

and, where the warrant is directed to all members of the Force, any member thereof may execute the same in like manner as if it were directed to him by name.

(e) No such warrant shall be avoided by the death of the magistrate who issued the same or by his ceasing to be a magistrate for any other reason.

(6) The provisions of subsections (2), (3) and (4) of section 18 shall apply to any person arrested or to be arrested under any such warrant as they apply to a person arrested or to be arrested under the provisions of subsection (1) of that section.

(7) When any person who has been arrested on a warrant issued under the provisions of subsection (5) is brought before the court, the court may, at the conclusion of the proceedings in respect of the offence or offences with which he was charged, call upon such person to show cause why he should not be punished in respect of his failure to attend in accordance with the notice served upon him under the provisions of subsection (1) or of his failure to appear before the court in accordance with the provisions of subsection (4), as the case may be, and, if he fails to show any reasonable cause to the satisfaction of the court, such person shall be liable to a fine of five hundred dollars and to imprisonment for two months.

20. Any stall, table, show board, barrow, cart, tricycle or bicycle or any other furniture or paraphernalia, together with any accompanying appliances or utensils, and also any food, drink or goods of whatever kind intended to be sold, whether they are or appear to be abandoned or not, belonging to or in the possession of, or appearing to such member of the Force to belong to or to be in the possession of, any person committing, or appearing to such member of the Force to be committing or to have committed, any scheduled offence may be seized, carried away and detained at the owner's risk by any member of the Force:

Provided that, in the case of anything so seized which is perishable, the Director or any public officer authorized by him in that behalf may cause the same to be sold or otherwise disposed of forthwith.

21. Without prejudice to the provisions of section 20, any member of the Force may examine and, if he considers it necessary, detain anything which appears to be or to contain evidence of the commission of any scheduled offence or of an offence under section 23, 25 or 29.

22. Any member of the Force may take the photograph, finger-prints, weight and measurements of any person who has been arrested under the provisions of this Ordinance:

Provided that, if any such person who has not previously been convicted is subsequently discharged or acquitted, any photograph (both negative and copies), finger-print impressions and records of weight or measurements so taken shall be destroyed forthwith or delivered to such person.

PART IV.

Offences and Penalties.

23. Any person who causes, or attempts to cause, or does any act calculated to cause, disaffection amongst the members of the Force or induces or attempts to induce, or does any act calculated to induce, any member of the Force to withhold his services or to commit breaches of discipline, shall be guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars and to imprisonment for two years.

Offences in relation to disaffection in the Force.

24. Any member of the Force who threatens or insults any other member thereof of senior or equal rank when—

- (a) such other member is on duty; or
- (b) such threat or insult relates to or is consequent on the discharge of duty by the member so threatened or insulted,

Offences in relation to threatening or insulting members of Force of senior or equal rank.

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

25. Any person who knowingly—

- (a) makes or causes to be made to any member of the Force a false report of the commission of any offence; or
- (b) misleads any member of the Force by giving false information or by making false statements or accusations,

Making of false reports, etc. to member of Force.

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

26. Any person who assaults, resists or obstructs any member of the Force acting in the execution of his duty, or aids or incites any person to assault or resist any such member of the Force, shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred and fifty dollars and to imprisonment for six months.

Assaulting or resisting member of Force.

27. Any person who contravenes the provisions of section 15 shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars and may, in addition, be ordered by the court before which he is convicted to pay to the Government an amount equal to the value of the property.

Contravention of section 15 to be an offence.

Power to seize goods in certain cases and forfeiture thereof.

Power to examine and detain anything appearing to be, etc. evidence of scheduled offence, etc.

Power to take photographs, etc. of arrested person.

Harbouring,
etc. member
of the Force
on duty.

28. Any keeper of any place for the entertainment of the public, whether spirituous liquors are sold therein or not, who knowingly harbours or entertains any member of the Force on duty or permits any member of the Force to remain in such place while on duty shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred and fifty dollars.

Unauthorized
wearing of
Force
uniform, etc.

29. If any person who is not a member of the Force wears, without the permission of the Commandant, the uniform of the Force or any dress having the appearance, or bearing any of the distinctive marks, of that uniform, he shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred and fifty dollars.

PART V.

Supplementary and Miscellaneous.

Disposal of
things seized
under
section 20.

30. (1) If, within forty-eight hours of its seizure, the owner of anything seized under the provisions of section 20 makes a claim to the Director for its return, the Director shall, if he is satisfied that the claimant is the owner of such thing and if such thing is not detained or otherwise dealt with under the provisions of any other enactment or required as an exhibit in any proceedings, return such thing to the claimant or, if it has been sold or otherwise disposed of under the provisions of the proviso to that section, pay to the claimant such sum by way of compensation as he may consider just.

(2) If no claim for the return of anything seized under the provisions of section 20 is made to the Director within forty-eight hours of its seizure, such thing shall become the property of the Crown and may be sold or disposed of in such manner as the Director may direct:

Provided that—

- (a) nothing in this subsection shall be construed to prevent the immediate disposal of perishables under the provisions of the proviso to section 20; and
- (b) any person who considers himself aggrieved by such seizure may, within seven days thereafter, complain to the court, and the court shall, if satisfied—
 - (i) as to the title of the complainant; and
 - (ii) that no scheduled offence was committed by the complainant or by any other person in relation to the article or thing in respect of which the complaint is made,
 direct either that such thing be returned to the complainant or, if it has been sold or otherwise disposed of, that such sum by

way of compensation be paid to the complainant as it may consider just.

31. The provisions of section 48 of the Magistrates Ordinance shall apply to any property which has come into the possession of any member of the Force in connexion with any scheduled offence or an offence under section 23, 25 or 29 as they apply to property which has come into the possession of the police in connexion with any criminal offence.

Application
of section
48 of
Magistrates
Ordinance.
(Cap. 227).

32. In case any action is brought against any member of the Force for any act done in obedience to the warrant of any magistrate issued under the provisions of subsection (5) of section 19, such member shall not be responsible for any irregularity in the issuing of the warrant or for any want of jurisdiction in the magistrate issuing the same and he may plead the general issue and give such warrant in evidence, and, on production of the warrant and proof that the signature thereto is the handwriting of a person reputed to be a magistrate and that the act was done in obedience to the warrant, the court or jury shall find a verdict or give judgment for the defendant who shall also recover his costs of suit.

Protection of
member of
Force acting
in obedience
to warrant.

33. The Governor in Council may by order amend, or add any enactment to or delete any enactment from, the First Schedule.

Amendment
of First
Schedule.

34. For the avoidance of doubt, it is hereby declared that the provisions of the Police Force Ordinance shall, subject to the provisions of this Ordinance, continue to apply in all respects to the Commandant, the inspectors of the Force and any non-commissioned officers who are appointed on secondment from the Police Force.

Saving in
respect of
application of
Police Force
Ordinance to
members of
Force
appointed by
Commissioner
of Police, etc.
(Cap. 232).

35. Nothing in the provisions of section 11 shall be deemed to affect the application to any non-commissioned officer to which that section applies or to any constable of Colonial Regulations, so far as they are applicable, or the General Orders of the Government, so however that no such officer or constable shall be liable to be proceeded against under those Regulations or Orders in respect of any act or omission which has been the subject of disciplinary proceedings before the Commandant under the provisions of the said section 11.

Saving in
relation to
application of
Colonial
Regulations
and Govern-
ment General
Orders.

36. Nothing in the provisions of this Ordinance shall be deemed to affect the right of the Crown to dismiss or terminate the appointment of any member of the Force and without compensation.

Saving in
relation to
prerogative
rights of
Crown.

FIRST SCHEDULE.

[s. 2.]

Scheduled Offences.

Section 26.

Section 54(1) of the Public Health and Urban Services Ordinance, 1960.

Regulations made under section 55, 56, 80(1) or 83 of the Public Health and Urban Services Ordinance, 1960.

Sections 3(4) and 5 of the Summary Offences Ordinance (Chapter 228).

By-law 3 of the Public Cleansing and Prevention of Nuisances By-laws, 1960.

Rule 3 and rules 153 to 200 inclusive of the New Territories Rules (Vol. IX, p. 89).

SECOND SCHEDULE.

[s. 8.]

Oath or Declaration of Office.

I, _____
 swear by almighty God
 do solemnly and sincerely declare }

that I will well and faithfully serve Her Majesty and Her Heirs and Successors according to law as a member of the Hawker Control Force, that I will obey, uphold and maintain the laws of the Colony of Hong Kong, that I will execute the powers and duties of my office honestly, faithfully and diligently without fear of or favour to any person and with malice or ill-will toward none, and that I will obey without question all lawful orders of those set in authority over me.

Signature.

SWORN
 DECLARED } before me
 this day of 19 }

Magistrate/Justice of the Peace.

THIRD SCHEDULE.

[s. 19.]

Form of Notice.

HAWKER CONTROL FORCE ORDINANCE, 1960.

Section 19.

TAKE NOTICE that you, _____
 of _____
 (here insert residence (if any)), having been arrested by me on suspicion of being guilty of an offence against _____

(here insert provisions alleged to have been contravened), are hereby required to attend at _____
 (here specified place) on the _____ day of _____, 19____
 at _____ o'clock for the purpose of being dealt with in the manner provided in subsections (2), (3) and (4) of section 19 of the Hawker Control Force Ordinance, 1960.

AND FURTHER TAKE NOTICE that if you fail, without reasonable cause to the satisfaction of a court, to attend at the place, and on the day and at the time, specified in this notice you will be liable to a fine of five hundred dollars and to imprisonment for two months.

This notice was issued by _____
 (here insert name and description of issuing officer) at _____
 on the _____ day of _____, 19____ (here insert place and time of issue)

Signature of issuing officer.

FOURTH SCHEDULE.

[s. 19(5).]

Warrant for arrest.

HONG KONG.

IN THE MAGISTRATE'S COURT AT

To each and all of the members of the Hawker
 Control Force of the said Colony.

Application having been made this day to me, a magistrate of the said Colony, for the issue of a warrant under section 19(5) of the Hawker Control Force Ordinance, 1960, for the arrest of _____, on the ground that the said _____

*(a) failed to attend at the place, and on the day and at the time, specified in a notice served upon him under the provisions of section 19(1) of the said Ordinance;

*(b) failed to appear before the court in accordance with the provisions of section 19(4) of the said Ordinance,

and oath (or declaration) having been made before me substantiating the matter in respect of which such application was made: These are, therefore, to command you, in Her Majesty's name, forthwith to apprehend the said _____

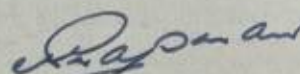
Dated this _____ day of _____, 19____.

[L.S.]

(Signed) _____
Magistrate.

* Delete whichever is inapplicable.

Passed the Legislative Council of Hong Kong, this 13th day of July, 1960.


Deputy Clerk of Councils.

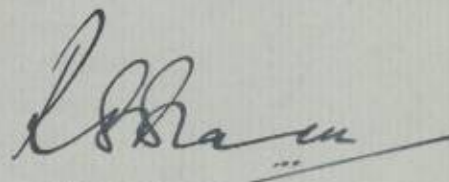
(Secretariat GR6/2532/46II)

HONG KONG

No. 32 OF 1960.



I assent.


Governor.

11th August, 1960.

An Ordinance to amend the Pearl Culture (Control) Ordinance, 1958.

[12th August, 1960.]

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 Pearl Culture (Control) Short title. (Amendment) Ordinance, 1960.

2. Section 2 of the Pearl Culture (Control) Ordinance, 1958 (hereinafter referred to as the principal Ordinance) is amended—

Amendment
of section 2.
(26 of 1958).

(a) by the insertion before the definition "cultivation area" of the following new definition—

““Commissioner” means the Commissioner for Co-operative Development and Fisheries;”;

(b) by the deletion of the definition “Director”;

(c) by the deletion of the definition “pearl oyster” and the substitution therefor of the following—

““pearl oyster” means any genus or species of oyster specified in the Schedule;”;

Schedule.

- (d) by the insertion in the definition "cultivate" after the words "purpose of promoting the" of the following—
"propagation or".

Amendment
of section 6.

3. Section 6 of the principal Ordinance is amended—

(a) in subsection (1)—

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

"(a) a temporary licence for a period of six months renewable at the discretion of the Commissioner, for further periods of six months each but not exceeding an aggregate period of two years; or";

(ii) in paragraph (b) by the deletion of the words and brackets—

"(inclusive of the duration of any temporary licence granted to the same person under paragraph (a))";

(b) in subsection (3)—

(i) in paragraph (a) by the deletion of the word "or";

(ii) in paragraph (b) by the deletion of the full stop and the substitution therefor of the following—

"; or"; and

(iii) by the addition after paragraph (b) of the following new paragraph—

"(c) if the licensee is convicted of any offence against any of the provisions of this Ordinance."; and

(c) by the addition after subsection (4) of the following new subsection—

"(5) Notwithstanding anything contained in this section, the Commissioner may in his discretion, and subject to such conditions or restrictions as he may think fit, in lieu of granting a licence, grant free of charge to any person or organization permission in writing to engage solely in scientific research work relating to the culture of pearls or the cultivation of pearl oysters; and such permission shall, for the purposes of this Ordinance, be deemed to be a sufficient licence for the carrying on of such work and matters necessarily incidental thereto."

Amendment
of section 8.

4. Section 8 of the principal Ordinance is amended by the deletion of subsection (2) and the substitution therefor of the following—

"(2) Any person who acts in contravention of any of the provisions of subsection (1) shall be guilty of an offence and liable to a fine of twenty thousand dollars and to imprisonment for twelve months."

5. Section 9 of the principal Ordinance is repealed.

Repeal of
section 9.

6. Section 10 of the principal Ordinance is amended by the deletion of all words after "shall be guilty of an offence," and the substitution therefor of the following—

Amendment
of section 10.

"and shall be liable to a fine of twenty thousand dollars and imprisonment for twelve months."

7. Section 16 of the principal Ordinance is amended—

Amendment
of section 16.

(a) in subsection (1)—

(i) in paragraph (i) by the insertion after the words "pearl oysters" of the following—

"or the spawn thereof"; and

(ii) in paragraph (j) by the deletion of the words "the size and types" and the substitution therefor of the following—

"the size, types or numbers"; and

(b) in subsection (2) by the deletion of the words "one thousand dollars" and the substitution therefor of the following—

"ten thousand dollars".

8. The principal Ordinance is amended by the addition after section 16 of the following new section—

Addition of
new section
16A.

"Amendment
of Schedule.

16A. The Governor in Council may by order published in the *Gazette* amend or cancel the Schedule."

9. The principal Ordinance is amended by the addition after section 18 of the following Schedule—

Addition of
Schedule.

"SCHEDULE.

[s. 2.]

Pearl Oysters.

All species of the genus *Pteria*.

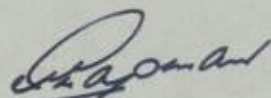
All species of the genus *Pinctada*."

10. The principal Ordinance is amended by the deletion of the word "Director" wherever it appears and the substitution therefor of the following—

Substitution of
"Commissioner" for
"Director".

"Commissioner".

Passed the Legislative Council of Hong Kong, this 10th day of August, 1960.


Deputy Clerk of Councils.

(Secretariat CR5/2586/56)

HONG KONG

No. 33 OF 1960.



I assent.

Governor.

11th August, 1960.

An Ordinance further to amend the Mining Ordinance, 1954.

[12th August, 1960.]

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 Mining (Amendment) Short title. Ordinance, 1960.

2. Section 2 of the Mining Ordinance, 1954 (hereinafter referred to as the principal Ordinance) is amended—

Amendment
of section 2.
(33 of 1954).

(a) by the deletion of the definition “mineral” and the substitution therefor of the following—

““mineral” does not include mineral oils but includes—

(a) metalliferous ores and other substances in their natural state which are obtainable only by mining or in the course of prospecting operations;

- (b) metalliferous ores and other substances in their natural state mined or obtained in the course of prospecting operations;
- (c) the valuable parts of such ores or other substances when unmanufactured; and
- (d) the product of treating or dressing such ores or other substances for marketing or export;

but save in section 3 and save for the purposes of Part VIII of this Ordinance and of any regulations made under this Ordinance relating to safety in mines shall not include clay other than kaolin or murrum, sand, limestone, granite, porphyry or chalk, or any stone or common mineral substances as the Governor may by notice in the *Gazette* declare not to be minerals for the purpose of this Ordinance;”;

- (b) by the deletion from the definition of the words “prospect” and “prospecting”—

- (i) of the comma after the word “land” and the substitution therefor of a semicolon; and

- (ii) of the following appearing after the word “land”—
“but do not include the removal of overburden from ground which can reasonably be sampled by pits not exceeding seven feet in depth or by bore-holes;”.

- 3. Section 12 of the principal Ordinance is repealed.

- 4. Section 13 of the principal Ordinance is amended—

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

“(1) Where any area has been closed to prospecting or mining under section 11 compensation shall be paid by the Governor out of the general revenue to the holder of a prospecting or mining licence or the lessee of a mining lease who is adversely affected by such closure.”;

- (b) by the deletion of subsection (2) and the substitution therefor of the following—

“(2) Compensation shall be payable in the case of a prospecting licence in respect of disturbance and for the expenses incurred in prospecting the area and in the case of a mining licence or lease in respect of disturbance and for the loss of reasonable expectation of profits from proved minerals in, under or upon any land within the area in respect of which the mining licence or lease is held.”;

Repeal of
section 12.

Amendment
of section
13.

- (c) by the deletion from the marginal note of the following—
“or 12”.

- 5. Section 14 of the principal Ordinance is amended by the deletion from the proviso to subsection (4) of the word “two” and the substitution therefor of the following—
“five”.

Amendment
of section
14.

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

- (a) in subsection (1)—

- (i) by the deletion of the word “drill” and the substitution therefor of the following—

“make bore holes”;

- (ii) by the insertion at the end thereof of the following—

“, subject to the terms and conditions of the licence”;

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

“(3) The holder of a prospecting licence shall not take any steps which may have the object or direct result of minerals being won in quantities in excess of those required to prove the mineral-bearing qualities and quantities of the area the subject of the licence.”.

Amendment
of section
15.

- 7. Section 18 of the principal Ordinance is repealed.

Repeal of
section 18.

- 8. Section 20 of the principal Ordinance is amended—

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

“(a) if the holder thereof or any attorney, partner, agent or servant of such holder is convicted of any offence against this Ordinance or the regulations made thereunder;”;

- (b) by the deletion of paragraph (b) and the substitution therefor of the following—

“(b) if the holder commits any breach of the provisions of this Ordinance, or of the regulations made thereunder, or of the terms or conditions whether express or implied of his licence, not amounting to an offence against this Ordinance or the regulations made thereunder, and if, on being called upon by the Commissioner to show cause within a time specified why his licence should not be revoked, he fails to comply with such order or if the cause shown is in the opinion of the Commissioner inadequate;”;

Amendment
of section
20.

- (c) by the deletion of paragraph (c);
- (d) by the deletion of the word "prior" in paragraph (d).

Addition of
new section
20A.

9. Part IV of the principal Ordinance is amended by the addition at the beginning thereof immediately below the heading "MINING" of the following new section—

"Mining.

20A. Mining shall only be lawful under a mining licence or mining lease."

Amendment
of section
21.

10. Section 21 of the principal Ordinance is amended—

- (a) by the deletion of the full stop at the end of subsection (1) and the substitution therefor of a colon and the addition thereafter of the following new proviso—

"Provided that the person, if any, who is carrying on under licence adequate prospecting operations on the area shall be preferred;"

- (b) by the deletion of the proviso to subsection (4) and the substitution therefor of the following—

"Provided that the total period of the original licence together with all renewals thereof shall not, save with the consent of the Governor, exceed five years."

Amendment
of section
22.

11. Section 22 of the principal Ordinance is amended—

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

"(a) if the holder thereof or any attorney, partner, agent or servant of such holder is convicted of any offence against this Ordinance or the regulations made thereunder;"

- (b) by the deletion of paragraph (b) and the substitution therefor of the following—

"(b) if the holder commits any breach of the provisions of this Ordinance, or of the regulations made thereunder, or of the terms or conditions whether express or implied of his licence, not amounting to an offence against this Ordinance or the regulations made thereunder, and if, on being called upon by the Commissioner to show cause within a time specified why his licence should not be revoked, he fails to comply with such order or if the cause shown is in the opinion of the Commissioner inadequate;"

- (c) by the deletion of paragraph (c);
- (d) by the deletion of the word "prior" in paragraph (d).

12. Subsection (1) of section 23 of the principal Ordinance is amended by the deletion of the words "if he is satisfied" and the substitution therefor of the following—

Amendment
of section
23.

"if the Commissioner is satisfied".

13. Section 25 of the principal Ordinance is amended—

Amendment
of section
25.

- (a) by the deletion of the proviso to subsection (1);
- (b) by the addition after subsection (2) of the following new subsection—

"(3) The Governor in Council may authorize the grant or renewal of a mining lease for a term of more than twenty-one years."

14. Subsection (1) of section 32 of the principal Ordinance is amended—

Amendment
of section
32.

- (a) by the deletion after the brackets and figure "(1)" of the definite article "The" and the substitution therefor of the following—

"Subject to the provisions of subsections (2), (3), (4) and (5), the";

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

"(a) if the lessee or any attorney, partner, agent or servant of such lessee is convicted of any offence against this Ordinance or the regulations made thereunder;"

- (c) by the deletion of paragraph (b) and the substitution therefor of the following—

"(b) if the lessee commits any breach of the provisions of this Ordinance, or of the regulations made thereunder, or of the terms or conditions whether express or implied of his lease, not amounting to an offence against this Ordinance or the regulations made thereunder, and, on being given an opportunity to show cause as required by subsection (2), fails to show cause within a reasonable time or shows cause which is in the opinion of the Commissioner inadequate;"

- (d) by the deletion of paragraph (c);
- (e) by the deletion of the word "prior" in paragraph (d).

15. Section 34 of the principal Ordinance is amended by the repeal of subsection (1) and the substitution therefor of the following—

Amendment
of section
34.

"(1) Reasonable compensation for—

- (a) the use of the surface of any private land within the area of a prospecting or mining licence or of a mining lease and any disturbance of the surface rights in such land; and

- (b) any damage to any land wherever situate or to anything built, planted, grown or standing thereon caused by prospecting or mining operations,

shall be paid by the person prospecting or mining to the owner of the land and any lawful occupier thereof.”.

Repeal of section 35.

16. Section 35 of the principal Ordinance is repealed.

Amendment of heading of Part VI.

17. The heading “POSSESSION AND PURCHASE OF MINERALS” of Part VI of the principal Ordinance is amended by the insertion of the following between the words “OF” and “MINERALS”—

“SPECIFIED”.

Repeal and replacement of section 36.

18. Section 36 of the principal Ordinance is repealed and replaced by the following—

“Meaning of specified minerals for purposes of this Part.

36. For the purposes of this Part, the term “specified minerals” means any minerals, in their unmanufactured state, to which the Governor may, by order, apply this Part.”.

Amendment of Part VI.

19. Part VI of the principal Ordinance is amended by the deletion of the term “minerals” wherever it appears in sections 37 to 42 and the substitution therefor of the following—

“specified minerals”.

Repeal and replacement of section 49.

20. Section 49 of the principal Ordinance is repealed and replaced by the following—

“Accidents to be reported.

49. (1) If in any mine, or in connexion with mining or prospecting operations, any accident causing loss of life occurs, the lessee or the holder of the licence shall within twenty-four hours of its occurrence report the accident to a mines officer and to the nearest police station.

(2) Any other accident occurring within the area of the lease or licence and resulting in disablement of any employee of the lessee or the holder of the licence so as to cause him to be incapable of performing his ordinary work for one day or more shall be reported to a mines officer by the lessee or the holder of the licence within forty-eight hours of its occurrence.

(3) If, in any mine, or in connexion with mining or prospecting operations, any dangerous occurrence, as specified in the regulations made under the Ordinance, takes place, whether any personal injury has been caused or not, the lessee or the holder of the licence shall within

twenty-four hours report such occurrence to a mines officer, and in the case of such an occurrence in the New Territories to the appropriate District Officer.

(4) If any accident causing disablement is reported under subsection (2) and the person disabled subsequently dies as a result of the accident, notice in writing of the death shall be given within twenty-four hours thereof to a mines officer and to the police station nearest to the place where the accident occurred.

(5) Every report made under subsection (1) or (2) shall state the names of every person suffering death or disablement, the nature and extent of the injuries to every such person, and the circumstances in which the accident occurred, and may be made by telephone, orally or in writing.

(6) Every report made under subsection (3) shall be in writing, and in addition to any report required under subsection (1) or (2), and shall include particulars of the time of the occurrence of the accident, any damage to the building in which the accident occurred or to the machinery or plant therein, and the circumstances in which the accident occurred.”.

21. Paragraph (d) of section 53 of the principal Ordinance is amended by the deletion of—

Amendment of section 53.

(a) the words “or prohibition”; and

(b) the word and figures “or 12”.

22. Section 57 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 57.

“Wilfully or recklessly giving false information or withholding information, and contravention of section 67A(8).

57. Any person who—

(a) wilfully or recklessly gives false information, or who withholds information, as to any of the matters in respect of which information is required to be given under this Ordinance or the regulations made thereunder; or

(b) contravenes the provisions of subsection (8) of section 67A,

shall be guilty of an offence and shall be liable to a fine of one thousand dollars and to imprisonment for six months.”.

23. Subsection (1) of section 61 of the principal Ordinance is amended by the deletion of the words “under this Ordinance or the regulations” and the substitution therefor of the following—

Amendment of section 61.

“against section 37, 38, 40, 41 or 53”.

Addition of
new section
67A.

24. The principal Ordinance is amended by the addition thereto, after section 67, of the following new section—

"Power of
Land Officer
and Com-
missioner
to require
giving of
security, and
provisions
in connexion
therewith.

67A. (1) In the case of a mining lease, the Land Officer, and, in the case of a prospecting or mining licence, the Commissioner, may—

- (a) as a condition precedent to the grant or renewal thereof; or
- (b) at any time during the currency thereof,

require the person to whom the lease or licence is to be granted or whose lease or licence is to be renewed or the lessee or licensee as the case may be, to give, within such reasonable period as he may specify, security for any one or more or all of the following—

- (i) any sum which may become payable under section 34 by way of compensation;
- (ii) any sum which may become payable to the Crown by way of royalties, rental or fees;
- (iii) any sum which may become payable to the Crown by way of damages or otherwise in respect of any contravention of any term, covenant or condition of the lease or licence or which may become payable to the Crown under such terms, covenants or conditions or under any regulations made under this Ordinance or otherwise.

(2) Where security has been given in accordance with the provisions of subsection (1), the Land Officer, in the case of a mining lease, and the Commissioner, in the case of a prospecting or mining licence, may, so long as the lease or licence is in force, require the lessee or licensee to give, within such period as he may specify, additional security for any one or more or all of the matters set out in subsection (1).

(3) Such security or additional security shall be of such amount as the Land Officer or the Commissioner, as the case may be, shall determine and may be given by way of the deposit of cash with the Accountant General or the guarantee of such bank or other person as may be approved, for the time being, by the Accountant General.

(4) Where security (which expression shall include, where applicable, additional security) has been given in accordance with the provisions of this section, and, at any time, the same has become reduced or been extinguished by reason of any payment therefrom or for any other reason, the lessee or licensee, as the case may be, shall,

so long as the lease or licence is in force and upon being required so to do by the Land Officer or the Commissioner, as the case may be, give such further security, in the manner specified in subsection (3), as may be necessary to restore such security to an amount not less than the amount of the same immediately prior to such reduction or extinguishment.

(5) Without prejudice to any other provisions of this Ordinance, where any lessee or licensee fails to comply with—

- (a) any requirement of the Land Officer or the Commissioner made, under subsection (1), during the currency of any lease or licence;
- (b) any requirement of the Land Officer or the Commissioner made under subsection (2); or
- (c) the provisions of subsection (4),

the Land Officer or the Commissioner, as the case may be, may forthwith determine the lease or licence by notice in writing to the lessee or licensee, and thereupon the lease or licence shall be deemed to have been determined in the same manner as if it had been determined in consequence of a breach of a term, covenant or condition thereof.

(6) (a) Where the amount of any compensation payable under section 34 has been finally determined and the same has not been paid within fifteen days of such determination, it shall be lawful for the Accountant General to pay the same to the person entitled thereto out of any cash deposited under the provisions of this section, so far as the same will allow.

(b) For the purposes of paragraph (a), the amount of any compensation shall be deemed to have been finally determined—

(i) when the same has been agreed; or

(ii) where the same has been determined by the Commissioner under subsection (2) of section 34, if, within the time limited therefor by subsection (3) of that section, neither party has appealed to the Mining Compensation Board; or

(iii) in the event of an appeal under the said subsection (3) when the same has been determined by the Mining Compensation Board.

(7) Upon the expiry or determination of the lease or licence, the Accountant General shall, when he is satisfied that no, or no further, sums, being sums in respect of which the security (which expression shall include, where applicable, additional security) was given, remain unpaid, return or release such security, or the balance thereof, if any, as the case may be, to the person by whom the same was given.

(8) Where, under subsections (1) and (2), respectively, the Land Officer or the Commissioner has required security or additional security to be given for any sum which may become payable to the Crown by way of royalties, no ore or mineral shall be disposed of or removed from the mining area until such security has been given in accordance with the provisions of this section."

Amendment
of section
68.

25. Subsection (1) of section 68 of the principal Ordinance is amended—

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

"(g) the imposition of obligations upon holders of prospecting and mining licences and upon lessees of mining leases;"

(b) by the deletion of paragraph (q).

Substitution
of "Com-
missioner"
for "Superin-
tendent" in
certain
sections.

26. The principal Ordinance is amended by the deletion of the title "Superintendent" wherever it occurs in sections 8(1), 10, 16(d), 17, 28, 39(1) and 43(1) and the substitution therefor of the following—
"Commissioner".

Retrospec-
tive effect
in certain
cases of
sections 5
and 10(b).
Schedule.

27. In relation to each of the expired prospecting and mining licences specified in the Schedule, the provisions of section 5 and of paragraph (b) of section 10, respectively, shall be deemed to have come into operation on the day immediately preceding the day on which such licence expired, and such licence may be renewed under the provisions of the principal Ordinance as amended by the said section 5 or the said paragraph (b) of section 10, as the case may be, with effect from the date on which the same expired.

SCHEDULE.

[s. 27.]

Prospecting licence and mining licences.

Prospecting licence.

Prospecting Licence No. 9 of 1958.

Mining licences.

Mining Licence No. 1 of 1955.

Mining Licence No. 2 of 1955.

Mining Licence No. 4 of 1955.

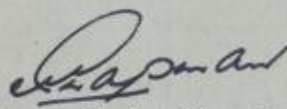
Mining Licence No. 6 of 1955.

Mining Licence No. 9 of 1955.

Mining Licence No. 10 of 1955.

Mining Licence No. 12 of 1955.

Passed the Legislative Council of Hong Kong, this 10th day of August, 1960.

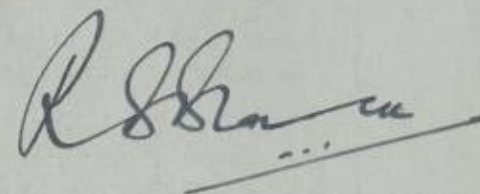

Deputy Clerk of Councils.

(Secretariat GR12/3231/53)

HONG KONG

No. 34 OF 1960.

I assent.



Governor.

8th September, 1960.

An Ordinance to establish centres for the treatment and rehabilitation of addicts of drugs and of intoxicants and for purposes connected therewith.

[]

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 Drug Addicts Treatment and Rehabilitation Ordinance, 1960, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*. Short title and commencement.
2. In this Ordinance, save where the context otherwise requires— Interpretation.
“addict” means a person who, by reason of his addiction to drugs or to intoxicants, is dangerous either to himself or to others or is incapable of managing himself or his affairs or of ordinary proper conduct or is in serious danger of physical or mental disorder;

"Board" means the Addiction Treatment Centre Appeal Board appointed in accordance with the provisions of section 14;

"centre" means any institution declared to be an Addiction Treatment Centre in accordance with the provisions of section 3;

"patient" means a person who is undergoing treatment in a centre or who has left the centre but is still legally liable to be detained in such centre;

"prescribed" means prescribed by regulations made in accordance with the provisions of section 21;

(25 of 1957). "registered medical practitioner" means a person who is registered or who is deemed to be registered in accordance with the provisions of the Medical Registration Ordinance, 1957;

"superintendent" means the superintendent or an assistant superintendent of a centre appointed in accordance with the provisions of section 4;

"visitor" means an Addiction Treatment Centre Visitor appointed in accordance with the provisions of section 5.

Declaration
of centres.

3. (1) The Governor may by order declare any place which is the property of the Government to be an Addiction Treatment Centre for the detention, custody, treatment, care and rehabilitation of addicts, and may amend, alter or cancel any such order.

(2) The Governor, on the application of the owner thereof, may by order declare any place which is not the property of the Government to be an Addiction Treatment Centre for the detention, custody, treatment, care and rehabilitation of addicts upon such conditions as may be prescribed or as he may consider necessary and may amend, alter or cancel any such order.

(3) Notification of every such order and of any amendment or alteration thereto or cancellation thereof shall be published in the *Gazette*.

Appoint-
ment of
superinten-
dents, etc.

4. (1) The Governor may appoint any registered medical practitioner in the employment of Government to be a superintendent or an assistant superintendent of a centre.

(2) On the application of any registered medical practitioner not in the employment of Government, the Governor may appoint the registered medical practitioner to be the superintendent or an assistant superintendent of a centre.

(3) Notification of every such appointment shall be published in the *Gazette*.

5. (1) The Governor may appoint Addiction Treatment Centre Visitors for each centre.

Appoint-
ment and
duties of
visitors.

(2) Notification of the appointment of every visitor shall be published in the *Gazette*.

(3) Two or more visitors appointed in accordance with the provisions of subsection (1) shall once at least in every month, together, inspect every part of the centre of which they are visitors and shall see so far as circumstances permit, every patient therein and the application and order, or the transfer order for the admission of every patient admitted since the last visitation of visitors and shall see, if they so require, the application and order or the transfer order for the admission of every other patient and shall enter in a book to be kept for that purpose any comment which they may deem proper on the management and condition of the centre and of the patients therein.

(4) A copy of every comment entered in accordance with the provisions of subsection (3) in respect of a centre which was declared in accordance with the provisions of subsection (2) of section 3 shall be sent by the superintendent to the Director of Medical and Health Services within forty-eight hours of the entry thereof in the book.

6. A superintendent may delegate any of his powers and functions under this Ordinance to any registered medical practitioner and may use and employ to carry out his functions under this Ordinance any person employed in the centre.

Delegation.

7. (1) If any person, or in the case of a person under the age of sixteen years, his parent or guardian, is of the opinion that he, or such person, as the case may be, is an addict and should be receiving treatment for his addiction, and if he completes and lodges with the superintendent of a centre an application for admission to the centre in the prescribed form the superintendent may admit to the centre as a patient the person named in the application form.

Admission
for treatment.

(2) An application shall contain—

(a) an undertaking by the person completing the application form that the person named in the application form—

(i) if required by the superintendent shall remain and may be detained in the centre or in any other centre to which he

may be transferred, for a period not exceeding six months from the date of his first admission to a centre in accordance with such application form;

(ii) shall submit himself to such treatment as may from time to time be prescribed by the superintendent of the centre in which he is detained;

(iii) shall obey all lawful orders given to him by the superintendent or by any person authorized by the superintendent;

(iv) if required by the superintendent shall leave the centre in which he is detained within forty-eight hours of being so required;

(v) may be visited only by such persons as are permitted by the superintendent; and

(vi) if given leave of absence by the superintendent, shall return to the centre in which he was last detained, on the expiry or determination of the period of leave of absence; and

- (b) an acknowledgment by the person completing the application form that the person named in the application form may be detained against his will in the centre named in the application form or in any other centre to which he may be transferred for a period not exceeding six months from the date of his first admission to a centre in accordance with such application form and may be forcibly retaken by the superintendent or by any police officer if he absents himself from the centre without the permission of the superintendent or if, having been given leave of absence from a centre by the superintendent, fails to return at the end or determination of the period of absence,

and may contain such other matters as may be prescribed.

Transfer.

8. If it appears to a superintendent that it would be for the benefit of a patient in a centre or of other patients in the centre that he should be transferred to another centre, the superintendent by order may transfer the patient to another centre and, on such transfer, the patient may be detained in the centre to which he was transferred for the remainder of the period of six months from his first admission as if he had been first admitted to that centre.

9. (1) A superintendent may from time to time permit a patient to be absent from a centre on trial or for any other reason which he may consider necessary for such period as the superintendent may think proper. Absence on trial.

(2) Any absence on trial in accordance with this section shall be subject to such conditions as the superintendent may prescribe.

(3) The superintendent may require a patient who has been permitted to be absent from a centre on trial to return to the centre at any time within the period of six months from the date of his first admission to a centre.

10. Every person admitted into a centre in accordance with the provisions of this Ordinance may be detained therein for a period of six months from the date of his first admission to a centre in accordance with an application made under section 7 until he be removed or discharged in accordance with the provisions of this Ordinance and in case of escape may be retaken within twenty-eight days of such escape by the superintendent or by any police officer and conveyed to and received and detained in the centre from which he escaped. Detention and recapture.

11. (1) As a condition to his reception in a centre, the superintendent, if he is satisfied that the person completing an application form in accordance with the provisions of section 7 has sufficient means to enable him to pay the costs of treatment of the person named in the application form, may require the person completing the application form to enter into a bond to pay to the Government or to such other person as may be entitled thereto the proper costs of maintenance and treatment of the person named in the application form so long as he is detained in the centre. Enforcement of costs.

(2) A court or magistrate, on the application by or on behalf of such person as may be entitled to recover the costs of the maintenance and treatment of a patient, and on being satisfied that the patient has property which may be applied towards his maintenance and treatment or that any person is legally bound to maintain the patient and has sufficient means to enable him to do so, may make an order for the recovery of the cost of the maintenance and treatment of the patient, together with the cost of the application, out of the property of the patient or from such other person.

Bond.

12. In addition to and not in derogation from the undertakings required by subsection (2) of section 7, a superintendent may require that a person completing an application form in accordance with the provisions of section 7 shall enter into a bond in a sum not exceeding five thousand dollars to secure the continued presence in the centre, or in any other centre to which he may be transferred, of the person named in the application form.

Discharge.

13. (1) A superintendent in his absolute discretion may discharge any patient from a centre and, on such discharge, the liability of the patient to be detained in the centre shall thereupon wholly cease and determine.

(2) A notice of discharge shall be served on the patient or, in the case of a patient under the age of sixteen years on his parent or guardian and on such service the patient, or his parent or guardian as the case may be, shall be responsible for his removal or the removal of the patient from the centre within forty-eight hours of such service.

(3) If a patient has escaped from a centre and has not been retaken and conveyed to and detained in the centre from which he escaped within a period of twenty-eight days from the date on which he escaped, he shall be deemed to have been discharged in accordance with the provisions of subsection (1) on the expiry of such period of twenty-eight days save and except that any bond entered into in respect of the patient in accordance with the provisions of section 12 may be forfeited in such event.

Addiction
Treatment
Centre
Appeal
Board.

14. (1) For the purpose of hearing and determining appeals under section 16, there shall be a Board to be known as the Addiction Treatment Centre Appeal Board.

(2) The Board shall consist of—

- (a) the Director of Medical and Health Services or the Deputy Director of Medical and Health Services as Chairman;
- (b) the Secretary for Chinese Affairs or his representative and the Director of Social Welfare or his representative as *ex officio* members;

(c) not more than four members to be appointed by the Governor.

(3) A member appointed by the Governor shall hold office for such period as may be specified in the letter of appointment and may be reappointed or removed by the Governor at his pleasure.

(4) The quorum necessary for the transaction of business by the Board may be fixed by Standing Orders made by the Board and, unless so fixed shall be three members.

(5) The Board may make Standing Orders governing its procedure in the transaction of business, for the maintenance of good order at meetings of the Board and generally for matters relating to the administration and management of its business and the discharge of its duties.

(6) A copy of any Standing Order made by the Board in accordance with the provisions of subsection (5) shall be furnished to the Colonial Secretary and such Standing Order shall be subject to disallowance, alteration and amendment by the Governor.

15. (1) For the purposes of an appeal under section 16, the Board shall have the following powers—

Powers
of Board.

(a) to hear, receive and examine evidence on oath; and

(b) to summon any person to attend the hearing of any appeal to give evidence and to produce any document on any other thing in his possession and to examine him as a witness or to require him to produce any book, document or other thing in his possession, subject to all just exceptions.

(2) A summons to a witness shall be in such form as may be prescribed and shall be signed by the Chairman of the Board.

(3) Any person who, being summoned to attend as a witness or to produce a book, document or other thing at the hearing of any appeal, refuses or neglects to do so or to answer any question put to him by or with the concurrence of the Chairman of the Board shall be guilty of an offence and shall be liable, on summary conviction, to a fine of one thousand dollars and to imprisonment for six months:

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

16. (1) If any patient, or in the case of a patient under the age of sixteen years his parent or guardian, is aggrieved by his detention or the detention of the patient, as the case may be, in a centre in accordance with the provisions of this Ordinance, the patient or his parent or guardian may appeal in writing to the Board against such detention and, on such appeal, the Board may dismiss the appeal or may allow the appeal upon such conditions, if any, as the Board may consider necessary and if the Board shall allow the appeal, the Board shall order that the patient be discharged from the centre and thereupon the superintendent shall discharge the patient.

Appeal.

(2) Any visitor may appeal to the Board on behalf of any patient and on such appeal, the Board shall be empowered to deal with the appeal as if it were an appeal by a patient.

17. Any person who, without the prior permission of the superintendent, supplies to a patient in a centre any drug to which the Dangerous Drugs Ordinance applies or any alcoholic liquor shall be guilty of an offence and on summary conviction shall be liable to a fine of two thousand dollars and to imprisonment for two years.

Supplying
drugs, etc.
to patients.
(Cap. 134).

Offence
against a
patient.

18. Any attendant, nurse, servant or other person employed in a centre who ill-treats or wilfully neglects any patient in the centre shall be guilty of an offence and on summary conviction shall be liable to a fine of two thousand dollars and to imprisonment for two years.

Protection of
addicts, etc.

19. No statement or admission made by an addict for the purpose of being admitted to a centre and no statement or admission made by a patient in a centre shall be admissible as evidence against the maker of the statement or admission in any proceedings against him under the Dangerous Drugs Ordinance.

(Cap. 134).

Protection of
persons
carrying out
the provi-
sions of this
Ordinance.

20. (1) No superintendent or other person employed in a centre who has purported to act in accordance with the provisions of this Ordinance shall be liable to any civil or criminal proceedings, whether on the ground of want of jurisdiction or on any other ground, unless he has acted in bad faith or without reasonable care.

(2) No proceedings, civil or criminal, shall be brought against any person in any court in respect of any action by such person purported to be in accordance with the provisions of this Ordinance, without the leave of the court and leave shall not be given unless the court is satisfied that there is substantial ground for the contention that the person, against whom it is sought to bring the proceedings, has acted in bad faith or without reasonable care.

(3) Notice of any application under subsection (2) shall be given to the person against whom it is sought to bring the proceedings and that person shall be entitled to be heard against the application.

(4) Where on an application under this section leave is given to bring any proceedings and the proceedings are commenced within four weeks after the date on which leave was so given, the proceeding shall for the purposes of subsection (1) of section 17 of the Law Amendment (Miscellaneous Provisions) Ordinance, be deemed to have been commenced on the date on which notice of the application was given to the person against whom the proceedings are to be brought.

(Cap. 23)

Power of
Governor in
Council to
make regu-
lations.

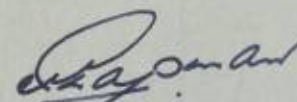
21. (1) The Governor in Council may by regulation prescribe or provide for—

- (a) any matter which by this Ordinance is required or permitted to be prescribed;
- (b) the manner in which application for admission into a centre shall be made and the form to be used in connexion therewith;
- (c) the duties of a superintendent;
- (d) the duties of a visitor;
- (e) the amount to be paid by any person in respect of the maintenance of patient in a centre;

- (f) the books and records to be kept in a centre;
- (g) the manner in which appeals may be made to the Board;
- (h) generally carrying into effect the provisions of this Ordinance.

(2) Any such regulation may provide that the contravention thereof shall constitute an offence and may prescribe penalties for any offence not exceeding a fine of one thousand dollars and imprisonment for six months.

Passed the Legislative Council of Hong Kong, this 7th day of September, 1960.



Deputy Clerk of Councils.

(Secretariat GR4/3231/60)

HONG KONG

No. 35 OF 1960.



I assent.

Governor.

8th September, 1960.

An Ordinance to amend and consolidate the law relating to mental disorder and its treatment and to make provision for the reception, detention and treatment of persons of unsound mind.

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

PART I.

Preliminary.

1. This Ordinance may be cited as the Mental Health Ordinance, 1960, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*. Short title and commencement.

2. In this Ordinance, unless the context otherwise requires—
“certified patient” means a person who is detained in a mental hospital in accordance with the provisions of section 36; Interpretation.

"Court" means the Supreme Court and any Judge of the Supreme Court;

"Director of Social Welfare" includes an assistant director of social welfare;

"guardian" in relation to a person under the age of sixteen years includes any person having charge of the person under the age of sixteen years and the Director of Social Welfare;

"hospital order" means an order made in accordance with the provisions of section 45 or of section 54;

"medical officer" means a registered medical practitioner in the full time employment of Government;

"medical superintendent" means the medical superintendent or an assistant medical superintendent of a mental hospital appointed in accordance with the provision of section 4;

"mental hospital" means any place declared to be a mental hospital in accordance with the provisions of section 3;

"mentally disordered person" means a person who is so far disabled in mind or who is so mentally ill or subnormal due to arrested or incomplete development of mind as to render it either necessary or expedient that he, either for his own sake or in the public interest, should be placed and kept under control;

"mental hospital visitor" means a person appointed to be a mental hospital visitor in accordance with the provisions of section 5 while he is so appointed;

"patient" means a person received into a mental hospital in accordance with the provisions of this Ordinance;

"patient under observation" means a person who is detained in a mental hospital in accordance with the provisions of section 31 or section 32;

"prescribed form" means a form prescribed by regulations made under section 70;

"registered medical practitioner" means a person who is registered or who is deemed to be registered in accordance with the provisions of the Medical Registration Ordinance, 1957;

"Registrar" means the Registrar of the Supreme Court;

(25 of 1957).

"temporary patient" means a person who has been admitted into and is in a mental hospital in accordance with the provisions of section 33;

"transfer order" means an order issued in accordance with the provisions of section 52 or section 53;

"tribunal" means the Hospital Order Appeal Tribunal established in accordance with the provisions of section 49;

"voluntary patient" means a person who has been admitted into and is in a mental hospital in accordance with the provisions of section 30.

3. (1) The Governor may by order declare any place which is the property of the Government to be a mental hospital for the detention, custody, treatment and care of mentally disordered persons.

Declaration
of mental
hospitals.

(2) The Governor on the application of the owner thereof, may, by order, declare any place which is not the property of the Government to be a mental hospital for the detention, custody, treatment and care of mentally disordered persons.

(3) Notification of every such order shall be published in the *Gazette*.

4. (1) The Governor may appoint any medical officer to be the medical superintendent or an assistant medical superintendent of a mental hospital.

Appointment
of medical
superintend-
ents and
assistant
medical
superintend-
ents.

(2) On the application of any registered medical practitioner not in the employment of Government, the Governor may appoint the registered medical practitioner to be the medical superintendent or an assistant medical superintendent of a mental hospital.

(3) Notification of every such appointment shall be published in the *Gazette*.

5. (1) The Governor may appoint mental hospital visitors for every mental hospital.

Appointment
and duties
of visitors.

(2) Two or more mental hospital visitors appointed in accordance with the provisions of subsection (1) shall once at least in every month, together inspect every part of the mental hospital of which they are mental hospital visitors and shall see and examine so far as circumstances permit, every patient therein and the application and

recommendation for the admission of every temporary patient admitted since the last visitation of the mental hospital visitors and shall see, if they so require, the order and certificate for the admission of every other patient admitted during that period and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the mental hospital and the patients therein.

Delegation.

6. A medical superintendent may delegate any of his powers and functions under this Ordinance to any registered medical practitioner and may use and employ to carry out his functions under this Ordinance any employee in a mental hospital.

PART II.

Proceedings in Inquiries into Mental Disorders.

Court may order inquiry.

7. (1) The Court may, on such application as is hereinafter mentioned, make an order directing an inquiry whether any person subject to the jurisdiction of the Court who is alleged to be a mentally disordered person is of unsound mind and incapable of managing himself and his affairs.

(2) Such order may also contain directions for inquiries concerning the nature of the property belonging to the person alleged to be mentally disordered, the persons who are his relative or next-of-kin, the time during which he has been of unsound mind or such other questions as to the Court shall seem proper.

(3) Application for such inquiry may be made by any person related by blood or marriage to the person alleged to be a mentally disordered person, or by any public officer nominated by the Colonial Secretary.

Provision as to notice of inquiry.

8. (1) Reasonable notice of the time and place appointed for the inquiry shall be given to the person alleged to be a mentally disordered person:

Provided that if it shall appear that the person alleged to be a mentally disordered person is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper.

(2) The Court may also, if it thinks fit, direct a copy of such notice to be served upon any person related by blood or marriage to the person alleged to be a mentally disordered person.

9. At any time after the application for the inquiry the Court may require the person alleged to be a mentally disordered person to attend at such convenient time and place within the Colony as the Court may appoint, for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of his mental capacity and condition, and the Court may also make an order authorizing any person or persons named therein to have access to the person alleged to be a mentally disordered person for the purpose of a personal examination.

Power to examine person alleged to be mentally disordered.

10. (1) At the inquiry, after receiving such reports and hearing such evidence and arguments as it may think fit, the Court shall decide whether the person who is alleged to be a mentally disordered person is or is not of unsound mind and incapable of managing himself and his affairs and shall also decide any other questions as to which an inquiry has been directed.

Questions to be decided by Court.

(2) The Court may make such order as may appear just respecting the costs of the inquiry and may include therein such remuneration to physicians and surgeons as the Court shall deem reasonable:

Provided that no order for the payment of costs shall be made against the Colonial Secretary or against any public officer nominated under the provisions of section 7.

11. (1) If the Court finds that the person who is alleged to be a mentally disordered person is of unsound mind and incapable of managing himself and his affairs, the Court may, if it shall think fit, appoint a committee of the person and estate of such person and may make such order, if any, as to the remuneration of the committee or committees out of such person's estate, and as to the giving of security by the committee or committees, as to the Court may seem fit.

Appointment of committees.

(2) If the Court finds that the person who is alleged to be a mentally disordered person is incapable of managing his affairs, but is not dangerous to himself or to others, the Court may appoint a committee of his estate, without appointing a committee of his person.

12. The Court may, on the appointment of a committee of the person or estate of a mentally disordered person, direct by the order of appointment or by any subsequent order that the person to whom the charge of the estate is committed shall have such powers for the management thereof as to the Court shall seem necessary and proper, reference being had to the nature of the property, whether movable or immovable, of which the estate may consist:

Powers of management of estate of mentally disordered person.

Provided that such powers shall not extend to the sale or charge by way of mortgage of the estate or any part thereof or to the letting of any immovable property, unless for a term not exceeding three years.

Powers of Registrar.

13. (1) The Registrar may, without an order of reference, receive any proposal and conduct any inquiry respecting the management of the estate of a mentally disordered person if such proposal relates to any matter which the committee of the estate has not been empowered by an order under section 12 to dispose of.

(2) The Registrar may likewise, without reference, receive and inquire into any proposal relating to the sale or charge by way of mortgage of the estate or of any part thereof or to the letting of any immovable property for a term exceeding three years.

(3) The Registrar shall report to the Court on the proposal, and the Court shall, subject to the provisions of this Ordinance, make such order upon the report and respecting the costs as shall under the circumstances seem just.

What relatives may attend proceedings.

14. The Court shall once in the matter of each inquiry, and may afterwards from time to time, determine whether any one or more, and, if any, how many and which of the relatives or next-of-kin shall attend before the Registrar at the cost of the estate in any proceeding connected with the management thereof, and, if any such relative or next-of-kin is an infant, may from time to time appoint a fit person to be his guardian for the purpose of such proceeding.

Orders may be made on petition.

15. The Court may, on application made to it by petition concerning any matter whatsoever connected with the inquiry, make such order, subject to the provisions of this Ordinance, respecting the application and the costs thereof and of the consequent proceedings as shall under the circumstances seem just.

Dealing with mentally disordered person's property for certain purposes.

16. The Court may, if it appears to be just or for the benefit of the mentally disordered person, order that any property, movable or immovable, and whether in possession, reversion, remainder, contingency or expectancy, be sold, charged by way of mortgage or otherwise disposed of as may seem most expedient for the purpose of raising money to be applied for any of the following purposes—

- (a) the payment of his debts, including any debt incurred for his maintenance or otherwise for his benefit;
- (b) the discharge of any incumbrance on his estate;
- (c) the payment of or provision for the expenses of his future maintenance and the maintenance of his family, including the expenses of his removal to his country of origin or elsewhere, when he shall be so removed, and all expenses incidental thereto;

- (d) the payment of the costs of any proceeding under this Ordinance and of any costs incurred by order or under the authority of the Court.

17. (1) The committee of the estate of the mentally disordered person shall, in his name and on his behalf, execute all such conveyances and instruments of transfer, relative to any sale, mortgage or other disposition of his estate as the Court shall order.

Committee to execute instruments.

(2) In like manner such committee shall, under the order of the Court, exercise all powers whatsoever vested in a mentally disordered person whether the same are vested in him for his own benefit or in the character of trustee or guardian.

18. Where a person having contracted to sell or otherwise dispose of his estate or any part thereof afterwards becomes mentally disordered, the Court may, if the contract is such as the Court thinks ought to be performed, direct the committee of the estate to execute such conveyances and to do such acts in fulfilment of the contract as it shall think proper.

Performance of contract.

19. If a member of a partnership firm be found to be mentally disordered, the Court may, on the application of the other partners or of any person who appears to the Court to be entitled to require the same, dissolve the partnership; and thereupon, or upon a dissolution by decree of Court or otherwise by due course of law, the committee of the estate may, in the name and on behalf of the mentally disordered person, join with the other partners in disposing of the partnership property upon such terms, and shall do all such acts for carrying into effect the dissolution of the partnership, as the Court shall think proper.

Partner found to be mentally disordered.

20. Where a mentally disordered person has been engaged in business the Court may, if it appears to be for the benefit of his estate that the business premises should be disposed of, order the committee of the estate to sell and dispose of the same, and the moneys arising from such sale shall be applied in such manner as the Court shall direct.

Disposal of business premises.

21. Where a mentally disordered person is entitled to a lease or under-lease, and it appears to be for the benefit of his estate that it should be disposed of, the committee of the estate may by order of the Court surrender, assign or otherwise dispose of the same to such person for such valuable or nominal consideration and upon such terms as the Court shall think fit.

Committee may dispose of lease.

22. Where any stock or Government security or any share or debenture in a public company, transferable within the Colony or the dividends of which are payable there, are standing in the name of, or are vested in, a mentally disordered person beneficially entitled thereto or a committee of the estate of a mentally disordered person or a trustee

Transfer of stock of mentally disordered person.

for him, and the committee or trustee dies intestate or himself becomes a mentally disordered person or is out of the jurisdiction of the Court, or it is uncertain whether the committee or trustee be living or dead or he neglects or refuses to transfer the stock, securities or shares or to receive and pay the dividends to a new committee or trustee, or as he directs, within fourteen days after being required by him to do so, the Court may order some fit person to make such transfer or to transfer the same and to receive and pay over the dividends in such manner as the Court may direct, and such transfer or payment shall be valid and effectual for all purposes.

Transfer of property of mentally disordered person residing out of the Colony.

23. Where any property situate in the Colony is standing in the name of or vested in any person residing out of the Colony, the Court, upon being satisfied that such person has been declared of unsound mind and that his personal estate has been vested in a committee, curator or manager according to the laws of the place where he is residing, may order some fit person to make such transfer of the property, or of any part thereof, to such committee, curator or manager or otherwise, and also to receive and pay over any proceeds or profits thereof as the Court may think fit; and any act done in pursuance of such order shall be valid and effectual for all purposes.

Power to order maintenance without appointing committee.

24. If it appears to the Court, having regard to the situation and condition in life of the mentally disordered person and his family and the other circumstances of the case, to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner, the Court may, instead of appointing a committee of the estate, order that the property, if money, or, if of any other description, the produce thereof when realized, be paid to such person as the Court may think fit to be applied for the purpose aforesaid, and all payments so made shall be a good discharge to the person making the same.

Temporary provision for maintenance of mentally disordered person.

25. If it appears to the Court that the unsoundness of mind of a mentally disordered person is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or the maintenance of his family, the Court may in the manner provided by section 24 direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Order for detention of mentally disordered person.

26. When upon any inquiry under this Part any person has been found by the Court to be of unsound mind and incapable of managing himself and his affairs, the Court shall either make an order for such person to be received into a mental hospital and send him in suitable custody, together with the order for his reception, to the mental hospital named in such order, or, if any friend or relative of such person shall undertake in writing to the satisfaction of the Court that

such person shall be properly taken care of and shall be prevented from doing injury to himself or others, make him over to the care of such friend or relative.

27. (1) When any person has been found of unsound mind and it shall be shown to the Court, either on the application of such person or of any other person acting on his behalf or on the information of any other person, that there is reason to believe that such unsoundness of mind has ceased, the Court may make an order for inquiry whether such person is still of unsound mind and incapable of managing himself and his affairs.

Annuling proceedings.

(2) The inquiry shall be conducted in the same manner subject to the same rules as are hereinbefore described for an inquiry into the unsoundness of mind of a person alleged to be mentally disordered.

(3) If it be found on such inquiry that the unsoundness of mind has ceased, the Court shall order all proceedings in such matter to cease or to be set aside on such terms and conditions as under the circumstances of the case shall appear proper.

28. When after inquiry into the unsoundness of mind of any person detained in a mental hospital, the Court has made an order under section 27 that the proceedings shall cease or be set aside, the medical superintendent of the mental hospital shall forthwith, on the production of a certified copy of such order, discharge from such mental hospital the person whose unsoundness of mind has ceased.

Discharge of person found on inquiry not to be of unsound mind.

PART III.

Reception, Detention and Treatment of Mentally Disordered Persons.

29. Except as provided in any other enactment, no person shall be received into a mental hospital otherwise than on transfer from another mental hospital, on return from leave of absence or on recapture except—

Reception of patients.

- (a) upon the order of Court made in accordance with the provisions of section 26; or
- (b) as a voluntary patient in accordance with the provisions of section 30; or
- (c) as a patient under observation in accordance with the provisions of section 31; or
- (d) as a temporary patient in accordance with the provisions of section 33; or
- (e) by virtue of a hospital order made in accordance with the provisions of section 45 or of section 54; or
- (f) by virtue of a transfer order made in accordance with the provisions of section 52 or section 54; or

- (g) upon the warrant of the Governor in accordance with the provisions of section 55.

Voluntary patients.

30. (1) If a person appears to require treatment in a mental hospital and if he, or in the case of a person under the age of sixteen years, his parent or guardian—

- (a) is desirous that such person should receive such treatment; and
 - (b) completes an application in writing; and
 - (c) lodges the application with a medical superintendent, the medical superintendent may admit such person as a voluntary patient.
- (2) A voluntary patient—
- (a) shall be entitled to leave the mental hospital after the expiration of seven days from his, or if he is under the age of sixteen years, his parent or guardian, giving notice in writing; or, in the discretion of the medical superintendent, verbal notice, to the medical superintendent of the intention of the voluntary patient to leave the mental hospital:

Provided that a medical superintendent may in his absolute discretion discharge a voluntary patient at any time within such period of seven days; and

- (b) shall leave the mental hospital within seventy two hours after he, or if he is under the age of sixteen years his parent or guardian, has received from the medical superintendent notice in writing, signed by the medical superintendent, stating that the medical superintendent is satisfied that it is not necessary that the voluntary patient should remain in the mental hospital and that the voluntary patient is required to leave the mental hospital.
- (3) A person who became a voluntary patient when he was under the age of sixteen years shall not remain in a mental hospital as a voluntary patient for more than twenty eight days after he has attained the age of sixteen years unless during such period of twenty eight days he shall have completed and lodged with the medical superintendent such application as is referred to in subsection (1).
- (4) A medical superintendent may detain in a mental hospital, for observation and treatment, a person who has been admitted as a voluntary patient until the expiration of seven days from the time when such notice as is referred to in paragraph (a) of subsection (2) has been given or, in the case of a person who was admitted as a voluntary patient when he was less than sixteen years of age, until the expiration of twenty eight days after the voluntary patient has attained the age of sixteen years.

31. (1) Upon the application in the prescribed form of any person (in this section referred to as "the applicant") who has reason to believe that some other person is a mentally disordered person, any magistrate or justice of the peace may make an order, in the prescribed form, authorizing the removal to a mental hospital, for the purpose of detention and observation as a patient under observation during the period not exceeding seven days from and including the date of the order, of the person alleged to be a mentally disordered person.

Detention of a patient under observation.

(2) Every such order shall have the effect of authorizing the applicant and every public officer with such assistance in each case as may be necessary, to use such reasonable force as may be necessary in order to remove to a mental hospital the person alleged to be a mentally disordered person and if for any reason it is not practicable forthwith to remove such person to a mental hospital to detain him in a place of safety for a period not exceeding forty eight hours.

(3) No magistrate or justice of the peace shall make any such order unless he has satisfied himself that—

- (a) the applicant is a relative or the guardian of the person in question; or
- (b) the applicant has informed a relative or the guardian of the person of his intention to apply for such order; or
- (c) no relative or guardian of the person in question can be found in the Colony; or
- (d) it is impracticable to delay the making of the order until such relative or guardian can be found.

(4) A medical superintendent may detain in a mental hospital for observation, investigation and treatment any person who is the subject of an order under this section or under section 32.

32. (1) If a patient under observation in a mental hospital has been examined by two registered medical practitioners, either separately or together, and the two registered medical practitioners are of the opinion that it is necessary that the patient under observation should be detained in a mental hospital for a further period for the purpose of observation, investigation and treatment, they may complete a certificate in the prescribed form and forward it to a magistrate.

Extension of period of detention of a patient under observation

(2) If a magistrate who has received a certificate in accordance with the provisions of subsection (1) is of the opinion that it is necessary for the person named in the certificate to be detained in a mental hospital for a further period of observation, investigation and treatment he shall countersign the certificate and shall forward it to the medical superintendent of the mental hospital in which the person is detained.

(3) Not more than two extensions of not more than seven days each shall be made in accordance with the provisions of this section to any order made in accordance with the provisions of section 31.

(4) No person shall be detained in a mental hospital after the expiration of the period of any order made in accordance with the provisions of section 31 and of any extension thereto made in accordance with the provisions of this section unless he has become a temporary patient or a voluntary patient.

Admission of
a temporary
patient.

33. (1) Subject to the provisions of this section, a person who is suffering from mental disorder and is unfit on account of his mental state to be admitted as a voluntary patient, may on application in writing in the prescribed form, in accordance with the provisions of this section, be received into and detained in a mental hospital as a temporary patient.

(2) An application under this section may be lodged with a medical superintendent by either the spouse or a relative of the person to whom it relates or, at the request or in the absence or minority or other incapacity of the spouse or a relative, by the Director of Social Welfare:

Provided that if an application is made by the Director of Social Welfare, such application shall be accompanied by a statement in writing, signed by the Director of Social Welfare, setting out the reason why the application is made by him and the circumstances in which he makes it.

(3) The application shall be accompanied by a recommendation in the prescribed form signed by a registered medical practitioner who has examined the person to whom the application relates not more than twenty eight days before the date of the application and who, if practicable, should be the registered medical practitioner usually attending the person to whom the application relates.

(4) Not more than five clear days before a registered medical practitioner completes a recommendation in accordance with the provisions of subsection (3) he shall have examined the person to whom the recommendation relates and he shall specify in the recommendation the date on which he examined the person and the grounds on which he bases his recommendation.

(5) An application duly completed in accordance with the provisions of this section and lodged with a medical superintendent shall be sufficient authority—

(a) for the applicant or any person authorized by him to take the person to whom the application relates and to convey him to a mental hospital;

(b) for the medical superintendent with whom the application is lodged and the medical superintendent of any mental hospital to which the person may be transferred to detain the person and to take charge of and to provide treatment for him and to transfer him to any other mental hospital and if necessary to retake him.

34. (1) Subject to the provisions of this section, a person shall not receive treatment as a temporary patient in a mental hospital for more than twelve months:

Detention
and dis-
charge of a
temporary
patient.

Provided that where before the expiration of the period of twelve months the medical superintendent is of the opinion that the temporary patient will not recover within that period but that the early recovery of the patient appears reasonably probable, on the application of one of the persons mentioned in subsection (2) of section 33, the medical superintendent may extend the period of twelve months by further periods of not more than six months each so that the total period of treatment of a person as a temporary patient shall not in any case exceed two years from the date of his first admission as a temporary patient.

(2) A medical superintendent may discharge a temporary patient at any time, after giving not less than seventy two hours notice in writing to one of the persons mentioned in subsection (2) of section 33 if he is of the opinion that the temporary patient should be discharged.

35. (1) Within two months of the reception of a person in a mental hospital as a temporary patient in accordance with the provisions of section 33, the temporary patient shall be visited by not less than two mental hospital visitors appointed to the mental hospital.

Visitors to a
temporary
patient.

(2) If a mental hospital visitor is of the opinion that it is proper that the temporary patient should continue to be detained as such, he shall sign and leave with the medical superintendent a statement to that effect in the prescribed form but if a mental hospital visitor is of the opinion that it is not proper that the temporary patient should continue to be detained, he, within forty eight hours of his departure from the mental hospital, shall send to the Director of Medical and Health Services a report stating his opinion and the grounds on which it is based together with such other observations as he thinks fit.

36. (1) If a patient under observation or a voluntary patient or a temporary patient in a mental hospital has been examined by two registered medical practitioners, either separately or together and the two registered medical practitioners are of the opinion that the person is a mentally disordered person they may complete a certificate in the prescribed form and forward it to a magistrate and in the case of a temporary patient shall give notice of the signing of the certificate to

Detention of
certified
patients.

the person who completed the application in accordance with section 30 or to the Director of Social Welfare.

(2) If a magistrate who has received a certificate in accordance with the provisions of subsection (1) is of the opinion that the person named in the certificate is a mentally disordered person, he shall countersign the certificate and shall forward it to the medical superintendent of the mental hospital in which the person is detained:

Provided that a magistrate shall not countersign a certificate—

(a) in respect of a voluntary patient unless he is satisfied that the voluntary patient, or some person on his behalf in the case of a voluntary patient of less than sixteen years of age, has given notice of the intention of the voluntary patient to leave the mental hospital in accordance with the provisions of paragraph (a) of subsection (2) of section 30 and that it would be likely to be dangerous to the voluntary patient or to other persons if the voluntary patient were discharged from the mental hospital; or

(b) in respect of a temporary patient unless the temporary patient has been detained in the mental hospital for a period of not less than eighteen months.

(3) A medical superintendent may detain in a mental hospital for observation, investigation and treatment any person who is the subject of an order under this section and may transfer the patient to any other mental hospital.

Maximum numbers.

37. (1) The Governor from time to time by order published in the *Gazette* may prescribe the maximum number of persons who may at any given time be detained in a mental hospital in accordance with the provisions of section 36.

(2) When an order under subsection (1) is in force and such maximum has been reached, the following further provisions shall apply—

(a) the two medical practitioners who have signed the certificate referred to in subsection (1) of section 36 shall further endorse thereon in the prescribed form their opinion as to whether or not the person mentioned in the certificate is so far deranged in mind as to render it essential that he should be detained in a mental hospital notwithstanding that such maximum has been reached;

(b) within seventy two hours of the receipt of the certificate so endorsed the magistrate shall countersign such certificate if he is satisfied upon the opinion of the medical practitioners as endorsed on the certificate or upon such other evidence as he may consider necessary that it is essential that such person

should be detained and he shall forthwith return the countersigned certificate to the medical superintendent of the mental hospital in which such person is detained;

(c) if the magistrate does not countersign the certificate in accordance with the provisions of paragraph (b) within the prescribed time, he shall forthwith cause notice of such fact to be sent to the medical superintendent and the person named in the certificate shall be discharged within seven days of the receipt of such notice.

(3) Notwithstanding the provisions of sections 31 and 32, the detention of a person in pursuance of the provisions of subsection (2) shall be deemed to be lawful detention.

38. When it appears to a medical superintendent that it would be for the benefit of any certified patient or temporary patient receiving treatment or special care or that it is necessary for the purpose of obtaining special treatment for any patient, that he should be temporarily transferred to and maintained in another hospital, institution or place, the medical superintendent, if the person in charge of the other hospital, institution or place is willing to receive the patient, may arrange for such transfer.

Temporary transfer of patients.

39. (1) A medical superintendent may from time to time permit a certified patient, a temporary patient or a patient under observation to be absent from the mental hospital on trial for such periods as the medical superintendent may think proper.

Absence on trial.

(2) Any absence on trial under this section shall be subject to such conditions as the medical superintendent may prescribe.

(3) Any patient who has been permitted to be absent from a mental hospital in accordance with the provisions of this section and who does not return within the period of absence which has been prescribed may be retaken as if he had escaped from the mental hospital at any time within twenty eight days of the expiry of such period.

(4) If before the expiry of any period of absence which has been prescribed the medical superintendent certifies in the prescribed form that it is not necessary that the patient be detained in a mental hospital or if the patient does not return to the mental hospital within twenty eight days of the expiry of the period of absence he shall be deemed to have been lawfully discharged in accordance with the provisions of this Ordinance.

40. Subject to the provision of any other enactment, two mental hospital visitors may by writing under their hands order the discharge of any patient other than a patient received into the mental hospital in accordance with the provisions of section 45, 52 or 54.

Order of discharge by visitors.

Discharge of
patient on
recovery.

41. (1) A medical superintendent, as soon as is practicable after he becomes satisfied that a patient has sufficiently recovered to enable him to be discharged, shall inform the nearest relative of the patient, if known, the person who applied to have the patient admitted to the hospital, if practicable or the Director of Social Welfare that the patient has recovered and that if the patient is not removed from the mental hospital within three days, he may be discharged.

(2) If the patient is not removed within such period of three days, he may at any time thereafter be discharged.

(3) Nothing in this section shall prevent a medical superintendent from discharging a patient to the care and custody of any other person, whether the patient has recovered or not, if the medical superintendent considers it necessary so to do.

Discharge of
patient
before
recovery.

42. (1) Where on behalf of a patient including a voluntary patient a relative or friend of the patient makes application in writing in the prescribed form to the medical superintendent—

- (a) stating the relationship or connexion of the applicant with the patient;
- (b) requesting that the patient may be delivered over to the applicant; and
- (c) undertaking that the patient will receive proper care and will be prevented from doing injury to himself or to others and, in the case of an application by a person other than the person on whose application the patient was admitted to a mental hospital, satisfies the medical superintendent that before he made the application he served on such person notice of his intention so to do,

the medical superintendent shall within forty-eight hours of the receipt of the application either—

- (i) discharge the patient to the applicant notwithstanding that the patient is still a mentally disordered person; or
- (ii) give to the applicant a certificate in the prescribed form stating that he refuses to discharge the patient on the ground that—
 - (a) he is satisfied that the patient is dangerous or otherwise unfit to be at large; or
 - (b) he is not satisfied that the patient will receive proper care.

(2) If an applicant is aggrieved by the refusal of a medical superintendent to discharge a patient in accordance with this section he may appeal to a magistrate, upon notice to the medical superintendent, against such refusal and on any such appeal, the magistrate may order that the patient shall be discharged under such terms and conditions as the magistrate shall consider necessary.

Detention
and
recapture.

43. Every person received into a mental hospital under any such order as is required by this Ordinance accompanied, unless the order be under section 26, by the requisite medical certificate may be detained therein until he be removed or discharged in accordance with the provisions of this Ordinance, and in case of escape may, by virtue of such order, be retaken within twenty-eight days of such escape by the medical superintendent, or any officer or servant of such hospital or any other person authorized by the medical superintendent or any police officer, and conveyed to and received and detained in such hospital.

Removal of
patient from
the Colony.

44. (1) Where an alien or any person not domiciled in the Colony is detained as a mentally disordered person and it appears expedient that he should be removed to the country of which he is a national, the Colonial Secretary if satisfied that his removal is likely to be for his benefit, and that proper arrangements have been made for such removal and for his subsequent care and treatment, may, by warrant, direct the mentally disordered person to be delivered to the person named in the warrant for the purpose of removal to the country of which he is a national, and every such warrant shall be obeyed by the person or authority having the charge of the person named therein.

(2) A warrant under this section shall be sufficient authority for the master of any vessel or captain of any aircraft or the guard on any train to receive and detain the patient on board such vessel, aircraft or train for the purpose of conveying him to his destination.

(3) Any order of removal made under this section shall be addressed to the medical superintendent of the mental hospital in which the patient is at the time detained and shall direct him to deliver up the patient to the person mentioned in such order at such place and in such manner as may be specified in the said order for the purpose of such removal as aforesaid; and the patient shall be delivered up accordingly.

(4) Any patient removed from the Colony in accordance with the provisions of this section shall not return to the Colony except by permission of the Colonial Secretary.

PART IV.

Admission of Patients concerned in Criminal Proceedings and Transfer of Patients under Sentence.

45. (1) Where

(a) A person is—

- (i) convicted by the Supreme Court or a District Court of an offence other than an offence the sentence for which is fixed by law;

Powers of
Court or
magistrate
to make a
hospital
order.

(ii) convicted by a magistrate of an offence punishable on summary conviction by imprisonment; or

(iii) charged before a magistrate with an act or omission as an offence punishable on summary conviction by imprisonment and the magistrate is satisfied that such person did the act or made the omission; and

(b) the court or magistrate is satisfied on the written or oral evidence of two registered medical practitioners received in accordance with the provisions of section 46 that—

(i) such person is a mentally disordered person; and

(ii) the nature or degree of the mental disorder from which the person is suffering warrants his detention in a mental hospital for treatment; and

(c) the court or magistrate is of the opinion, having regard to all the circumstances including the nature of the offence and the character and antecedents of such person, and to the other available methods of dealing with him, that the most suitable method of disposing of the case is by means of an order under this section,

the court or magistrate may by a hospital order authorize the admission of the person to and his detention in such mental hospital as is specified in the order, and may specify in the order the period during which such person should be so detained which shall not be greater than the sentence which the court or magistrate could have imposed in respect of the offence with which such person was charged.

(2) A hospital order shall not be made under this section unless the court or magistrate is satisfied that arrangements have been made for the admission of the person to that mental hospital within twenty-eight days after the date of the hospital order, in the event of the hospital order being made by the court or magistrate.

(3) Where a hospital order has been made, the court or magistrate shall not impose a sentence of imprisonment or a fine or make a probation order in respect of the offence but may make any other order which the court or magistrate has power to make apart from this section and for the purpose of this subsection "sentence of imprisonment" includes any sentence or order for detention in a remand home, a reformatory school, a house of detention or a training centre.

Requirement
as to medical
evidence.

46. (1) Of the registered medical practitioners whose evidence is received in accordance with the provision of paragraph (b) of subsection (1) of section 45 or of subsection (3) of section 54 at least one shall be a medical officer.

(2) For the purpose of paragraph (b) of subsection (1) of section 45 or of subsection (3) of section 54 a report in writing purporting to be signed by a registered medical practitioner may, subject to the provisions of this section, be received in evidence without proof of the signature or qualifications of the registered medical practitioner but the court or magistrate may require that the registered medical practitioner, by whom the report was signed, be called to give oral evidence.

(3) Where, in pursuance of the directions of a court or magistrate, a report of a registered medical practitioner is tendered in evidence in accordance with the provisions of paragraph (b) of subsection (1) of section 45 or of subsection (3) of section 54 otherwise than by or on behalf of the accused—

(a) if the accused is represented by counsel or solicitor, a copy of the report shall be given to his counsel or solicitor;

(b) if the accused is not so represented, the substance of the report shall be disclosed to the accused or, in the case of a child or young person, to his parent or guardian if present in court; and

(c) in any case, the accused, or in the case of a child or young person, his parent or guardian may require that the registered medical practitioner who signed the report be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by or on behalf of the accused.

47. (1) A hospital order shall be sufficient authority for—

(a) the Commissioner of Prisons or any other person directed to do so by the court or magistrate to convey the person named in the order to the mental hospital specified in the order within a period of twenty-eight days from the date of the order; and

(b) the medical superintendent to admit him to the mental hospital and to detain him therein in accordance with the provisions of this Ordinance.

Effect of
hospital
order.

(2) A person who is admitted to a mental hospital in pursuance of a hospital order shall be treated, for the purposes of Part III of this Ordinance, as if he had been admitted to the mental hospital in accordance with the provisions of section 36 except that within such period as may be specified in the hospital order during which the person shall be detained in the mental hospital or, if no such period is specified in the hospital order, while the hospital order is in force—

(a) the power to order the discharge of the patient under section 40 or section 42 shall not be exercisable; and

(b) the power to grant permission for absence on trial under section 39 or to discharge under section 41 shall be exercisable only with the prior consent of the Governor.

(3) Where a patient is admitted to a mental hospital in pursuance of a hospital order any previous order by which he was liable to be detained in a mental hospital shall cease to have effect.

Appeal
against
hospital
order.

48. Any person who is aggrieved by a hospital order made in respect of him or in respect of a child or young person of whom he is parent or guardian may appeal against the hospital order in the same manner as any other judgment or order of the court or magistrate and in any such appeal, the provisions of any other enactment relating to appeals against orders or judgments of the court or magistrate shall apply.

Hospital
Order
Appeal
Tribunal.

49. (1) For the purpose of considering petitions to the Governor in Council in accordance with the provisions of section 50, there shall be a tribunal to be known as the Hospital Order Appeal Tribunal which shall consist of a chairman and not more than five other members appointed by the Governor.

(2) Members of the tribunal shall hold office for three years from the dates of their respective appointment and may be reappointed or removed by the Governor at his pleasure.

(3) There shall be a secretary to the tribunal who shall be appointed by the Governor.

(4) The tribunal may make standing orders for its procedure in the transaction of its business and maintenance of good order at its meetings.

Provided that a copy of each such standing order shall be furnished to the Colonial Secretary and shall be subject to disallowance or amendment at any time by the Governor.

(5) The quorum necessary for the transaction of the business of the tribunal may be fixed by standing orders and, unless so fixed, three members shall form a quorum.

Appeal
against con-
tinuance of
hospital
order.

50. (1) Any person who is aggrieved by the continuance of a hospital order made against any person may appeal by petition to the Governor in Council against such continuance.

(2) Any petition lodged in accordance with the provisions of subsection (1) shall be forwarded to the tribunal for consideration before being submitted to the Governor in Council.

(3) The tribunal shall consider any such petition and, after consideration, shall forward the petition with the finding of the tribunal to the Governor in Council.

(4) For the purpose of considering any petition, the tribunal may receive and hear evidence on oath.

(5) When the Governor in Council receives a petition together with the finding thereon of the tribunal, the Governor in Council may reject the appeal or may allow the appeal upon such conditions as he shall consider necessary and may terminate the hospital order.

51. (1) If a court or magistrate is of the opinion that any person who is charged before the court or magistrate with an offence, including a person in respect of whom an information or charge for an indictable offence is being heard or has been heard by the magistrate in accordance with the provisions of Part III of the Magistrates Ordinance, may be or is alleged to be a mentally disordered person, the court or magistrate may remand such person to a mental hospital for observation, investigation and treatment for any period not exceeding fourteen days and on any such order shall adjourn the proceedings against such person for such period and may extend such period of fourteen days by further periods of seven days each so that the total period of remand does not in any case exceed forty-two days. Remand. (Cap. 227).

(2) If the Commissioner of Prisons or the Director of Social Welfare has reason to believe that any person who is in his custody by reason of an order made by a magistrate in accordance with the provisions of subsection (3) of section 84 of the Magistrates Ordinance, is a mentally disordered person, he may make application to a magistrate to have the person remanded to a mental hospital and on any such application the magistrate may remand such person to a mental hospital for observation, investigation and treatment for any period not exceeding fourteen days and for further periods of not more than seven days each so that the total period of such remand shall not exceed forty-two days and on such order, the person shall stand committed for trial at the Criminal Sessions of the Supreme Court for the next month after the expiry of such period or extension thereof.

(3) Any order made in accordance with the provisions of subsection (1) or subsection (2) may be made in the absence of the person if the court or magistrate is satisfied on such evidence as shall be placed before him that no useful purpose might be served by the personal appearance before the court or magistrate of such person.

52. (1) If the Governor is satisfied from the report of a medical officer that a person who is serving a sentence of imprisonment is a mentally disordered person and that the nature or degree of the mental disorder from which he is suffering warrants his detention in a mental hospital for treatment, the Governor may, by transfer order, direct that the person be removed to and detained in such mental hospital as is specified in the order. Removal to a mental hospital of a person serving a sentence of imprisonment.

(2) A transfer order shall cease to have effect at the expiration of a period of fourteen days from the date on which it was made unless within that period the person with respect to whom it was made has been received in the mental hospital specified in the transfer order.

(3) A person who is admitted to a mental hospital in pursuance of a transfer order shall be treated for the purposes of Part III of this Ordinance as if he had been admitted to the mental hospital in accord-

ance with the provisions of section 36 except that, until the sentence of imprisonment which the patient was serving when he was so admitted has expired—

- (a) the power to order the discharge of the patient under section 40 or 42 shall not be exercisable; and
- (b) the power to grant permission for absence on trial under section 39 or to discharge under section 41 shall be exercisable only with the prior consent of the Governor.

(4) If the Governor is satisfied from the report from a medical superintendent that a person, who was transferred to a mental hospital by a transfer order made under subsection (1) and whose sentence of imprisonment has not expired, no longer requires treatment for mental disorder the Governor may by order direct that the person be returned to the custody of the Commissioner of Prisons to serve the remainder of his sentence of imprisonment.

(5) In this section "sentence of imprisonment" includes any sentence or order for detention in a remand home, a reformatory school, a house of detention or a training centre.

53. (1) If the Governor is satisfied from the report of a medical officer that a person to whom this section applies is a mentally disordered person and that the nature or degree of the mental disorder from which he is suffering warrants his detention of the person in a mental hospital for medical treatment, the Governor may by transfer order direct that the person be removed to and detained in a mental hospital.

(2) This section shall apply to any person who is—

- (a) committed in custody for trial in accordance with the provisions of subsection (2) of section 84 of the Magistrates Ordinance;
- (b) remanded in custody in accordance with the provisions of section 87C of the Magistrates Ordinance, the magistrate having made an order of transfer in respect of such person in accordance with the provisions of section 87A of that Ordinance;
- (c) remanded in custody by a court or magistrate;
- (d) remanded in custody by the Supreme Court or by a District Court to await a judgment or sentence which has been respited;
- (e) a civil prisoner, that is to say, a person committed by a court to prison for a limited term, including a person committed to prison in pursuance of a writ of attachment, not being a person falling to be dealt with under section 51; or
- (f) an alien detained in a prison or other place in accordance with the provisions of section 13 of the Immigration (Control and Offences) Ordinance, 1958.

Removal to
a mental
hospital of
other
prisoners.

(Cap. 227).

(34 of 1958).

(3) The provisions of subsections (2), (3) and (4) of section 52 shall apply for the purposes of this section and to any transfer made in accordance with the provisions of this section.

54. (1) A transfer order given in accordance with the provisions of subsection (1) of section 53 shall cease to have effect when the case of the person named in the transfer order has been disposed of by the court or magistrate to which he was committed or by which he was remanded, as the case may be, but without prejudice to any power of that court or magistrate to make a hospital order under this Part in his case.

Further pro-
visions as to
persons com-
mitted for
trial or
sentence
or on
remand.

(2) Where a transfer order has been given in accordance with the provisions of subsection (1) of section 53—

- (a) if the Governor is notified by a medical superintendent at any time before the person named in the transfer order is brought before the court or magistrate to which he was committed or by which he was remanded that the person no longer requires treatment for mental disorder, the Governor may by order direct that such person be remitted to any place where he might have been detained if he had not been removed to a mental hospital, there to be dealt with as if he had not been so removed, and on his arrival at the place to which he is so remitted the transfer order shall cease to have effect;
- (b) if no order has been made in accordance with the provisions of paragraph (a) and if it appears to the Court or magistrate to which the person named in the transfer order was committed or by which he was remanded that it is impracticable or inappropriate to bring that person before the court or magistrate and the conditions set out in subsection (3) are satisfied, the court or magistrate may make a hospital order in respect of such person in his absence and, in the case of a person committed for trial, without convicting him.

(3) A hospital order may be made in respect of a person in accordance with the provisions of paragraph (b) of subsection (2) if the court or magistrate is satisfied, on the written or oral evidence of two registered medical practitioners received in accordance with the provisions of section 46 that—

- (a) such person is a mentally disordered person; and
- (b) the nature or degree of the mental disorder from which the person is suffering warrants his detention in a mental hospital for medical treatment,

and the court or magistrate is of the opinion after considering any depositions or other documents required to be sent to the proper officer of the court, that it is proper to make a hospital order.

(4) When a transfer order has been made in respect of a person remanded in custody by a magistrate, the power of further remanding such person under section 20 of the Magistrates Ordinance may be exercised by the magistrate without such person being brought before the magistrate.

(Cap. 227).

(5) Any transfer order made in respect of a civil prisoner shall cease to have effect on the expiration of the period during which he would but for his removal to the mental hospital, be liable to be detained in prison.

Removal of prisoners for observation.

55. (1) If the Commissioner of Prisons or, in the case of a person who is detained in a remand home or a reformatory school, the Director of Social Welfare, has reason to believe that a person who is serving a sentence of imprisonment as defined by subsection (5) of section 52 or a person to whom section 53 applies is a mentally disordered person and that it is necessary or desirable that such person should be forthwith transferred to a mental hospital for observation or treatment, he may, by writing under his hand, order that such person be taken to a mental hospital for the purpose of detention, observation and treatment during the period of seven days from and including the date of the order.

(2) The provisions of sections 51, 52 and 53 may be applied to a person who is detained in a mental hospital in consequence of an order made under subsection (1) as if no such order had been made.

(3) A person who is detained in a mental hospital in consequence of an order made under subsection (1) shall be deemed to be in legal custody.

Medical reports on persons on remand.
(Cap. 227).

56. (1) If a person is committed in custody for trial in accordance with the provisions of subsection (2) of section 84 of the Magistrates Ordinance, the Commissioner of Prisons—

- (a) if the prisoner is charged with a capital offence, may; and
- (b) if the Attorney General makes application in writing to the Commissioner of Prisons in respect of the prisoner, whether the prisoner is charged with a capital offence or not, shall,

make an order in accordance with the provisions of subsection (1) of section 55, even if the Commissioner of Prisons has no reason to believe that the prisoner is a mentally disordered person.

(2) If the prisoner has been committed in custody for trial charged with a capital offence or if he is the subject of an application by the Attorney General in accordance with the provisions of paragraph (b) of subsection (1), the medical officer of the prison or the medical superintendent of the mental hospital, as the case may be, shall, not less than seven days before the date fixed for the trial of the prisoner, submit to the Registrar and to the Attorney General a report on the

mental condition of the prisoner, stating whether or not the prisoner has exhibited any indication of insanity and whether or not he is fit to plead.

(3) A report submitted in accordance with the provisions of subsection (2) shall not express any opinion as to the degree of responsibility of the prisoner at the time when the offence with which he is charged was committed but if, from symptoms exhibited while under observation in the prison or in the mental hospital, the medical officer of the prison or the medical superintendent of the mental hospital, as the case may be, is of the opinion that insanity exists and has done so for some time previous to the date when the offence was committed, or that there is any history of insanity, his report should embody this opinion.

57. (1) The Governor may by warrant direct that any person, who by virtue of subsection (1) of section 78 of the Criminal Procedure Ordinance is ordered to be detained in safe custody until Her Majesty's pleasure shall be known, shall be removed to and detained in such mental hospital as may be specified in the warrant.

Persons ordered to be kept in custody during Her Majesty's pleasure.
(Cap. 221).

(2) A warrant under this section shall have a like effect as a hospital order and on the admission to the mental hospital of the person named in the warrant, the provisions of this Ordinance relating to hospital orders shall apply accordingly.

(3) If the Governor is satisfied by a report from a medical superintendent that a person detained in the mental hospital in accordance with a warrant under subsection (1) other than a person who was found guilty but insane in accordance with the provisions of section 77 of the Criminal Procedure Ordinance, no longer requires treatment for mental disorder, the Governor may by order remit that person to prison for trial before the court before which, but for the warrant, he would have been tried.

PART V.

General Provisions.

58. Nothing in this Part of this Ordinance shall interfere with or derogate from the power vested in the Court by Part II of this Ordinance over any person found to be a mentally disordered person.

Saving of powers.

59. (1) If after the reception of any patient into a mental hospital it appears that the order or the medical certificate upon which he was received is defective or incorrect, the same may at any time afterwards be amended, with the sanction of the medical superintendent, by the person or persons signing the same.

Amendment of orders.

(2) An amendment made under this section shall be effective as from the date of the reception.

Application
of property
of a mentally
disordered
person found
wandering.

60. Any movable property which may be in the possession of a mentally disordered person found wandering at large may be sold by order of a magistrate, and the proceeds thereof, or such part of the same as may be necessary, applied towards the payment of the charge of the lodging and maintenance of such person and of any other expenses incurred on his behalf.

Enforcement
of cost of
maintenance.

(Cap. 221).

61. (1) The Court, on the application of the Attorney General and on being satisfied that a patient including a person who has been received into a mental hospital in accordance with the provisions of section 78 of the Criminal Procedure Ordinance has property which may be applied towards his maintenance or that any person is legally bound to maintain the patient and has sufficient means to enable him to do so, may make an order for the recovery of the cost of the maintenance of the patient, together with the costs of the application, out of the property of the patient or from such person.

(2) Any order made in accordance with the provisions of subsection (1) shall be of the same force and effect and subject to the same appeal as a judgment or order made by the Court in any proceedings in respect of the property or of the person therein mentioned.

Saving.

62. Nothing in this Ordinance shall effect or take away from the liability of any person to maintain a mentally disordered person.

Offences
against
patients.

63. (1) Any attendant, nurse, servant or other person employed in a mental hospital who ill-treats or wilfully neglects any patient shall be guilty of an offence and on summary conviction shall be liable to a fine of one thousand dollars and imprisonment for two years.

(2) Any person who has unlawful sexual intercourse or attempts to have unlawful sexual intercourse with any female mentally disordered person under care or treatment in a mental hospital, while in such hospital or on leave from such hospital shall be guilty of an offence and on summary conviction shall be liable to a fine of five thousand dollars and to imprisonment for three years.

(3) Consent shall not be any defence in any proceedings for an offence under subsection (2) if the accused knew or had reason to suspect that the person in respect of whom the offence was committed was a mentally disordered person under care or treatment in a mental hospital or on leave from such hospital.

(4) If on the trial of any person for rape the Court or jury is satisfied that the accused is guilty of an offence under subsection (2) but are not satisfied that he is guilty of rape, the Court or jury shall acquit him of rape and shall find him guilty of an offence under subsection (2).

64. Whenever in any written law or other document whatsoever any reference to a lunatic or to lunacy or to a lunatic asylum or asylum or mental hospital is contained, that reference shall be read as a reference to a mentally disordered person or to a patient within the meaning of this Ordinance or, as the case may be, to mental disorder, or to a mental hospital.

Construction
of laws.

65. Every order or certificate of a medical officer or a registered medical practitioner shall be evidence of the facts therein appearing and of the judgment therein stated to have been formed by the person certifying on such facts, as if the matters therein appearing had been verified on oath.

Medical
orders
or certi-
ficates.

66. The Court making an order under section 26 or a magistrate or a justice of the peace making an order under section 31 shall forthwith send a certified copy of the order to the medical superintendent of the mental hospital into which any person is ordered to be received.

Copy of
reception
order to be
sent to the
person in
charge of the
mental
hospital.

67. (1) Where a person has made application for the removal or detention of any person under the provisions of this Ordinance, or signed or carried out, or done any act with a view to signing or carrying out, an order purporting to be an order for removal or detention, or any report, application, recommendation, or certificate purporting to be a report, application, recommendation, or certificate under this Ordinance, or has done anything or given any advice in a professional capacity in pursuance of this Ordinance, he shall not be liable to any civil or criminal proceedings whether on the ground of want of jurisdiction or on any other ground unless he has acted in bad faith or without reasonable care.

Protection
of persons
carrying out
the provisions
of this
Ordinance.

(2) No proceedings, civil or criminal, shall be brought against any person in any Court in respect of any such matter as is mentioned in subsection (1), without the leave of the Court, and leave shall not be given unless the Court is satisfied that there is substantial ground for the contention that the person, against whom it is sought to bring the proceedings, has acted in bad faith or without reasonable care.

(3) Notice of any application under subsection (2) shall be given to the person against whom it is sought to bring the proceedings, and that person shall be entitled to be heard against the application.

(4) Where on an application under this section leave is given to bring any proceedings and the proceedings are commenced within four weeks after the date on which leave was so given, the proceedings shall for the purposes of subsection (1) of section 17 of the Law Amendment (Miscellaneous Provisions) Ordinance, be deemed to have been commenced on the date on which notice of the application was given to the person against whom the proceedings are to be brought.

(Cap. 23).

Penalty for improper reception or detention.

68. (1) Subject to the provisions of section 67 any person who—
- (a) otherwise than in accordance with the provisions of this Ordinance receives or detains in a mental hospital a person who is or is alleged to be a mentally disordered person; or
 - (b) for gain detains in any place not being a mental hospital two or more mentally disordered persons,

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

(2) No prosecution under this section shall be instituted except by or with the consent of the Attorney General.

(3) Nothing in this section shall prevent any general hospital or nursing home which has been recognized as such by the Director of Medical and Health Services from receiving and treating any person who is in need of and is desirous of receiving psychiatric treatment.

Powers of a magistrate and a justice of the peace. (Cap. 227).

69. For the purpose of the exercise of the powers conferred by sections 31, 32, 36, 37 and 42 a magistrate and a justice of the peace may exercise the powers conferred on a magistrate by the Magistrates Ordinance of requiring the attendance before him of any person who may be able to assist him in the exercise of such power and of receiving on oath the evidence of any person.

Power of Governor in Council to make regulations.

70. (1) The Governor in Council may by regulation prescribe or provide for—

- (a) the powers and duties of medical superintendents and other persons employed in mental hospitals;
- (b) the forms required for the carrying out of the provisions of this Ordinance and of any regulations made under this section;
- (c) the books and records to be kept in mental hospitals;
- (d) the conditions and circumstances under which mechanical means of restraint or seclusion may be applied to patient;
- (e) any fees to be charged under this Ordinance or such regulations;
- (f) the amounts which may be charged for the maintenance of patients; and
- (g) generally carrying into effect the provisions of this Ordinance.

(2) Such regulations may provide that the contravention of any regulation shall constitute an offence and may prescribe penalties for any offence not exceeding a fine of one thousand dollars and imprisonment for six months.

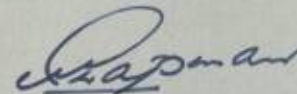
71. (1) The Mental Hospitals Ordinance is repealed.

(2) The Prisons Ordinance, 1954, is amended by the repeal of section 13.

(3) The Prison Rules, 1954, are amended by the revocation of rule 208.

Repeal and consequential amendments. (Cap. 136). (17 of 1954). (17 of 1954, Schedule).

Passed the Legislative Council of Hong Kong, this 7th day of September, 1960.

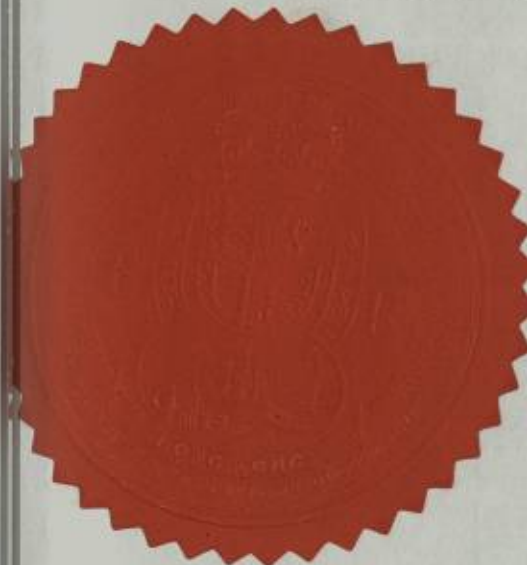


Deputy Clerk of Councils.

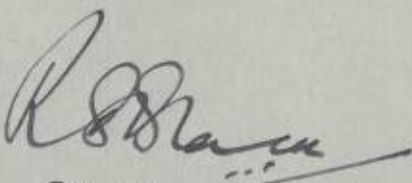
(Secretariat GR11/3231/52)

HONG KONG

No. 36 OF 1960.



I assent.


Governor.

8th September, 1960.

An Ordinance further to amend the Medical Registration Ordinance,
1957. [9th September, 1960.]

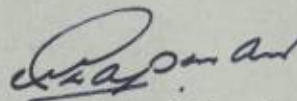
BE it enacted by the Governor of Hong Kong, with the advice
and consent of the Legislative Council thereof, as follows—

1. This Ordinance may be cited as the Medical Registration Short title.
(Amendment) (No. 2) Ordinance, 1960.

2. Subsection (2) of section 3 of the Medical Registration Ordinance, 1957 is amended by the insertion in paragraph (e) after the word "five" of the following—
"registered".

Amendment
of section 3.
(25 of 1957).

Passed the Legislative Council of Hong Kong, this 7th day of
September, 1960.


Deputy Clerk of Councils.

(Secretariat CR8/3231/55II)

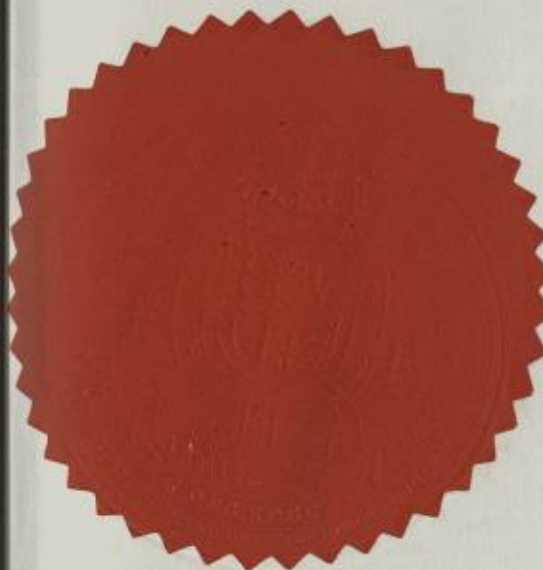
HONG KONG

No. 38 of 1960



HONG KONG

No. 37 of 1960.



I assent.

Governor.

22nd September, 1960.

An Ordinance to amend the Pensions Ordinance, Chapter 89.

[23rd September, 1960.]

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

1. (1) This Ordinance may be cited as the Pensions (Amendment) Ordinance, 1960.

Short title
and com-
mencement.
(Cap. 89).

(2) The amendments to the Pensions Ordinance (hereinafter referred to as the principal Ordinance) made by section 2 and paragraph (a) of section 5 of this Ordinance shall be deemed to have had effect as from the 1st day of July, 1959.

(3) The amendments to the principal Ordinance made by sections 3 and 4 and paragraph (b) of section 5 of this Ordinance shall be deemed to have had effect as from the commencement of this Ordinance.

Amendment
of section 2.

2. Subsection (1) of section 2 of the principal Ordinance is amended by the deletion of the semi-colon at the end of paragraph (a) of the definition "pensionable emoluments" and the addition thereto of the following—

"and provided further that, except in computing the pension, allowance or gratuity payable in respect of the service of an officer who continued to be in receipt of cost of living allowance up to the date of his retirement or death, ninety per cent only of substantive salary in respect of service after the 30th day of June, 1959, shall be included in the expression "pensionable emoluments";".

Amendment
of sections 7,
11, 17, 17A
and 19.

3. The principal Ordinance is amended by the deletion in sections 7 and 11 and subsection (1) of section 17, the proviso to subsection (1) of section 17A and subsection (5) of section 19 of the words "in Council" wherever they occur.

Addition
of new
section 13A.

4. The principal Ordinance is amended by the addition after section 13 of the following new section—

"Conditions
of pension.

13A. It shall be a condition of the grant of every pension or other allowance that the Governor in Council may cancel or reduce it if it be shown to have been obtained by the wilful suppression of material facts or to have been granted in ignorance of facts which, had they been known before the retirement of the officer, would have justified his dismissal or a reduction of his salary."

Amendment
of section 17.

5. Section 17 of the principal Ordinance is amended—

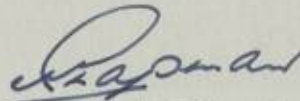
(a) by the deletion in paragraph (i) of subsection (1) of the words "one thousand one hundred and fifty-two dollars" and the substitution therefor of the following—

"one thousand three hundred and forty-four dollars or, in the case of an officer who was not at any time in receipt of salary and allowances on a scale provided by the implementation of the Salaries Commission Report, 1959, or otherwise provided subsequent to the 30th day of June, 1959, one thousand one hundred and fifty-two dollars"; and

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

(28 of 1953).
"(6) This section shall not apply in the case of the death of any officer if his dependants, as defined in section 3 of the Workmen's Compensation Ordinance, 1953, are entitled to and have received compensation under the provisions of that Ordinance in respect of such death."

Passed the Legislative Council of Hong Kong, this 21st day of September, 1960.


Deputy Clerk of Councils.

(Secretariat PR5/4370/60)

HONG KONG

No. 38 of 1960.

I assent.


Governor.

22nd September, 1960.

An Ordinance further to amend the Interpretation Ordinance, Chapter 1.

[23rd September, 1960.]

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 Interpretation (Amendment) Ordinance, 1960. Short title.

2. Section 3 of the Interpretation Ordinance is amended in subsection (1) by— Amendment of section 3. (Cap. 1).

(a) the insertion in the definition of the word "Commonwealth", after the words and comma "the Republic of India,", of the following—

"the Republic of Pakistan, the Republic of Ghana,"; and

- (b) the deletion of the definition of the words "Financial Secretary" and the substitution therefor of the following—

"“Financial Secretary” includes the Economic Secretary, the Deputy Financial Secretary and the Deputy Economic Secretary;”.

Passed the Legislative Council of Hong Kong, this 21st day of September, 1960.


Deputy Clerk of Councils.

(Secretariat GR85/3231/47)

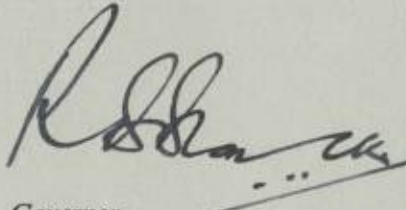


HONG KONG

No. 39 of 1960.



I assent.


Governor.

22nd September, 1960.

An Ordinance to amend the Jury Ordinance, Chapter 3.

[23rd September, 1960.]

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 Jury (Amendment) Short title. Ordinance, 1960.

2. Section 2 of the Jury Ordinance (hereinafter referred to as the principal Ordinance) is amended—

(a) by the addition after the definition "court" of the following definition—

“list of common jurors” means those portions of the register of electors prepared in accordance with the provisions of the Urban Council Ordinance, 1955, which relate to persons qualified

(14 of 1955).

Amendment
of section 2.
(Cap. 3).

for registration therein by virtue of paragraph (a) of section 15 of that Ordinance in so far as it relates to common jurors;";

- (b) by the substitution of a semi-colon for the full stop at the end of the definition "Registrar"; and
- (c) by the addition after the definition "Registrar" of the following definition—

" "Commissioner" means the Commissioner of Registration for the Colony appointed under section 2 of the Registration of Persons Ordinance, 1960."

(18 of 1960).

Amendment
of section 5.

- 3. Section 5 of the principal Ordinance is amended—

- (a) in paragraph (c) by the deletion of the semi-colon at the end thereof and the substitution therefor of the following—

“, and the spouses and dependant children of such persons;”;

- (b) by the deletion of paragraph (i) and the substitution therefor of the following—

“(i) (i) teachers of any school registered or exempted from registration under the provisions of the Education Ordinance, 1952, and

(33 of 1952).

(ii) teachers and other academic officers and full time students of any Approved Post Secondary College within the meaning of the Post Secondary Colleges Ordinance, 1960, and

(15 of 1960).

(iii) professors, lecturers and other academic officers and full time students of the University of Hong Kong;”;

- (c) in paragraph (o) by the deletion of the full stop at the end thereof and the substitution therefor of a semi-colon;
- (d) by the addition after paragraph (o) of the following new paragraphs—

“(p) the wife of the Chief Justice and of the Senior Puisne Judge and of every puisne judge not being a temporary additional or acting puisne judge;

(q) wives of members of the Armed Forces of Her Majesty serving on full pay.”.

- 4. Section 7 of the principal Ordinance is repealed.

Repeal of
section 7.

- 5. Section 8 of the principal Ordinance is repealed and replaced by the following sections—

Repeal and
replacement
of section 8.

“Provisional
list of
common
jurors.
(18 of 1960).

Schedule.

8. (1) Upon application for an identity card being made to the Commissioner by any person in accordance with the provisions of the Registration of Persons Ordinance, 1960, or if it appears to the Commissioner at any other time that any person is qualified and liable, within the meaning of section 4 of this Ordinance, to serve as a juror, the Commissioner shall cause to be served upon such person a notice in Form 2 of the Schedule.

(2) If any person upon whom a notice is served in accordance with subsection (1) considers that—

- (a) he does not qualify for jury service under the provisions of section 4; or
- (b) he is entitled to exemption from jury service by virtue of section 5,

he may, within fourteen days after service upon him of such notice, notify the Commissioner in writing to that effect stating the grounds upon which he claims exemption.

(3) On or before the 1st day of October, 1960, and on or before the 1st day of October in each alternate year thereafter, the Commissioner shall compile a provisional list of common jurors which shall consist of—

- (a) the names of those persons whose names appeared on the last preceding list of common jurors and whose names have not been removed therefrom in accordance with any regulations made under the provisions of the Urban Council Ordinance, 1955, governing the correction of the register of electors prepared in accordance with the provisions of that Ordinance; and
- (b) subject to the determination of the Registrar upon any claim for exemption notified to the Commissioner in accordance with subsection (2), the names of those persons upon whom, on or before the last preceding 1st day of September, the Commissioner served a notice in accordance with subsection (1).

(14 of 1955).

(4) For the purpose of subsection (1), service of notice may be effected either by personal service or by posting the notice addressed to the person to be served at his last address as known to the Commissioner.

Provisional
list of
special
jurors.

8A. On or before the 1st day of October, 1960, and on or before the 1st day of October in each alternate year thereafter, the Registrar shall compile a provisional list of special jurors which shall consist of the names of not more than three hundred and fifty persons being qualified and liable to serve as jurors, or such greater number as the Governor in Council may from time to time determine.

Settlement
of lists of
jurors.

8B. (1) On or before the 1st day of October, 1960, and on or before the 1st day of October in each alternate year thereafter, there shall be published in the *Gazette* and in one English language daily newspaper and in one Chinese language daily newspaper, each circulating in the Colony—

(a) a notice by the Commissioner stating that the provisional list of common jurors is available for inspection free of charge at the address specified in such notice upon such days and between such hours as shall therein be specified up to and including the next following 14th day of October; and

(b) a notice by the Registrar stating that the provisional list of special jurors is available for inspection free of charge at the address specified in such notice upon such days and between such hours as shall be specified therein up to and including the next following 14th day of October.

(2) At any time between such 1st day of October and such 14th day of October, any person may apply by notice in writing addressed to the Registrar requiring that his name, or the name of any other person, be added to or deleted from either the list of common jurors or the list of special jurors, as the case may be, for cause duly assigned in such notice.

(3) On receipt of any application in accordance with subsection (2) relating to any person whose name appears on the list of common jurors the Registrar shall in his discretion allow or disallow the application and finally settle such list accordingly.

(4) As soon as may be after such 14th day of October, and in any case not later than the 1st day of November next following, the Registrar shall forward to the Clerk of Councils the provisional list of special jurors together with any application relating thereto and received in accordance with subsection (2) and thereafter the Governor in Council

shall consider such list and in his discretion allow or disallow any such application and finally settle such list accordingly.

(5) Notwithstanding the foregoing provisions of this section, the Governor in Council in relation to the list of special jurors and the Registrar in relation to the list of common jurors may adopt as and for the list of special jurors or the list of common jurors, as the case may be, of the current year, the appropriate list of a previous year."

6. Section 9 of the principal Ordinance is repealed and replaced by the following section—

Repeal and
replacement
of section 9.

"Publication
and bringing
into opera-
tion of lists
of jurors.

9. (1) Not later than the 1st day of February, 1961, and thereafter not later than the 1st day of February in each alternate year—

(a) the Commissioner shall cause the list of common jurors as finally settled by the Registrar to be printed and thereafter shall publish a notice in the *Gazette* stating that such list has been printed and that copies thereof may be inspected at his office and at the office of the Registrar upon such days and during such hours as shall be stipulated in such notice, and also that copies of such list may be purchased at such place and at such price as shall be stipulated in the notice; and

(b) the Registrar shall cause a notice to be published in the *Gazette* stating that the list of special jurors as finally settled by the Governor in Council may be inspected at his office upon such days and during such hours as shall be stipulated in such notice, and that copies of such list may be purchased at such place and at such price as shall be stipulated in the notice.

(2) The list of special jurors and the list of common jurors shall be in force from fifteen days after the date on which the notice referred to in subsection (1) is published in the *Gazette* until fifteen days after the date on which such notice relating to the next succeeding list is so published."

7. Section 10 of the principal Ordinance is repealed and replaced by the following section—

Repeal and
replacement
of section 10.

"Power to
add to settled
jury lists.

10. (1) If any person becomes liable for inclusion in the list of special jurors or in the list of common jurors after the final settlement of such lists in accordance with

the provisions of section 8B, the Registrar may in his discretion, subject to the provisions of this section, cause the name of such person to be posted for fourteen days at some convenient place accessible to the public within one of the entrances to the Courts of Justice.

(2) Any person may, during the period of fourteen days specified in subsection (1), apply by notice in writing to the Registrar requiring that his name or the name of some other person be posted or removed, upon cause duly assigned in such notice, and the Registrar shall, in his discretion, post or remove such name accordingly.

(3) As soon as may be after the expiration of the period of fourteen days specified in subsection (1), the Registrar shall—

- (a) make a list of the names of common jurors so posted and, after in his discretion allowing or disallowing any application relating thereto received in accordance with subsection (2), finally settle such list; and
- (b) forward a list of the names of any special jurors so posted to the Clerk of Councils together with any applications relating thereto received in accordance with subsection (2).

(4) The list of special jurors forwarded to the Clerk of Councils in accordance with subsection (3) shall be considered by the Governor in Council who, after in his discretion allowing or disallowing any application relating thereto received by the Registrar in accordance with subsection (2), shall finally settle such list.

(5) The Registrar shall cause the list of special jurors finally settled in accordance with subsection (4) and the list of common jurors finally settled in accordance with subsection (3) to be published in the *Gazette*.

(6) Any person whose name is published in the *Gazette* as a special juror or as a common juror, as the case may be, in accordance with the provisions of subsection (5) shall be deemed for all purposes to be a special juror or a common juror whose name appeared respectively in the list of special jurors or the list of common jurors as settled in accordance with section 8B.”

8. Section 14 of the principal Ordinance is amended—

Amendment
of section 14.

- (a) in subsection (1) by the deletion of the word “when” and the substitution therefor of the following—
“within seven days after”; and
- (b) by the repeal of subsection (2) and the replacement thereof by the following subsection—

“(2) Notwithstanding anything contained in the Code of Civil Procedure, if such deposit be not made within the time prescribed in subsection (1) the cause shall be heard by the court without a jury.”.

9. Section 23 of the principal Ordinance is amended in subsection (1) by the deletion of the proviso thereto and the substitution therefor of the following—

Amendment
of section 23.

“Provided that if any person is arraigned for any offence punishable with death the jury must be unanimous in their verdict of guilty or not guilty unless a majority, consisting of not less than five, find such person guilty of a lesser offence, in which case the finding of such majority shall be the verdict, and sentence shall follow accordingly.”.

10. Section 27 of the principal Ordinance is amended—

Amendment
of section 27.

- (a) by the insertion after the number “27” of the following—
“(1)”; and
- (b) by the addition of the following new subsection—

“(2) Without prejudice to anything contained in subsection (1), if any person who has been summoned by the Registrar to attend on a jury shows in writing to the satisfaction of the Registrar that there is a good reason why he should be excused from attending on that jury, it shall be lawful for the Registrar, notwithstanding anything contained in this or any other Ordinance, to excuse that person from so attending:

Provided that the Registrar shall produce to the court or judge any application received by him from any person asking to be excused from attendance on any jury summoned for the trial of cases before that court or judge and any correspondence relating to any such application, and shall, where he has complied with any such application, state to the court or the judge his reasons for so doing.”.

11. Section 34 of the principal Ordinance is repealed.

Repeal of
section 34.

Amendment
of Schedule.

12. The Schedule to the principal Ordinance is amended by the deletion of Form 2 and the substitution therefor of the following Form—

"FORM 2.

[s. 8.]

- (1) Jury Ordinance, Chapter 3.
- (2) Urban Council Elections (Registration of Electors) Regulations, 1955.

Ref: Identity Card No.

Mr. }
Mrs. }
Miss }

NOTICE.

Jury Service.

1. Whereas it appears to me that you are a person qualified and liable in accordance with the provisions of section 4 of the Jury Ordinance to serve as a juror, you are hereby notified that your name will be added to the joint Electoral Register and Jury List unless within 14 days after the receipt of this notice you notify me in writing that you claim exemption from jury service on either of the following grounds—

- (a) that you do not qualify for jury service under the provisions of section 4 of the Jury Ordinance; or
- (b) that you are entitled to exemption from jury service under the provisions of section 5 of the Jury Ordinance.

2. A copy of the relevant provisions of sections 4 and 5 of the Jury Ordinance are attached hereto for your information.

Urban Council Elections.

3. If, upon claiming exemption from jury service as indicated in paragraph 1, your claim is accepted, your name may nevertheless be included in the Electoral Register for the purpose of voting at the next forthcoming Urban Council elections upon your forwarding to me an application to that effect on Form 2 of the Appendix to the Urban Council Elections (Registration of Electors) Regulations, 1955. I shall be pleased to supply you with such a form upon request or you may obtain such a form from any post office.

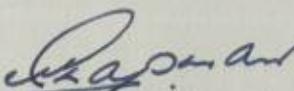
4. A copy of the provisions of sections 15 to 17 inclusive of the Urban Council Ordinance, 1955, relating to franchise, is attached for your information.

Dated this day of 19 .

Commissioner of Registration.

Offices:
Causeway Bay Magistracy Building,
Causeway Bay,
Hong Kong."

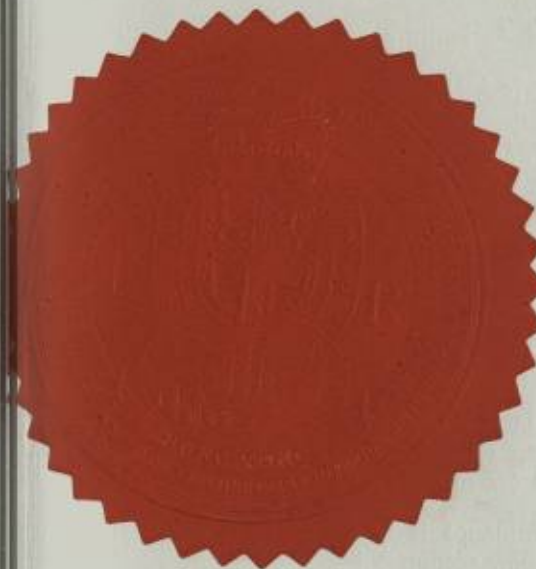
Passed the Legislative Council of Hong Kong, this 21st day of September, 1960.


Deputy Clerk of Councils.

(Secretariat GR3309/45)

HONG KONG

No. 40 of 1960.



I assent.

Governor.

22nd September, 1960.

An Ordinance to amend the Kadoorie Agricultural Aid Loan Fund Ordinance, 1955.

[23rd September, 1960.]

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 Kadoorie Agricultural Aid Loan Fund (Amendment) Ordinance, 1960. Short title.

2. Section 4 of the Kadoorie Agricultural Aid Loan Fund Ordinance, 1955, (hereinafter referred to as the principal Ordinance) is amended by the deletion of the words "Director of Agriculture, Fisheries and Forestry" wherever they appear, and the substitution therefor of the following— Amendment of section 4. (25 of 1955).

"Director of Agriculture and Forestry".

Amendment
of section 5.

3. Section 5 of the principal Ordinance is amended in paragraph (a) of subsection (1) by the deletion of the words "Director of Agriculture, Fisheries and Forestry" and the substitution therefor of the following—

"Director of Agriculture and Forestry".

Amendment
of section 6.

4. Section 6 of the principal Ordinance is repealed and replaced by the following—

"The trusts.

6. (1) The trustee shall apply the Fund in such manner as the committee may direct for the purpose of encouraging or improving agriculture in the Colony by the issue of loans to farmers, groups of farmers or persons intending to become farmers, at such rates of interest, if any, and subject to such terms or conditions as the committee may direct, or by such other means as may from time to time be approved by the Governor.

(2) For the purpose of subsection (1), the expression "agriculture" includes all forms of animal husbandry, poultry breeding, crop raising, fish culture and the cultivation of oysters for food."

Addition
of new
section 7A.

5. The principal Ordinance is amended by the addition after section 7 of the following new section—

"Borrowing
powers.

7A. The trustee may borrow such sums of money at such rates of interest and subject to such terms or conditions as the committee may from time to time direct for the furtherance of any of the purposes specified in section 6, and the capital and assets of the Fund shall be chargeable as security for the repayment thereof."

Repeal and
replacement
of section 11.

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

"Accounts.

11. (1) The trustee shall cause proper accounts to be kept of all transactions of the Fund and shall cause to be prepared for every period of twelve months ending on the 31st day of March in each year, a statement of the accounts of the Fund, which statement shall include an income and expenditure account and balance sheet and shall be signed by the trustee.

(2) The accounts of the Fund and the signed statement of the accounts shall be audited by an auditor appointed by the Governor and the auditor shall certify the statement subject to such report, if any, as he may think fit.

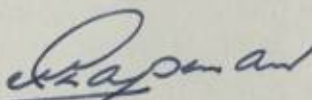
(3) A copy of the signed and audited statement of the accounts together with the auditor's report, if any, and a report by the committee on the administration of the

Fund during the period covered by the audited accounts shall be laid on the Table of the Legislative Council not later than the 30th day of September next following the end of such period or so soon thereafter as the Governor, in his absolute discretion, may allow."

7. Section 13 of the principal Ordinance is repealed.

Repeal of
section 13.

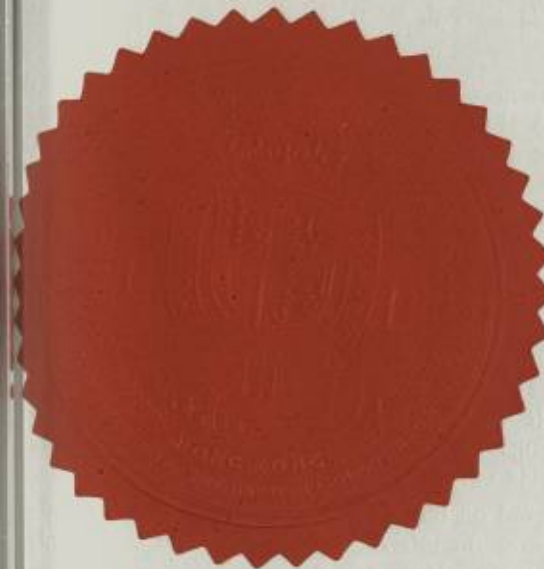
Passed the Legislative Council of Hong Kong, this 21st day of September, 1960.


Deputy Clerk of Councils.

(Secretariat GR6/2321/55)

HONG KONG

No. 41 of 1960.



I assent.

Governor.

22nd September, 1960.

An Ordinance to provide for the incorporation of the Director of Education, and for matters connected therewith.

[23rd September, 1960.]

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 Director of Education Short title. Incorporation Ordinance, 1960.

2. The person for the time being performing the duties of the office of Director of Education shall be a corporation sole (hereinafter referred to as the corporation) and shall have the name of the Director of Education Incorporated and in that name shall have perpetual succession.

Director of Education constituted a corporation sole.

Seal of corporation and authentication thereof, and instruments executed thereunder.

3. (1) The corporation shall have and may use a common seal and the affixing of the seal shall be authenticated by the signature of the occupant of the corporation for the time being.

(2) Any instrument purporting to be an instrument duly executed under the seal of the corporation shall be received in evidence and shall, unless the contrary is proved, be deemed to be an instrument so executed.

Power of corporation to act as trustee, etc.

4. The corporation subject to the prior approval of the Colonial Secretary may act as trustee of any trust created for purposes or objects connected with education or with the work of the Education Department and may acquire, take on lease, purchase, hold, hire and enjoy any movable or immovable property and may dispose of the same.

Power to invest trust funds.
(Cap. 29).

5. (1) The corporation may invest, in accordance with the provisions of the Trustee Ordinance, any trust funds in the hands of the corporation whether at the time in a state of investment or not:

Provided that where the occupant of the corporation for the time being considers it impracticable for any reason whatsoever for any such trust funds to be so invested, the corporation may deposit such trust funds in any bank or savings bank approved by the Governor either generally or in any particular case.

(2) The powers conferred on the corporation by subsection (1) are in addition to the powers (if any) conferred by any trust but shall apply only if and so far as a contrary intention is not expressed in any term of any trust, and shall have effect subject to any such term.

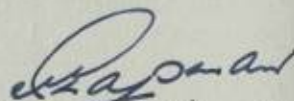
Property of corporation to pass to its successors.

6. Where any property or interest therein is vested in the corporation, the same shall, unless and until otherwise disposed of by the corporation, pass and devolve to and vest in the successors from time to time of the corporation.

Certificate as to occupant of corporation.

7. If any question arises as to who is or was at any time the occupant of the corporation for the time being, a certificate under the hand of the Colonial Secretary shall be conclusive evidence for all purposes as to the person who is or was such occupant.

Passed the Legislative Council of Hong Kong, this 21st day of September, 1960.


Deputy Clerk of Councils.

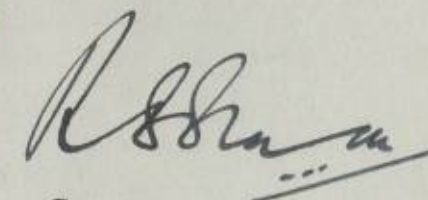
(Secretariat GR3/2401/59)

HONG KONG

No. 42 of 1960.



I assent.



Governor.

22nd September, 1960.

An Ordinance to repeal the Light Dues (Bahamas and Leeward Islands) Ordinance, Chapter 79.

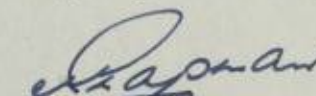
[23rd September, 1960.]

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 Light Dues (Bahamas and Leeward Islands) (Repeal) Ordinance, 1960. Short title.

2. The Light Dues (Bahamas and Leeward Islands) Ordinance Repeal.
is repealed. (Cap. 79).

Passed the Legislative Council of Hong Kong, this 21st day of September, 1960.

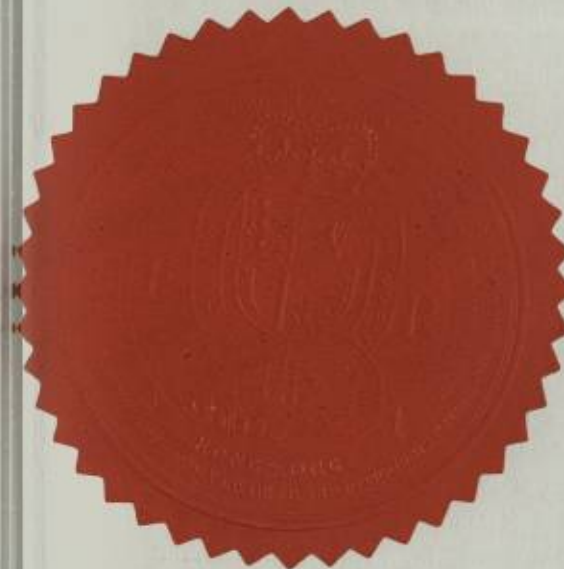

Deputy Clerk of Councils.

(Secretariat GR51/2524/45)

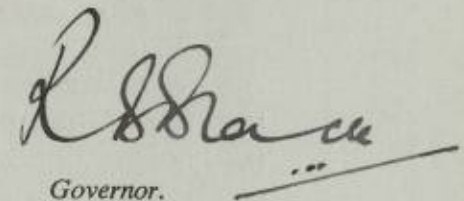


HONG KONG

No. 43 of 1960.



I assent.


Governor.

22nd September, 1960.

An Ordinance to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March, 1960.

[23rd September, 1960.]

WHEREAS it has become necessary to make further provision for the public service of the Colony for the financial year ended the 31st day of March, 1960, in addition to the charge upon the revenue and other funds of the Colony authorized by the Appropriation (1959-60) Ordinance, 1959:

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

1. This Ordinance may be cited as the Supplementary Appropriation (1959-60) Ordinance, 1960. Short title.

Appropriation from general revenue and other funds. Schedule.

2. A sum of forty million, five hundred and sixty-eight thousand, four hundred and sixty-four dollars is hereby charged upon the revenue and other funds of the Colony for the service of the financial year ended the 31st day of March, 1960, the appropriation of the sum so charged being approved as specified in the Schedule.

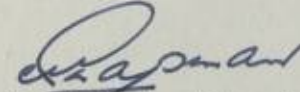
SCHEDULE.

[s. 2.]

<i>Number of vote.</i>	<i>Head of Expenditure.</i>	<i>Amount of vote.</i>
		\$
3.	Audit Department	95,034
4.	Civil Aviation Department	458,570
5.	Colonial Secretariat and Legislature	161,318
7.	Co-operative Development Department	52,839
8.	Defence:	
	B—Hong Kong Royal Naval Reserve	464,408
	F—Auxiliary Medical Service	64,652
	H—Registration of Persons Office	526,446
	J—Miscellaneous Measures	1,791,338
11.	Inland Revenue Department	89,316
12.	Judiciary	54,240
13.	Kowloon-Canton Railway	20,600
18.	Miscellaneous Services	16,333,419
19.	New Territories Administration	587,074
20.	Pensions	640,189
22.	Post Office	1,721,519
24.	Prisons Department	3,121
26.	Information Services Department (formerly Public Relations Office)	393,630
27.	Public Services Commission	3,902
29.	Public Works Recurrent	8,952,440
31.	Quartering Office	1,769,897
33.	Rating and Valuation Department	50,784
34.	Registrar General's Department	10,497
38.	Secretariat for Chinese Affairs:	
	B—District Watch Force	19,291
39.	Social Welfare Department	334,729
40.	Stores Department	4,925,120

<i>Number of vote.</i>	<i>Head of Expenditure.</i>	<i>Amount of vote.</i>
		\$
42.	Treasury	132,850
45.	Census Department	287,607
46.	World Refugee Year Schemes	623,634
	TOTAL	\$40,568,464

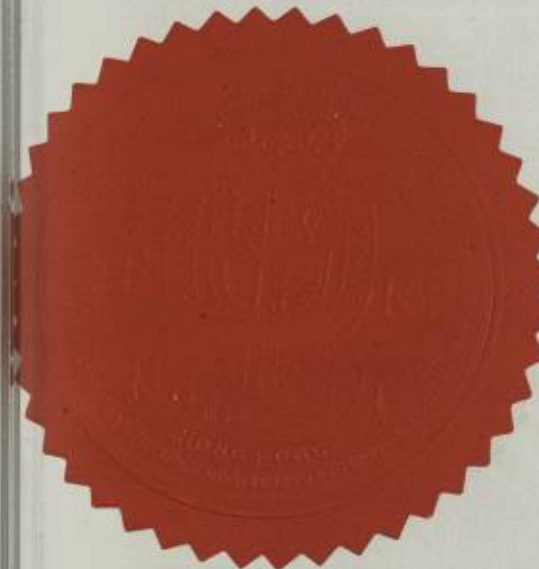
Passed the Legislative Council of Hong Kong, this 21st day of September, 1960.


Deputy Clerk of Councils.

(Secretariat GR1/2311/59)

HONG KONG

No. 44 of 1960.



I assent.

Governor.

22nd September, 1960.

An Ordinance to provide for the maintenance in safe working order of lifts and escalators, for the examination and testing thereof and for matters connected with the purposes aforesaid.

[]

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

PART I.

Preliminary.

1. This Ordinance may be cited as the Lifts and Escalators (Safety) Ordinance, 1960, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*.

Short title
and com-
mencement.

Inter-
pretation.

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

“appeal board” means an appeal board appointed under section 16;

“authorized architect” means a person whose name is for the time being on the register of authorized architects kept under the provisions of section 3 of the Buildings Ordinance, 1955;

(68 of 1955).

“building works” includes any kind of building construction, repairs, demolition, alteration or addition and every kind of building operation;

“Director” means the Director of Public Works;

“disciplinary board” means a disciplinary board appointed under section 8;

“escalator” means an inclined, continuous stairway which is driven by mechanical power and used for raising or lowering passengers;

“escalator works” means any work, not being building works, connected with the alteration or repair of an escalator or of the safety equipment provided for any escalator or of any other machinery or equipment connected with any escalator;

“governor” means, in relation to a lift or counterweight, an automatic device which operates the safety gear provided for the lift or counterweight in the event of the car of the lift or the counterweight exceeding a pre-determined speed in the downward direction and, in relation to an escalator, means an automatic device which will cause the supply of power to the driving machine of the escalator to be cut off in the event of the escalator exceeding a pre-determined safe speed;

“lift” means a lifting machine or appliance having a car or platform the direction of movement of which is restricted by a guide or guides;

“lift works” means any work, not being building works, connected with the alteration or repair of a lift or of the safety equipment provided for any lift or of any other machinery or equipment connected with any lift;

“owner”, in relation to a building, includes any person holding premises direct from the Crown, whether under lease, licence or otherwise, any mortgagee in possession and any person receiving the rent of any premises, solely or with another, on his own behalf or that of

any person, or who would receive the same if such premises were let to a tenant, and, where the owner as above defined cannot be found or ascertained or is absent from the Colony or is under disability, the agent of such owner;

“owner”, in relation to a lift or escalator, means the owner of the building in which the lift or escalator is installed or, where a lift or escalator does not form part of the building, or, if forming part of the building, has not become annexed by operation of law to the building, the owner of the lift or escalator, and in the latter cases includes any person who is in possession of the lift or escalator under any agreement of hire purchase or under any contract between any supplier of lifts or escalators, or the agent of such supplier, and such person, for the sale of a lift or escalator, notwithstanding that the property in the lift or escalator has not passed to such person and, where the owner as above defined, cannot be found or ascertained or is absent from the Colony or is under disability, the agent of such owner;

“prescribed” means prescribed by the Schedule;

Schedule.

“rated load” means the load which a lift or escalator is designed and constructed to carry at the rated speed;

“rated speed” means, in relation to a lift, the mean of the maximum speeds attained by the car or platform of the lift in the upward and downward direction with full rated load, and, in relation to an escalator, means the speed of the escalator measured along the angle of inclination;

“registered escalator contractor” means a person whose name is for the time being on the register of escalator contractors kept under section 6 of the Buildings Ordinance, 1955;

“registered escalator engineer” means a person whose name is for the time being on the register of escalator engineers kept under section 5;

“registered lift contractor” means a person whose name is for the time being on the register of lift contractors kept under section 6 of the Buildings Ordinance, 1955;

“registered lift engineer” means a person whose name is for the time being on the register of lift engineers kept under section 5;

"safety equipment" means, in relation to a lift, the safety gear and the governor or other device by which it is operated, the emergency signals and, where provided, the stop switch, and all machinery and equipment connected therewith, and, in relation to an escalator, means the safety gear and the governor or other device by which it is operated, the broken step chain device, the switches provided to stop the escalator in an emergency and, where fitted, the broken drive chain device, and all machinery and equipment connected therewith;

"safety gear" means, in relation to a lift or counterweight, a mechanical device which, when operated, stops the car of the lift or the counterweight and holds the car or counterweight to its guides.

(2) For the avoidance of doubt, it is hereby declared that a supplier of lifts or escalators or an agent of such supplier who has, under a contract for the sale or installation of a lift or escalator, retained the ownership of the lift or escalator pending payment of the cost thereof or the balance of the cost thereof or the giving of any other consideration shall not, for the purposes of this Ordinance, be an owner of the lift or escalator.

Application.

3. (1) This Ordinance shall apply to—

(a) every lift other than—

(i) a lift installed in any building belonging to the Crown or to the government of any member of the Commonwealth;

(ii) a lift installed in any building upon any land vested in any person on behalf of Her Majesty's naval, military or air force services;

(iii) a lift installed in any building which belongs wholly to the government of a foreign country and which is used exclusively or mainly for the purposes of the official business of the consular officer of such government;

(iv) a lift or hoist used solely for the stacking, loading or unloading of goods or materials or for the raising of motor vehicles and which does not pass through any floor;

(v) a lift or hoist used for the carriage solely of goods or materials, which does not pass through any floor and in the case of which the height of travel does not exceed twelve feet;

(vi) a skip hoist or hoist used mainly for charging furnaces or similar appliances;

(vii) a hoist used solely for lifting or feeding material directly into a machine;

(viii) a ramp connected with any wharf or pier;

(ix) an amusement device;

(x) a stage or orchestra lift;

(xi) a lift or hoist provided, in connexion with any building which is being constructed, for the use solely of persons employed in the construction thereof or for carrying materials used therein;

(xii) a belt, bucket, scoop or roller conveyor and any similar machine; and

(xiii) a lift installed in any ship or aircraft; and

(b) every escalator other than—

(i) an escalator installed in any building belonging to the Crown or to the government of any member of the Commonwealth;

(ii) an escalator installed in any building upon any land vested in any person on behalf of Her Majesty's naval, military or air force services; and

(iii) an escalator installed in any building which belongs wholly to the government of a foreign country and which is used exclusively or mainly for the purposes of the official business of the consular officer of such government.

(2) For the purposes of this section, the expression "foreign country" means any country outside the Commonwealth.

4. Without prejudice to the generality of the expression, the following shall, for the purposes of this Ordinance be deemed, in relation to a lift, to be major alterations, namely—

(a) any increase in the rated load or rated speed of a lift;

(b) any increase in the dead weight of the car of any lift;

(c) any increase or decrease in the distance which a lift travels;

(d) any change in the type of operation or control of a lift;

(e) any change in the size or number of the ropes which support the car of any lift or of the ropes supporting the counterweight;

(f) any change in the size or type of guide rails;

(g) the replacement of, or any change in type of, the safety equipment provided for any lift or counterweight;

(h) the replacement of the driving-machine of any lift;

(i) the replacement of a controller;

(j) the replacement of a driving-machine brake;

(k) the replacement of the doors of any lift-way;

Certain works deemed to be major alterations in relation to lifts.

- (l) the addition to the doors of any lift-way of interlocking devices or the addition of electrical contacts to the door of any lift-way or the car of any lift;
- (m) the addition of switches to enable access to be obtained to any lift-way;
- (n) the addition, at the top of the car of any lift, of devices to enable the lift to be operated therefrom;
- (o) the addition of automatic devices to operate the doors of the lift-way or the car of any lift;
- (p) the addition of rope equalizers;
- (q) the addition of auxiliary rope-fastening devices;
- (r) the addition of car-levelling devices; or
- (s) the addition of roller guide shoes.

PART II.

Registered lift engineers and registered escalator engineers.

5. (1) The Director shall keep a register (hereinafter referred to as the register of lift engineers) of persons who are, in his opinion, qualified to carry out the duties and exercise the functions required by this Ordinance to be carried out and exercised by a registered lift engineer and shall also keep a register (hereinafter referred to as the register of escalator engineers) of persons who are, in his opinion, qualified to carry out the duties and exercise the functions so required to be carried out and exercised by a registered escalator engineer.

(2) (a) Save as provided in paragraph (b), no person shall be included in the register of lift engineers or in the register of escalator engineers unless he is, or is in the full time employment of, a registered lift contractor or a registered escalator contractor, as the case may be.

(b) The Director, in his discretion, may, in any particular case, include any other person in the register of lift engineers or in the register of escalator engineers.

(3) No body of persons, corporate or unincorporate, shall be eligible for inclusion in the register of lift engineers or the register of escalator engineers.

6. (1) Every application for inclusion in the register of lift engineers or the register of escalator engineers shall be made in the prescribed form to the Director.

(2) Where, upon any such application, the Director is satisfied that the applicant is qualified in accordance with the provisions of section 5, he shall, within three months of his receipt of the application,

Registers of lift engineers and escalator engineers and qualifications for inclusion therein.

Procedure on application for registration.

Forms 1 and 2.

enter the name of the applicant on the register of lift engineers or the register of escalator engineers, as the case may be, and shall issue to him a certificate of registration in the prescribed form.

Forms 3 and 4.

(3) Where, upon any such application, the Director is not so satisfied, he shall refuse the application and shall, within three months of his receipt of the application, inform the applicant of his refusal.

7. (1) The Director may remove from the register of lift engineers or the register of escalator engineers the name of any person who—

Removal from register.

- (a) dies; or
- (b) ceases, for any reason, to be a lift engineer or an escalator engineer; or
- (c) having, at the time his name was included in the register of lift engineers or the register of escalator engineers, been employed by a registered lift contractor or a registered escalator contractor, ceases for any reason to be so employed.

(2) If a registered lift engineer or a registered escalator engineer who is employed by a registered lift contractor or a registered escalator contractor dies or ceases for any other reason to be employed by such contractor, such contractor shall notify the Director of the fact as soon as practicable.

8. (1) For the purposes of section 9, the Governor may, from time to time on application made to him by the Director, appoint a disciplinary board.

Appointment of disciplinary board, etc.

(2) Every such board shall consist of—

- (a) an authorized architect who is qualified as an engineer;
- (b) three engineers having such qualifications as the Director may consider sufficient, of whom at least one shall be qualified as an electrical engineer and at least one as a mechanical engineer;
- (c) the Director or his representative; and
- (d) a legal adviser.

(3) The Director or his representative shall be the chairman of any disciplinary board and the legal adviser shall conduct the proceedings under the direction of the chairman.

9. (1) Where it appears to the Director that a registered lift engineer or a registered escalator engineer has been convicted by any court of such an offence, or has been guilty of such negligence or misconduct, as to—

Disciplinary proceedings.