings which he was obtaining before the accident; or
 - (ii) where a workman dies;
- (b) to diminish periodical payments except—
 - (i) where a workman in receipt of periodical payments in respect of total incapacity has actually returned to work; or
 - (ii) where the earnings of a workman in receipt of periodical payments in respect of partial incapacity have actually been increased.

20. Save as is provided in this Ordinance and any rules made thereunder, the Court shall, upon or in connexion with any question to be investigated or determined thereunder, have all the powers and jurisdictions exercisable by the District Court in or in connexion with civil actions in such Court in like manner as

Jurisdiction
of the
Court.

if the Court had by the District Courts Ordinance been empowered to determine all claims for compensation under this Ordinance whatever the amount involved and the law, rules and practice relating to such civil actions and to the enforcement of judgments and orders of the Court shall *mutatis mutandis* apply.

Power of the Court to submit questions of law.

21. (1) The Court may, if it thinks fit, submit any question of law for the decision of the Full Court.

(2) Such submission shall be in the form of a special case in accordance with rules made under this Ordinance.

Appeals.

22. (1) Subject to the provisions of this section and of section 12, an appeal shall lie to the Full Court from any order of the Court.

(2) Except with the leave of the Court or of the Full Court (which shall not be granted unless in the opinion of the Full Court some substantial question of law is involved in the appeal) no appeal shall lie if the amount in dispute is less than one thousand dollars.

(3) No appeal shall lie in any case in which the parties have agreed to abide by the decision of the Court, or in which the order of the Court gives effect to an agreement come to by the parties.

(4) No appeal shall lie after the expiration of thirty days from the date of the order of the Court:

Provided that the Full Court may, if it thinks fit, extend the time within which to appeal under this section notwithstanding that that time has elapsed.

Liability in case of workmen employed by contractors.

23. (1) Where any person (in this section referred to as "the principal"), in the course of or for the purposes of his trade or business, contracts with any other person (which other person is in this section referred to as "the contractor") for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this Ordinance which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this Ordinance, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section.

(3) Where a claim or application for compensation is made under this section against a principal, the principal shall give notice thereof to the contractor who shall thereupon be entitled to intervene in any application made against the principal.

(4) Nothing in this section shall be construed as preventing a workman recovering compensation under this Ordinance from the contractor instead of the principal.

(5) This section shall not apply in any case where the accident occurred elsewhere than on, or in, or about premises on which the principal has undertaken to execute the work or which are otherwise under his control or management.

24. Where the injury in respect of which compensation is payable under the provisions of this Ordinance, was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof—

Remedies against both employer and stranger.

(a) the workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under the provisions of this Ordinance for such compensation, but shall not be entitled to recover both damages and compensation; and

(b) if the workman has recovered compensation under the provisions of this Ordinance, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under section 23 relating to liability in case of workmen employed by contractors, shall be entitled to be indemnified as regards the amount of compensation, including costs, by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in default of agreement, be settled by civil action.

25. (1) When the injury was caused by the personal negligence or wilful act of the employer or of some person for whose act or default the employer is responsible, nothing in this Ordinance shall affect any civil liability of the employer, but in that case the workman may, at his option, either claim compensation under this Ordinance or take proceedings independently of this Ordinance; but the employer shall not be liable to pay compensation for injury to a workman by accident arising out of and in the course

Remedies independently of Ordinance against employer.

15 & 16 Geo. 5, c. 84, s. 29.

of the employment both independently of and also under this Ordinance, and shall not be liable to any proceedings independently of this Ordinance, except in case of such personal negligence or wilful act as aforesaid.

(2) If, within the time limited for taking proceedings under this Ordinance by subsection (1) of section 13, an action is brought to recover damages independently of this Ordinance for injury caused by an accident, and it is determined in such action or on appeal that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay compensation under the provisions of this Ordinance, the action shall be dismissed; but the court in which the action is tried, or, if the determination is the determination (on an appeal by either party) by an appellate tribunal, that tribunal, shall, if the plaintiff so choose, proceed to assess such compensation, but may deduct from such compensation all or part of the costs, which, in its judgment, have been caused by the plaintiff bringing the action instead of proceeding under this Ordinance. In any proceeding under this subsection, when the Court or appellate tribunal assesses the compensation, it shall give a certificate of the compensation it has awarded and the directions it has given as to the deduction of costs, and such certificate shall have the force and effect of an order of the Court under this Ordinance :

Provided that an appellate tribunal may, instead of itself assessing such compensation, remit the case to the Court for the assessment of the compensation, and in such case may order the Court to deduct from the amount of compensation assessed by it all or part of such costs as aforesaid.

(3) Where, within the time limited for taking proceedings under this Ordinance by subsection (1) of section 13, an action is brought to recover damages independently of this Ordinance in respect of an injury giving rise to a claim for compensation under this Ordinance, and it is determined in that action that—

- (a) damages are recoverable independently of this Ordinance subject to such reduction as is mentioned in subsection (1) of section 4 of the Law Reform (Miscellaneous Provisions) Ordinance, 1951; and
- (b) the employer would have been liable to pay compensation under this Ordinance,

subsection (2) shall apply in all respects as if the action had been dismissed, and, if the plaintiff chooses to have compensation assessed and awarded in accordance with the said subsection (2), no damages shall be recoverable in the said action.

(36 of 1951).

26. Where a workman or his personal representative or dependant has recovered compensation under this Ordinance in respect of an injury caused under circumstances which would give a right to recover reduced damages in respect thereof by virtue of section 4 of the Law Reform (Miscellaneous Provisions) Ordinance, 1951, from some person other than the employer (hereinafter referred to as "the third party"), any right conferred by section 24 of this Ordinance on the person by whom the compensation was paid, or on any person called on to pay an indemnity under section 23 of this Ordinance, to be indemnified by the third party shall be limited to a right to be indemnified in respect of such part only of the compensation or indemnity paid or payable as bears to the total compensation or indemnity so paid or payable the same proportion as the said reduced damages bear to the total damages which would have been recoverable if the workman had not been at fault.

Limitation on right of indemnity against third party. (36 of 1951).

27. (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Ordinance to any workman, then, in the event of the employer becoming bankrupt, or making a composition or scheme of arrangement with his creditors, or, if the employer is a company, in the event of the company having commenced to be wound up or a receiver or manager of the company's business or undertaking having been duly appointed, or possession having been taken, by or on behalf of the holders of debentures secured by a floating charge, of any property comprised in or subject to the charge, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything contained in any laws relating to bankruptcy and the winding-up of companies for the time being in force, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer :

Provision as to cases of bankruptcy of employer.

Provided that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the bankruptcy or liquidation, or, as the case may be, he may recover the balance from the receiver or manager.

- (3) There shall be included amongst the debts which—
- (Cap. 6) (i) under the provisions of section 38 of the Bankruptcy Ordinance are in the distribution of the property or assets of a bankrupt, to be paid in priority to all other debts; and
 - (Cap. 32) (ii) under the provisions of section 250 of the Companies Ordinance are, in the winding-up of a company, to be paid in priority to all debts; and
 - (Cap. 32) (iii) under section 79 of the Companies Ordinance are to be paid in priority to any claim for principal or interest in respect of debentures,

the amount due in respect of any compensation or liability for compensation accrued before the following dates, that is to say—

- (a) in the first case, the date of the receiving order;
- (b) in the second case, the date of commencement of the winding-up of the company;
- (c) in the third case, the date of the appointment of the receiver or of possession being taken mentioned in the said section 79.

Where the compensation is a periodical payment, the amount due in respect thereof shall, for the purposes of this provision, be taken to be the amount of the lump sum for which the periodical payment could, if redeemable, be redeemed on an application being made for that purpose under the provisions of this Ordinance.

(4) The provisions of subsection (3) shall not apply where the bankrupt or the company has entered into such a contract with insurers as is referred to in subsection (1).

(5) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

Application to persons employed on ships.

28. (1) This Ordinance shall apply to masters, seamen and apprentices to the sea service who are workmen within the meaning of this Ordinance and are members of the crew of a Hong Kong ship, subject to the following modifications—

- (a) the notice of accident and the claim for compensation may, except where the person injured is the master, be given to the master of the ship as if he were the employer, but where the accident happened and the incapacity commenced on board the ship it shall not be necessary for any seaman to give notice of the accident;
- (b) in the case of the death of the master, seaman or apprentice, the application for compensation shall be made within two years after the occurrence of the death or, where the ship has been or is deemed to have been lost with all hands, within two years of the date on which the ship was, or is deemed to have been, so lost;
- (c) whenever in the course of any legal proceeding under this Ordinance the testimony of any witness is required in relation to the subject matter of the proceeding, then, upon due proof that the witness cannot be found in the Colony, any deposition which the witness may have previously made on oath in relation to the same subject matter before any justice or magistrate in Her Majesty's dominions or in any place where Her Majesty exercises jurisdiction or before any British Consular Officer elsewhere and which, if the proceeding had been under the Merchant Shipping Act, 1894, would have been admissible in such proceeding by virtue of sections 691 and 695 of that Act, shall be admissible in evidence subject to similar conditions as are laid down in the said sections 691 and 695;
- (d) in case of the death of a master, seaman or apprentice leaving no dependants, no compensation shall be payable, if the owner of the ship is, under any law in force for the time being in the Colony relating to merchant shipping, liable to pay the expenses of burial;
- (e) the periodical payment shall not be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in the Colony relating to merchant shipping, liable to defray the expenses of maintenance of the injured master, seaman or apprentice.

(57 & 58 Viet c. 60)

(2) This Ordinance shall also apply to any person, not being a master, seaman, or apprentice to the sea service, employed or engaged in any capacity on board and on or about the business of a Hong Kong ship and if he is otherwise a workman within the meaning of this Ordinance.

(3) This Ordinance shall not apply to such persons employed on a Hong Kong ship as are remunerated wholly or mainly by shares in the profits or the gross earnings of the working of such vessel except in such cases and subject to such modifications as the Governor in Council may by order provide.

(4) In this section—

“Hong Kong ship” includes—

- (a) any ship or vessel registered or licensed in the Colony and any other British ship or vessel the working of which is managed by a person who resides or has his principal place of business in the Colony; and
- (b) any ship or vessel not forming part of Her Majesty's Navy which is owned by Her Majesty in respect of Her Government of the Colony;

“ship”, “vessel”, “seaman” and “master” shall have the respective meanings ascribed to them by the Merchant Shipping Act, 1894.

(57 & 58 Vict. c. 60).

Contracting out.

29. Any contract or agreement whether made before or after the commencement of this Ordinance, whereby a workman relinquishes any right to compensation from an employer for personal injury by accident arising out of and in the course of his employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under the provisions of this Ordinance :

Provided that a workman, who has obtained compensation in respect of permanent partial or permanent total incapacity, may enter into a contract reducing or giving up his right to compensation under the provisions of this Ordinance in respect of any further personal injury by accident if such contract is certified to be fair and reasonable by the Commissioner of Labour.

30. Compensation payable under the provisions of this Ordinance shall not be capable of being assigned, charged or attached, and shall not pass to any other person by operation of law nor shall any claim be set off against such compensation.

Compensation not to be assigned, charged or attached.

31. An employer who, for the purpose of defraying or partly defraying the cost of insurance in respect of his liability to pay compensation under the provisions of this Ordinance, makes any deduction from the earnings of a workman in his employ, shall be guilty of an offence and on summary conviction liable to a fine not exceeding one thousand dollars and imprisonment for six months.

Deduction of insurance premiums from earnings to be an offence.

32. (1) It shall be lawful for the Governor in Council to make regulations—

Regulations.

- (a) requiring employers to make periodic or other returns as to such matters as he may think fit, and prescribing a time limit for the making of such returns;
- (b) requiring insurers carrying on in the Colony the business of insuring employers against their liabilities under this Ordinance to make periodic or other returns as to such matters as he may think fit, and prescribing a time limit for the making of such returns;
- (c) prescribing procedure, forms and fees;
- (d) prescribing anything which is to be or may be prescribed under this Ordinance;
- (e) for generally carrying into effect the provisions of this Ordinance and of any regulations made hereunder.

(2) Any regulations made under this Ordinance may provide that such contraventions thereof as may be specified shall constitute an offence and may provide for the punishment of any such offence on summary conviction by a fine of five hundred dollars and by imprisonment for a term of three months.

33. The Chief Justice may make Rules of Court for regulating proceedings before the Court under the provisions of this Ordinance, and for the fees payable in respect thereof.

Rules of Court.

Regulations as to transfer of funds.

34. Where an arrangement has been made whereby sums awarded under the law relating to workman's compensation in the Colony to beneficiaries resident or becoming resident in any other part of the Commonwealth, and sums awarded under the law relating to workman's compensation in such other part of the Commonwealth to beneficiaries resident or becoming resident in the Colony may, at the request of the authority by which the award is made, be transferred to and administered by a competent authority in such other part of the Commonwealth or in the Colony, as the case may be, the Governor in Council may make regulations—

- (a) for the transfer, in such manner as may be provided by the arrangement, to that part of the Commonwealth with which the arrangement is made, of any money in the disposition of the Court, applicable for the benefit of any person resident in or about to reside in such other part of the Commonwealth; and
- (b) for the receipt and administration, by an officer appointed by the Governor for such purpose, of any money which under any such arrangement has been transmitted from the part of the Commonwealth with which the arrangement has been made as money applicable for the benefit of any person resident or about to reside in the Colony.

Offences.

35. (1) Any person required to make a return by virtue of any regulation made under section 32 who—

- (a) fails to make such return within the time within which he is required to make it; or
- (b) makes or causes to be made a return which he knows to be false in any material particular; or
- (c) on being so required fails to give any information or explanation respecting the return which it is in his power to give,

shall be guilty of an offence and shall be liable, on summary conviction therefor to a fine not exceeding one hundred dollars for every day during which the default continues.

(2) Where a person convicted of an offence under this section is a company, the chairman and every director and every officer of the company shall be guilty of a like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

FIRST SCHEDULE.

[Section 2(1)]

Employment specified for the purposes of section 2(1).

1. Employment in connexion with the operation or maintenance of any mechanically propelled vehicle (including a tramcar or aircraft) used for the carriage or conveyance of passengers or goods for hire, or for industrial or commercial purposes; or
2. Employment in any premises registered, or required to be registered, as a factory or workshop under the Factories and Workshops Ordinance, Chapter 59; or
3. Employment in any mine or quarry or in any mining or quarrying operation, or in any kind of work incidental to or connected with any mining or quarrying operation or with the mineral obtained, or in any kind of work whatsoever below ground; or
4. Employment on a Hong Kong ship in any capacity mentioned in section 28; or
5. Employment for the purpose of fuelling, victualling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew; or
6. Employment in the operation of loading, unloading, storing, discharging, transferring or moving goods into or from railway trucks, lorries, aircraft, business premises, godowns or ships; or
7. Employment in the construction, repair, renovation, or demolition of—
 - (a) any building including the formation of the site thereof; or
 - (b) any dam, embankment, or water catchment; or
 - (c) any road, bridge, or tunnel; or
 - (d) any wharf, quay, sea-wall or other marine works whatsoever including any moorings of ships; or
8. Employment in setting up, repairing, maintaining, or taking down—
 - (a) any telegraph or telephone line or post; or
 - (b) any overhead electric line or cable or post or standard for the same; or
 - (c) any wireless mast or aerial or feeder or post or standard for the same; or
 - (d) any wired broadcasting line or cable, or post or standard for the same.
9. Employment in the construction, repair, inspection, upkeep or demolition of any underground sewer; or
10. Employment in the Fire Brigade, District Watch Force or as a watchman (otherwise than as a watchman employed exclusively in guarding a private dwelling); or
11. Employment in any occupation involving blasting operations; or
12. Employment in the making of any excavation; or
13. Employment in the supplying, generating, transforming or distribution of electrical energy or in the generating, supplying or distribution of gas; or
14. Employment in the Kowloon Canton Railway (British Section); or
15. Employment in the construction, working, repair or demolition of any pipeline or of any aerial ropeway; or

(FIRST SCHEDULE *Contd.*)

- 16. Employment in the training, keeping or working of race-horses or wild animals; or
- 17. Employment in the keeping or care of cattle, in the slaughter of cattle, swine, sheep or goats or in the care of domestic animals on behalf of the public; or
- 18. Employment as a diver; or
- 19. Employment in the production of cinematograph pictures intended for public exhibition or in the exhibition of such pictures; or
- 20. Employment in the manufacture or handling of explosives; or
- 21. Employment in the removal of any inflammable liquid from any place or ship to any other place or ship; or
- 22. Employment in the construction, maintenance or working of a lift or crane; or
- 23. Employment in a club, hostel, hotel, boarding house, restaurant, tea-house, eating house or cafe; or
- 24. Employment for the purpose of any game or recreation provided that the employee is engaged or paid through a club; or
- 25. Employment in felling and hauling timber.

SECOND SCHEDULE.

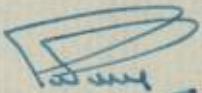
[Section 8]

<i>Items.</i>	<i>Injury.</i>	<i>Percentage of Loss of Earning Capacity.</i>
1.	Loss of two limbs	100
2.	Loss of both hands or of all fingers and both thumbs	
3.	Loss of both feet	
4.	Total loss of sight, including the loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential	
5.	Total paralysis	
6.	Injuries resulting in being permanently bedridden ...	
7.	Any other injury causing permanent total disablement	
8.	Loss of arm at shoulder	60
9.	Loss of arm between elbow and shoulder	50
10.	Loss of arm at elbow	47½
11.	Loss of arm between wrists and elbow	45
12.	Loss of hand at wrist	42½
13.	Loss of four fingers and thumb of one hand	42½
14.	Loss of four fingers	35

(SECOND SCHEDULE *Contd.*)

<i>Items.</i>	<i>Injury.</i>	<i>Percentage of Loss of Earning Capacity.</i>
15.	Loss of thumb—	
	both phalanges	35
	one phalanx	10
16.	Loss of index finger—	
	three phalanges	10
	two phalanges	8
	one phalanx	4
17.	Loss of middle finger—	
	three phalanges	6
	two phalanges	4
	one phalanx	2
18.	Loss of ring finger—	
	three phalanges	5
	two phalanges	4
	one phalanx	2
19.	Loss of little finger—	
	three phalanges	4
	two phalanges	3
	one phalanx	2
20.	Loss of metacarpals—	
	first or second (additional)	3
	third, fourth or fifth (additional)	2
21.	Loss of leg—	
	at or above knee	70
	below knee	40
22.	Loss of foot	40
23.	Loss of toes—	
	all of one foot	15
	great, both phalanges	5
	great, one phalanx	2
	other than great, if more than one toe lost, each	1
24.	Loss of sight of one eye	30
25.	Total loss of hearing	50
	(1) Total permanent loss of the use of a member shall be treated as loss of such member.	
	(2) Where there is loss of two or more parts of the hand, the percentage shall not be more than the loss of the whole hand.	

Passed the Legislative Council of Hong Kong, this 23rd day of September, 1953.


 Deputy Clerk of Councils.

(Secretariat 7569/45)

HONG KONG

No. 29 OF 1953.



I assent.

Governor.

24th September, 1953.

An Ordinance to amend the Pensions Ordinance, Chapter 89.

[25th September, 1953.]

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

1. This Ordinance may be cited as the Pensions (Amendment) Ordinance, 1953. Short title.

2. Section 17 of the Pensions Ordinance is hereby amended by the addition thereto of the following subsection as subsection (6)— Addition of new subsection (6) to section 17. (Cap. 89.)

“(6) This section shall not apply in the case of the death of any officer selected for appointment to the service of the Government on or after the date of commencement of The Workmen's Compensation Ordinance, 1953, if his dependants as defined in such Ordinance are entitled to compensation thereunder.”

Passed the Legislative Council of Hong Kong, this 23rd day of September, 1953.

Deputy Clerk of Councils.

(Secretariat 7569/45)

HONG KONG

No. 30 OF 1953.



I assent.

John M. Williams
Governor.

8th October, 1953.

An Ordinance to amend the Business Regulation Ordinance, 1952.
[9th October, 1953.]

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

1. This Ordinance may be cited as the Business Regulation Short title. (Amendment) Ordinance, 1953.
2. Section 2 of the Business Regulation Ordinance (hereinafter referred to as the principal Ordinance) is amended—
 - (a) by the deletion of the definition of "Director" and by the substitution therefor of the following—

"Director" means the Director of Commerce and Industry and includes any assistant director;"
 - (b) by the deletion of the definition of "licensed bank".
3. Section 3 of the principal Ordinance is amended by the deletion from the first line thereof of the word "Governor" and the substitution therefor of the following—

"Director".

Amendment of section 2. (14 of 1952).

Amendment of section 3.

Amend-
ment of
section 7.

4. Section 7 of the principal Ordinance is amended—

(a) by the deletion from the first line of subsection (2) of the word "him" and the substitution therefor of the following—

"applicant";

(b) by the deletion from the last line of subsection (5) of the fullstop and the addition thereto of the following—

"and that any such fee which has been paid be refunded.";

(c) by the deletion of subsection (6) and the substitution therefor of the following—

"(6) Applications for remission shall be ignored unless they are made—

(a) prior to the 16th day of August, 1953, in the case of a first application for registration under section 4 by a person who is carrying on business at the commencement of this Ordinance or who commences to carry on business subsequent thereto but prior to the 16th day of May, 1953;

(b) within three months of commencing to carry on business in the case of a first application for registration under section 4 by a person who commences to carry on business on or after the 16th day of May, 1953;

(c) in every other case, prior to the expiry of any current business registration certificate, in which event the remission if granted shall apply only to the annual period following such expiry."

Amend-
ment of
section 18.

5. Section 18 of the principal Ordinance is amended by the insertion in the third line after the word "document" of the following—

"required to be".

Passed the Legislative Council of Hong Kong, this 7th day of October, 1953.

Deputy Clerk of Councils.

(Secretariat 3/2301/47II)

HONG KONG

No. 31 OF 1953.



I assent.

Governor.

8th October, 1953.

An Ordinance to amend the Official Signatures Fees Ordinance, Chapter 88.

[9th October, 1953.]

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

1. This Ordinance may be cited as the Official Signatures Short title. Fees (Amendment) Ordinance, 1953.

2. Section 2 of the Official Signatures Fees Ordinance (hereinafter referred to as the principal Ordinance) is amended by the deletion from the first line of subsection (1) of the figures "38" and the substitution therefor of the following—

"40".

Amend-
ment of
section 2,
(Cap. 88).

Amend-
ment of
Schedule.

3. The Schedule to the principal Ordinance is amended by the deletion of the amounts specified in the column "Fee for signature" opposite "The Governor", "The Colonial Secretary" and "The Financial Secretary" and the substitution therefor in the said column of amounts as follows—

- (a) opposite "The Governor"—"\$20";
- (b) opposite "The Colonial Secretary"—"\$10";
- (c) opposite "The Financial Secretary"—"\$10".

Passed the Legislative Council of Hong Kong, this 7th day of October, 1953.


Deputy Clerk of Councils.

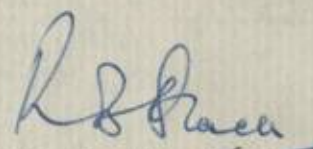
(Secretariat 36/2321/48)

HONG KONG

No. 32 OF 1953.



I assent.


Officer Administering the
Government.

22nd October, 1953.

An Ordinance further to amend the Registrar General (Establishment) Ordinance, Chapter 100.

[23rd October, 1953.]

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

1. This Ordinance may be cited as the Registrar General Short title. (Establishment) (Amendment) Ordinance, 1953.

2. Section 3 of the Registrar General (Establishment) Ordinance (hereinafter referred to as the principal Ordinance) is amended— Amendment
of section
3.
(Cap. 100).

- (a) by the insertion in the marginal note after the word "deputies" of the following—
" , legal assistants";
- (b) by the deletion of sub-paragraph (ii) of paragraph (b) of subsection (1), and the substitution therefor of the following new sub-paragraphs—
"(ii) legal assistants under the style of Legal Assistant to the Registrar General; and

(iii) other assistants under the style of Assistant Registrar,";

(c) by the insertion in the second line of subsection (2) after the word "General" of the following—

"or Legal Assistant to the Registrar General";

(d) by the addition after subsection (2) of the following new subsection—

"(3) The Registrar General, any Deputy Registrar General and any Legal Assistant appointed under this Ordinance shall be deemed to be legal officers for the purposes of the Legal Officers Ordinance and shall have all the rights vested in legal officers by that Ordinance."

(Cap. 87).

Amendment of section 4.

3. Section 4 of the principal Ordinance is amended—

(a) by the insertion in the marginal note after the word "deputies" of the following—

" , legal assistants";

(b) by the insertion in the first line of subsection (1) after the word "deputy" of the following—

"or legal assistant";

(c) by the insertion in the fourth line of subsection (2) after the word "General" of the following—

"or Legal Assistant to the Registrar General".

Amendment to the Schedule.

4. The Schedule to the principal Ordinance is amended—

(a) by the deletion from the third item of the following words—

"and Designs";

(b) by the insertion between the description "Official Receiver in Bankruptcy" and the description "Official Trustee" of the following—

"Official Solicitor in Lunacy".

Passed the Legislative Council of Hong Kong, this 21st day of October, 1953.

Deputy Clerk of Councils.

(Secretariat 16/3231/49)

HONG KONG

No. 33 OF 1953.



I assent.

Governor.

5th November, 1953.

An Ordinance to amend the Asiatic Emigration Ordinance, 1915.

[]

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 Asiatic Emigration Short title. (Amendment) Ordinance, 1953.

2. Section 2 of the Asiatic Emigration Ordinance, 1915, Amendment of section 2. (hereinafter referred to as the principal Ordinance) is amended by the deletion from the second line of paragraph (e) of subsection (1) of the words "Harbour Master" and by the substitution therefor of the following—

(30 of 1915).

"Director of Marine".

Amendment
of section
9.

3. Section 9 of the principal Ordinance is amended by the deletion from the fourth and fifth lines of the words "the Governor and the public seal of the Colony or under the hand and seal of".

Amendment
of section
11.

4. Section 11 of the principal Ordinance is amended by the deletion from the fifth, sixth and seventh lines of the words "the Colonial Secretary for a licence under the hand of the Governor and the public seal of the Colony" and by the substitution therefor of the following—

"the Emigration Officer for a licence under his hand".

Amendment
of section
13.

5. Section 13 of the principal Ordinance is amended by the deletion from the first line of the word "Governor" and by the substitution therefor of the following—

"Emigration Officer".

Amendment
of section
14.

6. Section 14 of the principal Ordinance is amended by the deletion from the first line of the word "Governor" and by the substitution therefor of the following—

"Emigration Officer".

Repeal and
replace-
ment of
section 15.

7. Section 15 of the principal Ordinance is repealed and replaced by the following—

"15. The grant of a general, special or outport licence shall be in the absolute discretion of the Emigration Officer".

Amendment
of section
16.

8. Section 16 of the principal Ordinance is amended—

- (a) by the deletion from the second line of paragraph (d) of the words "the Governor or";
- (b) by the deletion from the third line of paragraph (d) of the words "as the case may be".

Amendment
of section
20.

9. Section 20 of the principal Ordinance is amended—

- (a) in subsections (1) and (2) by the deletion wherever it occurs of the word "Governor" and by the substitution therefor of the following—
"Emigration Officer";
- (b) in subsection (4) by the deletion—
 - (i) from the first and second lines of the words "the Governor or by";

(ii) from the second and third lines of the words "the Governor or";

(iii) from the third line of the words "as the case may be".

10. The forms of general and special licence contained in the Eleventh Schedule are amended—

Amendment
of Eleventh
Schedule.

(a) by the deletion of the words "Governor and Commander-in-Chief of the Colony of Hong Kong and its Dependencies and Vice-Admiral of the same" and by the substitution therefor of the following—

"Emigration Officer of the Colony of Hong Kong";


(b) by the deletion from the bottom right hand corner of the word "Governor" and by the substitution therefor of the following—

"Emigration Officer".

11. This Ordinance shall not come into operation until Her Majesty's confirmation of the same has been proclaimed in the Colony by the Governor and thereafter it shall come into operation upon such day as the Governor shall by the same or any other proclamation appoint.

Suspending
clause.

Passed the Legislative Council of Hong Kong, this 4th day of November, 1953.


Deputy Clerk of Councils.

HONG KONG

No. 34 OF 1953.



I assent.

[Handwritten signature]
Governor.

5th November, 1953.

An Ordinance to amend the law in respect of the prerogative writs of mandamus, prohibition and certiorari, to abolish informations in the nature of quo warranto, and for purposes connected with the matters aforesaid.

[6th November, 1953.]

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

1. This Ordinance may be cited as the Administration of Justice (Miscellaneous Provisions) Ordinance, 1953. Short title.

2. (1) The prerogative writs of mandamus, prohibition and certiorari shall no longer be issued by the Supreme Court.

(2) In any case where the Supreme Court would, but for the provisions of subsection (1), have had jurisdiction to order the issue of a writ of mandamus requiring any act to be done, or a writ of prohibition prohibiting any proceedings or matter, or a writ of certiorari removing any proceedings or matter into the

Orders of mandamus, prohibition and certiorari to be substituted for prerogative writs of mandamus,

prohibition and certiorari. 1 & 2 Geo. 6, c. 63, s. 7.

Supreme Court for any purpose, the Court may make an order requiring the act to be done, or prohibiting or removing the proceedings or matter, as the case may be.

(3) The said orders shall be called respectively an order of mandamus, an order of prohibition and an order of certiorari.

(4) Applications for the said orders shall be heard and determined by one or more judges of the Supreme Court as the Chief Justice may direct in accordance with section 27 of the Supreme Court Ordinance.

(Cap. 4).

(5) No return shall be made to any such order and no pleadings in prohibition shall be allowed, but the order shall be final, subject to any right of appeal therefrom.

(6) In any enactment references to any writ of mandamus, prohibition or certiorari shall be construed as references to the corresponding order and references to the issue or award of any such writ shall be construed as references to the making of the corresponding order.

Power to make order of mandamus to magistrate. 1 & 2 Geo. 6, c. 63, s. 8. (Cap. 227).

3. The power of the Supreme Court under the Magistrates Ordinance to require the magistrate to state a case for the opinion of the Court shall be exercisable by order of mandamus.

Abolition of informations in the nature of quo warranto. 1 & 2 Geo. 6, c. 63, s. 9.

4. (1) Informations in the nature of quo warranto are hereby abolished.

(2) In any case where any person acts in an office in which he is not entitled to act and an information in the nature of quo warranto would, but for the provisions of subsection (1), have lain against him, the Supreme Court may grant an injunction restraining him from so acting and may, if the case so requires, declare the office to be vacant.

(3) No proceedings for an injunction under this section shall be taken by a person who would not immediately before the commencement of this Ordinance have been entitled to apply for an information in the nature of quo warranto.

5. Rules of Court may be made under section 37 of the Supreme Court Ordinance—

Rules to be made under section 37 of Cap. 4. 1 & 2 Geo. 6, c. 63, s. 10. (Cap. 4).

- (a) prescribing the procedure in cases where an order of mandamus, prohibition or certiorari is sought, or proceedings are taken for an injunction under section 4;
- (b) requiring, except in such cases as may be specified in the rules, that leave shall be obtained before an application is made for any such order or before any such proceedings are commenced;
- (c) requiring that, where leave is so obtained, no relief shall be granted and no ground relied upon, except with the leave of the Court, other than the relief and grounds specified when the application for leave was made.

Passed the Legislative Council of Hong Kong, this 4th day of November, 1953.

Deputy Clerk of Councils.

HONG KONG

No. 35 OF 1953.



I assent,

W. H. Murray
Governor.

19th November, 1953.

An Ordinance to authorize the North Pacific Insurance Company Limited to convert the currency of its capital.

[20th November, 1953.]

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

1. This Ordinance may be cited as the North Pacific Insurance Company Limited (Capital Conversion) Ordinance, 1953. Short title.

2. In this Ordinance—

“the Company” means the North Pacific Insurance Company Limited; Inter-pretation.

“Registrar” means a registrar, deputy and assistant registrar appointed by the Governor under subsection (2) of section 288 of the Companies Ordinance. (Cap. 32).

Conversion of currency of capital: procedure.

3. It shall be competent for the company to convert into sterling the currency of its capital (both authorized and issued) and to alter accordingly the denomination of the shares into which its capital is divided and such conversion and alteration may be effected in the following manner—

- (a) by special resolution of the Company authorizing such conversion and alteration and specifying in detail the manner and the date on which such conversion and alteration is to take place; and
- (b) by filing with the Registrar within one month of the passing of such resolution a certificate under the seal of the Company countersigned by the auditors of the Company certifying that such resolution has been duly passed and that in the opinion of the directors of the Company and of such auditors the net assets of the Company had at a date stated in the resolution which shall for all purposes be regarded as the date of conversion a value equivalent at the least to the amount of such converted capital as has been paid up;

Provided that the date stated in the resolution shall be a date not earlier than the date of the resolution by more than twelve months.

Issue of fresh certificate of incorporation.

4. Upon the filing of any such certificate as is referred to in paragraph (b) of section 3, the Registrar shall issue a fresh certificate of incorporation of the Company showing the capital of the Company as affected by such conversion and alteration. Such fresh certificate shall take the place of the original certificate of incorporation of the Company and shall be the certificate of incorporation of the Company.

Saving.

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

Passed the Legislative Council of Hong Kong, this 18th day of November, 1953.

Deputy Clerk of Councils.

(Secretariat 20/3231/53)

HONG KONG

No. 36 OF 1953.



I assent.

Governor's Deputy.

3rd December, 1953.

An Ordinance to amend the Crown Rights (Re-entry) Ordinance, Chapter 126.

[4th December, 1953.]

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

1. This Ordinance may be cited as the Crown Rights Short title. (Re-entry) (Amendment) Ordinance, 1953.

2. Section 5 of the Crown Rights (Re-entry) Ordinance (hereinafter referred to as the principal Ordinance) is amended by the deletion from the third line of the word "twelve", and the substitution therefor of the following—

"six".

3. The principal Ordinance is amended by the addition, after section 11, of the following new section—

"Acceptance of rent not to operate as a waiver of right of re-entry or forfeiture.

12. The acceptance of rent by or on behalf of the Crown shall not operate as a waiver by the Crown of any right of re-entry accruing or of any forfeiture incurred by reason of either the breach of any covenant in a Crown lease or the breach of any condition or stipulation in any tenancy of land held of the Crown."

Amendment of section 5. (Cap. 126).

Addition of new section 12.

Applica-
tion of
section 12
of the
principal
Ordinance.

4. The provisions of section 12 of the principal Ordinance shall apply to all tenancies of Crown land whether created before or after the commencement of this Ordinance, and shall also apply whether the acceptance of rent occurred before or after the commencement of this Ordinance.

Passed the Legislative Council of Hong Kong, this 2nd day of December, 1953.


Deputy Clerk of Councils.

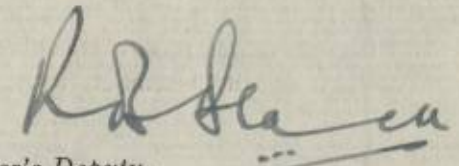
(Secretariat 29/3231/53)

HONG KONG

No. 37 OF 1953.



I assent.


Governor's Deputy.

3rd December, 1953.

An Ordinance to amend the Tallyclerks (Licensing) Ordinance, Chapter 85.

[1st January, 1954.]

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 Tallyclerks (Licensing) (Amendment) Ordinance, 1953, and shall come into operation on the 1st day of January, 1954. Short title and commencement.

2. Section 4 of the Tallyclerks (Licensing) Ordinance (hereinafter referred to as the principal Ordinance) is amended by the deletion from the first line of subsection (1) of the words "The Director of Commerce and Industry" and the substitution therefor of the following— Amendment of section 4. (Cap. 85).

"The Director of Marine".

Insertion
of new
section 6A.

3. The principal Ordinance is amended by the insertion after section 6, of the following new section—

“Wearing
of arm-
bands or
badges.

6A. (1) Every tallyclerk licensed under this Ordinance shall, at any time when he is engaged in tallying cargo for the tallying of which a licence is required under this Ordinance, wear an arm-band or badge of a type and in a manner approved by the Director: Penalty: a fine of fifty dollars.

(2) No person other than a tallyclerk licensed under this Ordinance shall wear an arm-band or badge of the type or similar to the type approved by the Director in accordance with subsection (1): Penalty: a fine of two hundred dollars.”

Amendment
to
Schedule.

4. The Schedule to the principal Ordinance is amended by the deletion of the words “*Director of Commerce and Industry*” and the substitution therefor of the following—

“*Director of Marine*”.

Passed the Legislative Council of Hong Kong, this 2nd day of December, 1953.

Deputy Clerk of Councils.

(Secretariat 36/2961/46)

HONG KONG

No. 38 OF 1953.



I assent.

Governor.

17th December, 1953.

An Ordinance to amend the Hong Kong and Yaumati Ferry Company (Services) Ordinance, 1951.

[18th December, 1953.]

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

1. This Ordinance may be cited as the Hong Kong and Yaumati Ferry Company (Services) (Amendment) Ordinance, 1953. Short title.

2. The Hong Kong and Yaumati Ferry Company (Services) Ordinance, 1951 (hereinafter referred to as the principal Ordinance) is amended by the insertion after section 6 of the following new section— Addition of
new section
6A.
(11 of
1951).

“Power
for the
Financial
Secretary
to call
upon the

6A. (1) It shall be lawful for the Financial Secretary for the purpose of ascertaining the net profits of the Company during any period in respect of which royalty is payable under the terms and conditions con-

Company and certain persons dealing with the Company to produce books and statements of account.

tained in the Schedule or of ascertaining whether any deduction which the Company has made or may be seeking to make from profits is reasonable, by writing under his hand to call upon the Company and any person (other than a bank) who has entered into any agreement with the Company or to whom it has made any payment to produce to such person and at such time and place as may by any general or particular description be specified in such writing such books and statement of account (including bank statements) as he may by such writing require.

(2) The Company or any person aggrieved by any exercise of the discretion conferred upon the Financial Secretary may appeal to the Governor in Council whose decision shall be final.

(3) Without prejudice to the right of appeal conferred by subsection (2) it shall be an offence to fail to comply with any requirement lawfully made under subsection (1) or any requirement which may have been confirmed or substituted therefor on appeal under subsection (2): Penalty: a fine of one hundred dollars in respect of each day during which such failure continues."

Amendment of Schedule.

3. The Schedule to the principal Ordinance is amended as follows—

- (a) in paragraph 1—
 - (i) by the deletion from the third line thereof of the words "across the harbour of Hong Kong";
 - (ii) by the deletion from the fourth line thereof of the words "between the frontages and piers" and the substitution of the following—
"specified in Appendix I";
- (b) in paragraph 2 by the insertion immediately after the word "piers" in the second line thereof of the following—
"specified in paragraph 3";
- (c) by the deletion of paragraph 3 and the substitution of the following paragraph—

"3. (1) The Company shall pay as pier rent to the Government for the use of the piers specified in this section the total sum of \$45,900 a month

inclusive of rates. The said rent shall be payable in advance on the first day of each calendar month and shall be apportioned among the piers as follows—

(a) Jubilee Street Ferry Pier	\$ 22,000
(b) Jordan Road Ferry Pier	13,500
(c) Mongkok Ferry Pier	2,500
(d) Shamshuipo Ferry Pier	2,500
(e) Tonnochy Road Ferry Pier	2,000
(f) Wilmer Street Ferry Pier	3,000
(g) Cheung Chau Ferry Pier	400
	\$ 45,900
	\$ 45,900

(2) If any other pier be substituted for a pier specified in sub-paragraph (1), the amount of rent therefor shall be such sum as may be agreed between Government and the Company regard being had to the capital cost of the said substituted pier (excluding the cost of frontage) and including interest on capital cost at the rate of 4 per cent: Provided that such agreed sum shall not result in the monthly total of rent payable as aforesaid being exceeded."

- (d) in paragraph 4 by the deletion of sub-paragraph (3);
- (e) by the deletion of paragraph 5 and the substitution of the following paragraph—

"5. (1) The Company shall pay to the Government a royalty of twenty-five per cent of the net profit of the Company for each year.

(Cap. 112).

(2) The net profit as aforesaid shall be ascertained in accordance with Part IV of the Inland Revenue Ordinance provided that in making the deductions set forth in section 16 thereof due regard shall be had to the current level of prices and costs, so that any such deduction shall be limited to a sum which in the opinion of the Financial Secretary is reasonable, and so that allowance of any sum by way of depreciation of a capital asset shall be limited to an amount which represents the allowance approved under Part VI of the said Ordinance on what in the opinion of the Financial Secretary is a reasonable price for such asset.

(3) The Financial Secretary and any person authorized by him in writing shall for the purpose of ascertaining the net profit be an authorized representative of the Company for the purposes of section 4 of the Inland Revenue Ordinance to the intent that the Commissioner of Inland Revenue and any assessor or person appointed to carry out duties under the said Ordinance shall, on demand by the Financial Secretary, disclose all such matters relating to the affairs of the Company as the Financial Secretary or such authorized person may require, and such disclosure shall not be deemed to be a breach of the duties imposed upon the person making it by the said section.

(4) In the event of the Company failing to agree with the assessment of net profit made by the Financial Secretary, an appeal shall lie to the Governor in Council, whose decision shall be final.

(5) As from the 1st January, 1954, the Company shall make monthly payments on account of the royalty accruing during each current accounting year of the Company and the amount of each such payment shall be a sum equal to one twelfth of twenty-five per cent of the estimated net profit for the current year or such sum as the Financial Secretary may determine. As soon as the net profit for the current year has been ascertained a final adjustment shall be made and Government shall refund any sum paid on account in excess of the royalty due for that year or if the amounts paid on account by the Company are less than the royalty due, the Company shall pay Government the balance thereof.”;

- (f) in paragraph 11—
- (i) by the insertion after the word “piers” in the second line thereof of the following—
“specified in paragraph 3”;
 - (ii) by the deletion of the colon in the eighth line thereof and the substitution of a full-stop;
 - (iii) by the deletion of the second proviso;
- (g) in paragraph 13—
- (i) by the deletion from the second line of “1912,”;
 - (ii) by the deletion of the colon in the third line thereof and the substitution of a full-stop;

- (iii) by the deletion of the proviso;
 - (iv) by the deletion from the marginal note of “Ordinance No. 19 of 1912” and the substitution of the following—
“(Cap. 52)”;
- (h) by the deletion of paragraph 15;
- (i) in paragraph 16—
- (i) by the insertion after the word “represented” in the first line of sub-paragraph (1) of the following—
“that the Company is and will continue to be a public company;”;
 - (ii) by the insertion after the word “British;” in the sixth line of sub-paragraph (1) of the following—
“that all the books and accounts of the Company will be kept in the English language;”;
 - (iii) by the deletion of the full-stop at the end of sub-paragraph (1) and the substitution of a comma and the addition of the following—
“in which event the ferry services shall be deemed to have been discontinued and the provisions of sub-paragraphs (2) and (3) of paragraph 8 shall apply.”;
- (j) by the deletion of paragraph 17 and the substitution of the following paragraph—

“17. (1) The Governor in Council may, on giving ten months’ notice, expiring at the expiration of the concession, such notification to be published in the *Gazette*, require the Company to sell, and thereupon the Company shall sell, to the Government its undertaking for and in consideration of the then value of the same without any addition in respect of goodwill, compulsory purchase, expectation or possibility of renewal, or of any profits which might have been made from the undertaking.

(2) The power of compulsory purchase given by sub-paragraph (1) shall apply also to any event upon which under the provisions of this Schedule the ferry services have been discontinued or must be deemed to have been discontinued save that in such case no period of notice shall be required and

the powers may be exercised by notification published in the *Gazette* at any time after the occurrence of such event.”;

(k) in paragraph 19—

(i) by the deletion from the second line of sub-paragraph (1) of the date “1st January, 1964,” and the substitution of the following—

“31st December, 1963,”;

(ii) by the deletion from the sixth line of sub-paragraph (1) of the figures “1964” and the substitution of the following—

“1965”;

(iii) by the deletion from the second line of sub-paragraph (2) of the date “1st January, 1969,” and the substitution of the following—

“31st December, 1968,”;

(iv) by the deletion from the second line of sub-paragraph (3) of the date “1st January, 1974,” and the substitution of the following—

“31st December, 1973,”;

(l) by the deletion of paragraph 21;

(m) by the deletion of Appendix I and the substitution of the following Appendix—

“APPENDIX I.

FERRY RUNS.

- | | | | |
|-----|-----------------------------------|---|----------------------------------|
| (a) | Jubilee Street Pier | — | Jordan Road Pier. |
| (b) | Jubilee Street Pier | — | Mongkok Pier. |
| (c) | Jubilee Street Pier | — | Shamshuipo Pier. |
| (d) | Tonnochy Road Pier | — | Jordan Road Pier. |
| (e) | Wilmer Street Pier | — | Shamshuipo Pier. |
| (f) | Jubilee Street Pier | — | Cheung Chau Pier. |
| (g) | Jubilee Street Pier | — | Silvermine Bay. |
| (h) | Wilmer Street Pier—Aberdeen— | | Cheung Chau Pier. |
| (i) | Wilmer Street Pier—Aberdeen— | | Tai O. |
| (j) | Jubilee Street Pier—Ping Chau— | | Silvermine Bay—Cheung Chau Pier. |
| (k) | Jubilee Street Pier—Kap Shui Mun— | | Castle Peak—Tung Chung—Tai O. |
| (l) | Jubilee Street Pier | — | Tai O. |

FERRY PIERS AND FRONTAGES.

<i>Ferry Piers</i>	<i>Frontages</i>
Jubilee Street Pier	Praya from Gilman Street to Pottinger Street.
Jordan Road Pier	North side of Waterloo Road to North face of Public Pier at Kowloon Point.
Mongkok Pier	North side of Waterloo Road to Prince Edward Road.
Shamshuipo Pier	North side of Prince Edward Road to North West boundary of Military Camp, Shamshuipo.
Tonnochy Road Pier	Western entrance Causeway Bay Typhoon Shelter to Eastern boundary of Royal Naval Dockyard.
Wilmer Street Pier	Praya from Gilman Street to Cadogan Street.
Cheung Chau Pier	The shore of Cheung Chau Island.

FERRY POINTS AND FRONTAGES.

<i>Ferry Points</i>	<i>Frontages</i>
Aberdeen	The whole of the village of Aberdeen to the East of Aberdeen Wholesale Fish Market.
Silvermine Bay	The Eastern and Western shores of Lantau Island.
Tai O	The North Western shores of Lantau Island.
Ping Chau	The shore of Ping Chau Island.
Kap Shui Mun	The shore of Mah Wan Island.
Tung Chung	The North Western shores of Lantau Island.
Castle Peak	The shore three miles either side of the Public Pier at Castle Peak.

(n) in Appendix II—

(i) by the insertion immediately below the heading “FARES AND CHARGES” of the following—

“1. ACROSS THE HARBOUR SERVICES”;

(ii) by the addition at the end thereof of the following—

“2. OTHER SERVICES.

	<i>1st Class</i>	<i>3rd Class</i>	<i>Freight (per cwt.)</i>
HONG KONG—PING CHAU ISLAND	60 cents	50 cents	50 cents
—SILVER-MINE BAY (Indirect Service)	70 cents	60 cents	60 cents
(Direct Service)	\$1.00		

	<i>1st Class</i>	<i>3rd Class</i>	<i>Freight (per cwt.)</i>
—CHEUNG CHAU ISLAND (Indirect Service)	90 cents	70 cents	70 cents
—CHEUNG CHAU ISLAND (Direct Service)	\$1.20	\$1.00	
HONG KONG—KAP SHUI MUN	60 cents	50 cents	50 cents
—CASTLE PEAK	60 cents	50 cents	50 cents
—TUNG CHUNG	\$1.20	\$1.00	\$1.00
—TAI O	\$1.20	\$1.00	\$1.00
—TAI O (Sunday Excursion)	\$2.00 (All Classes)		
PING CHAU—SILVERMINE BAY	30 cents	20 cents	20 cents
—CHEUNG CHAU	60 cents	40 cents	40 cents
SILVERMINE BAY—CHEUNG CHAU	30 cents	20 cents	20 cents
—PING CHAU	30 cents	20 cents	20 cents
KAP SHUI MUN—CASTLE PEAK	60 cents	50 cents	} 50 cents per cwt.
—TUNG CHUNG	60 cents	50 cents	
—TAI O	60 cents	50 cents	
CASTLE PEAK—TUNG CHUNG	60 cents	50 cents	
—TAI O	60 cents	50 cents	
TUNG CHUNG—KAP SHUI MUN	60 cents	50 cents	
—CASTLE PEAK	60 cents	50 cents	
—TAI O	60 cents	50 cents	
ABERDEEN—CHEUNG CHAU	\$1.20		
—TAI O	\$1.20		

(o) by the deletion of Appendix III.

Commencement and transitional.

4. (1) The provisions of the Schedule to the principal Ordinance as amended by section 3 of this Ordinance shall, save and except the provisions of sub-paragraph (5) of paragraph 5 of the Schedule, be deemed to have had effect from the 1st day of January, 1951.

(2) Notwithstanding subsection (1), the Company shall continue until the 31st day of December, 1953, to make payments of pier rent and royalty in accordance with the provisions of paragraphs 3 and 5 of the Schedule to the principal Ordinance before its amendment by this Ordinance.

(3) So soon as may be after the 31st day of December, 1953, pier rent and royalty for the period from the 1st day of January, 1951, to the 31st day of December, 1953, both days inclusive, shall be calculated in accordance with the provisions of paragraphs 3 and 5 of the Schedule to the principal Ordinance as amended by this Ordinance, and the sums so calculated shall be the sums lawfully due to the Government by way of pier rent and royalty for the said period.

(4) Where the sums lawfully due to the Government by virtue of subsection (3) exceed those actually paid by the Company by way of pier rent and royalty for the said periods, the Company shall pay the difference to the Government; and where the sums actually paid by the Company by way of pier rent and royalty for the said periods exceed those lawfully due to the Government by virtue of subsection (3), the Government shall repay the difference to the Company.

Passed the Legislative Council of Hong Kong, this 16th day of December, 1953.


Deputy Clerk of Councils.

(Secretariat 10/3231/51)

HONG KONG

No. 39 OF 1953.

I assent.


Robert Gordon
Governor.

17th December, 1953.

An Ordinance to provide for the incorporation of the local representative in Hong Kong of the Institute of the Marist Brothers of the Schools.

[18th December, 1953.]

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

1. This Ordinance may be cited as the Institute of the Marist Brothers of the Schools Incorporation Ordinance, 1953. Short Title.

2. The representative for the time being in Hong Kong of the Institute of the Marist Brothers of the Schools hereinafter referred to as the Visitor, shall be a body corporate, hereinafter referred to as the corporation, and shall have the name "The Visitor in Hong Kong of the Institute of the Marist Brothers of the Schools" and in that name shall have perpetual succession, Incorporation.