

(2) The rules so enacted shall regulate the nature of the duty imposed by law in consequence of a person's occupation or control of premises and of any invitation or permission he gives (or is to be treated as giving) to another to enter or use the premises, but they shall not alter the rules of the common law as to the persons on whom a duty is so imposed or to whom it is owed; and accordingly for the purpose of the rules so enacted the persons who are to be treated as an occupier and as his visitors are the same as the persons who would at common law be treated as an occupier and as his invitees or licensees.

(3) The rules so enacted in relation to an occupier of premises and his visitors shall also apply, in like manner and to the like extent as the principles applicable at common law to an occupier of premises and his invitees or licensees would apply, to regulate—

- (a) the obligations of a person occupying or having control over any fixed or moveable structure, including any vessel, vehicle or aircraft; and
- (b) the obligations of a person occupying or having control over any premises or structure in respect of damage to property, including the property of persons who are not themselves his visitors.

3. (1) An occupier of premises owes the same duty, the "common duty of care", to all his visitors, except in so far as he is free to and does extend, restrict, modify or exclude his duty to any visitor or visitors by agreement or otherwise.

(2) The common duty of care is a duty to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there.

(3) The circumstances relevant for the present purpose include the degree of care, and of want of care, which would ordinarily be looked for in such a visitor, so that (for example) in proper cases—

- (a) an occupier must be prepared for children to be less careful than adults; and
- (b) an occupier may expect that a person, in the exercise of his calling, will appreciate and guard against any special risks ordinarily incident to it, so far as the occupier leaves him free to do so.

(4) In determining whether the occupier of premises has discharged the common duty of care to a visitor, regard is to be had to all the circumstances, so that (for example)—

- (a) where damage is caused to a visitor by a danger of which he had been warned by the occupier, the warning is not to be treated without more as absolving the occupier from

Extent of
occupier's
ordinary
duty.

liability, unless in all the circumstances it was enough to enable the visitor to be reasonably safe; and

- (b) where damage is caused to a visitor by a danger due to the faulty execution of any work of construction, maintenance or repair by an independent contractor employed by the occupier, the occupier is not to be treated without more as answerable for the danger if in all the circumstances he had acted reasonably in entrusting the work to an independent contractor and had taken such steps (if any) as he reasonably ought in order to satisfy himself that the contractor was competent and that the work had been properly done.

(5) The common duty of care does not impose on an occupier any obligation to a visitor in respect of risks willingly accepted as his by the visitor (the question whether a risk was so accepted to be decided on the same principles as in other cases in which one person owes a duty of care to another).

(6) For the purposes of this section, persons who enter premises for any purpose in the exercise of a right conferred by law are to be treated as permitted by the occupier to be there for that purpose, whether they in fact have his permission or not.

4. (1) Where an occupier of premises is bound by contract to permit persons who are strangers to the contract to enter or use the premises, the duty of care which he owes to them as his visitors cannot be restricted or excluded by that contract, but (subject to any provision of the contract to the contrary) shall include the duty to perform his obligations under the contract, whether undertaken for their protection or not, in so far as those obligations go beyond the obligations otherwise involved in that duty.

Effect of
contract on
occupier's
liability to
third party.

(2) A contract shall not by virtue of this section have the effect, unless it expressly so provides, of making an occupier who has taken all reasonable care answerable to strangers to the contract for dangers due to the faulty execution of any work of construction, maintenance or repair or other like operation by persons other than himself, his servants and persons acting under his direction and control.

(3) In this section "stranger to the contract" means a person not for the time being entitled to the benefit of the contract as a party to it or as the successor by assignment or otherwise of a party to it, and accordingly includes a party to the contract who has ceased to be so entitled.

(4) Where by the terms or conditions governing any tenancy (including a statutory tenancy which does not in law amount to a tenancy) either the landlord or the tenant is bound, though not by contract, to permit persons to enter or use premises of which he is the

occupier, this section shall apply as if the tenancy were a contract between the landlord and the tenant.

(5) This section, in so far as it prevents the common duty of care from being restricted or excluded, applies to contracts entered into and tenancies created before the commencement of this Ordinance, as well as to those entered into or created after its commencement; but, in so far as it enlarges the duty owed by an occupier beyond the common duty of care, it shall have effect only in relation to obligations which are undertaken after that commencement or which are renewed by agreement (whether express or implied) after that commencement.

Landlord's liability in virtue of obligation to repair.

5. (1) Where premises are occupied by any person under a tenancy which puts on the landlord an obligation to that person for the maintenance or repair of the premises, the landlord shall owe to all persons who or whose goods may from time to time be lawfully on the premises the same duty, in respect of dangers arising from any default by him in carrying out that obligation, as if he were an occupier of the premises and those persons or their goods were there by his invitation or permission (but without any contract).

(2) Where premises are occupied under a sub-tenancy, subsection (1) shall apply to any landlord of the premises (whether the immediate or a superior landlord) on whom an obligation to the occupier for the maintenance or repair of the premises is put by the sub-tenancy, and for that purpose any obligation to the occupier which the sub-tenancy puts on a mesne landlord of the premises, or is treated by virtue of this provision as putting on a mesne landlord, shall be treated as put by it also on any landlord on whom the mesne landlord's tenancy puts the like obligation towards the mesne landlord.

(3) For the purposes of this section, where premises comprised in a tenancy (whether occupied under that tenancy or under a sub-tenancy) are put to a use not permitted by the tenancy, and the landlord of whom they are held under the tenancy is not debarred by his acquiescence or otherwise from objecting or from enforcing his objection, then no persons or goods whose presence on the premises is due solely to that use of the premises shall be deemed to be lawfully on the premises as regards that landlord or any superior landlord of the premises, whether or not they are lawfully there as regards an inferior landlord.

(4) For the purposes of this section, a landlord shall not be deemed to have made default in carrying out any obligation to the occupier of the premises unless his default is such as to be actionable at the suit of the occupier or, in the case of a superior landlord whose actual obligation is to an inferior landlord, his default in carrying out that obligation is actionable at the suit of the inferior landlord.

(5) This section shall not put a landlord of premises under a greater duty than the occupier to persons who or whose goods are

lawfully on the premises by reason only of the exercise of a right of way.

(6) Nothing in this section shall relieve a landlord of any duty which he is under apart from this section.

(7) For the purposes of this section, obligations imposed by any enactment in virtue of a tenancy shall be treated as imposed by the tenancy, and "tenancy" includes a statutory tenancy which does not in law amount to a tenancy, and includes also any contract conferring a right of occupation, and "landlord" shall be construed accordingly.

(8) This section applies to tenancies created before the commencement of this Ordinance, as well as to those created after its commencement.

Liability in contract.

6. (1) Where persons enter or use, or bring or send goods to, any premises in exercise of a right conferred by contract with a person occupying or having control of the premises, the duty he owes them in respect of dangers due to the state of the premises or to things done or omitted to be done on them, in so far as the duty depends on a term to be implied in the contract by reason of its conferring that right, shall be the common duty of care. Implied term in contracts.

(2) Subsection (1) shall apply to fixed and moveable structures as it applies to premises.

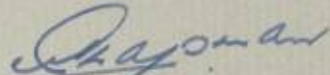
(3) This section does not affect the obligations imposed on a person by or by virtue of any contract for the hire of, or for the carriage for reward of persons or goods in, any vehicle, vessel, aircraft or other means of transport, or by or by virtue of any contract of bailment.

(4) This section does not apply to contracts entered into before the commencement of this Ordinance.

General.

7. This Ordinance shall bind the Crown, but as regards the Crown's liability in tort shall not bind the Crown further than the Crown is made liable in tort by the Crown Proceedings Ordinance, 1957, and that Ordinance and in particular section 4 of it shall apply in relation to duties under sections 3 to 5 of this Ordinance as statutory duties. Application to Crown. (18 of 1957).

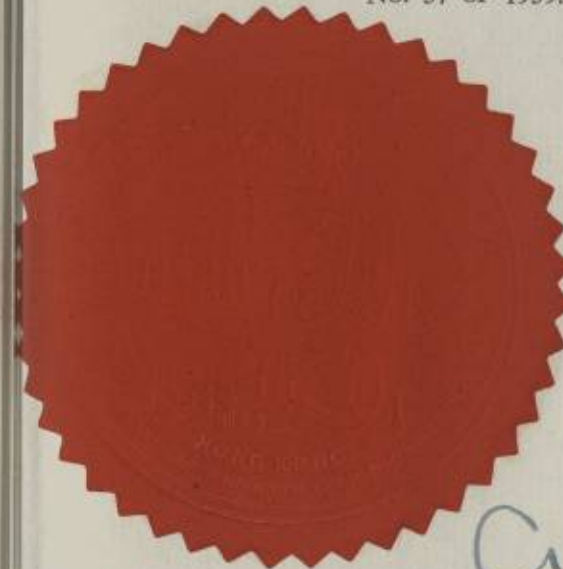
Passed the Legislative Council of Hong Kong, this 21st day of October, 1959.


Deputy Clerk of Councils.

(Secretariat GR L/M 11075/59)

HONG KONG

NO. 37 OF 1959.



I assent.

Claude Zunges

Officer Administering the Government.

22nd October, 1959.

An Ordinance to amend the Merchant Shipping Ordinance, 1953.

[23rd October, 1959.]

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 Merchant Shipping (Amendment) Ordinance, 1959. Short title.

2. Section 2 of the Merchant Shipping Ordinance, 1953 (hereinafter referred to as the principal Ordinance) is amended— Amendment of section 2. (14 of 1953).

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

““accepted Safety Convention certificate” has the meaning assigned to it by section 14 of the Merchant Shipping (Safety Convention) Act, 1949;”;

(b) by the insertion in the definition "Minister" after the word "Transport", wherever appearing, of the following—

“and Civil Aviation”;

- (c) by the deletion of the definitions "safety convention country" and "safety convention ship" and the substitution therefor of the following—

"“Safety Convention country” and “Safety Convention ship” bear the meanings attributed in section 36 of the Merchant Shipping (Safety Convention) Act, 1949, to the expressions “country to which the Safety Convention applies” and “Safety Convention ship” respectively; and the expression “non-Convention country” means a country to which such Safety Convention does not apply;”.

Amendment
of section 5.

3. Section 5 of the principal Ordinance is amended in the first proviso thereto by the insertion after the words and comma “if such river steamer does not carry more than twelve passengers,” of the following—

“and every ship of like tonnage which is the property of the Hong Kong Government”.

New section
17A.

4. The principal Ordinance is amended by the insertion after section 17 of the following new section—

“Regula-
tions as to
crew accom-
modation.

17A. (1) The Governor in Council may make regulations relating to ships registered in the Colony in respect of all or any of the matters specified in subsection (2) of section 1 of the Merchant Shipping Act, 1948.

(2) For the purposes of any regulations made under subsection (1), sections 79 and 84 of the principal Act shall apply to the Colony as amended by section 4 of the Merchant Shipping Act, 1948.

(3) The Director of Marine may exempt any ship or class of ships from any requirement of any regulation made under this section, either absolutely or subject to such conditions as he may think fit.”.

Amendment
of section
23(2)(a).

5. Section 23 of the principal Ordinance is amended in paragraph (a) of subsection (2) by the deletion of the words “safety convention”, wherever appearing, and the substitution therefor of the following—
“Safety Convention”.

Amendment
of section
27(1).

6. Section 27 of the principal Ordinance is amended in subsection (1) by the deletion of the words “prescribed by regulations” and the substitution therefor of the following—

“approved by the Governor”.

7. Section 37 of the principal Ordinance is amended—

Amendment
of section
37.

- (a) in subsection (1) by—

(i) the deletion of the colon at the end of paragraph (c) and substitution therefor of a fullstop; and

(ii) the deletion of the proviso;

- (b) by the insertion after subsection (1) of the following new subsections—

“(2) The Governor in Council may, in addition to any powers of exemption given to the Governor under the Merchant Shipping (Safety Convention) Act, 1949, as extended to the Colony by Order of Her Majesty in Council, make regulations prescribing or providing for life saving appliances for ships of the classes mentioned in subsection (1), whether or not rules made by the Minister as aforesaid apply thereto, and such regulations may without prejudice to the generality of the foregoing be made with respect to all or any of the matters provided for in subsection (1) of section 427 of the principal Act as amended by subsection (1) of section 2 of the Merchant Shipping (Safety Convention) Act, 1949; and where any such regulations are made, the Governor shall be deemed to have exercised his power of exemption aforesaid, in respect of any ship to which such regulations apply, in so far as may be necessary to give effect to such regulations.

(3) Regulations made by the Governor in Council under subsection (2) may include such requirements as appear to him to be necessary to implement the provisions of the Simla Rules, 1931, and the International Convention for the Safety of Life at Sea, 1948, relating to the matters mentioned in such subsection (2).”;

- (c) by subsection (2) being re-numbered subsection (4).

8. Section 41 of the principal Ordinance is amended—

Amendment
of section 41.

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

“(a) any ship of a Safety Convention country which carries a valid accepted Safety Convention certificate, or to”;

- (b) by the deletion of the full stop at the end of paragraph (b) and the substitution therefor of the following—

“, or to”; and

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

“(c) any other foreign ship while within the waters of the Colony by reason of her being within the waters of the Colony if she would not have been within such waters but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.”.

Amendment
of section 50.

9. Section 50 of the principal Ordinance is amended—

- (a) in subsection (1) by the deletion of the word “form” and the substitution therefor of the following—

“appoint”;

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

“(2) Such court shall consist of a judge, district judge or magistrate and shall hold its investigation or inquiry with the assistance of two or more assessors who shall be appointed by the Governor and shall be masters of the British mercantile marine or persons of nautical, engineering or other special skill or knowledge:

Provided that where any investigation or inquiry involves or appears likely to involve any question as to the cancellation or suspension of the certificate (excluding a local certificate of competency issued under Part XIII) of a master, mate or engineer the court shall be assisted by not less than two assessors having experience in the British mercantile marine.”;

- (c) in subsection (3) by the deletion of the expression “unofficial members” and the substitution therefor of the following—
“assessors”.

Amendment
of section 53.

10. Section 53 of the principal Ordinance is amended by the deletion of subsection (3) and the substitution therefor of the following—

“(3) Subject to the provisions of any regulations relating thereto made under section 55, an appeal to the Supreme Court under this section shall be to one judge or to the Full Court as the Chief Justice may decide and shall be subject to any rules of court made under the Supreme Court Ordinance.”.

11. Section 55 of the principal Ordinance is amended—

Amendment
of section 55.

- (a) in subsection (1)—

(i) by the insertion after the words “casualties and” of the following—

“inquiries”; and

(ii) by the insertion after the word “misconduct” of the following—

“and to the rehearing of or appeal from any such investigation or inquiry”;

- (b) in subsection (3) by the insertion after the word “investigation” of the following—

“or inquiry”.

12. Section 57 of the principal Ordinance is amended in subsection (1) by the deletion of the words “The Governor whenever occasion may arise may appoint a court of survey in the same manner and composed of the same persons as in the case of a marine court, and in such case the following provisions shall have effect—” and the substitution therefor of the following—

Amendment
of section 57.

“The Governor whenever occasion may arise may appoint by warrant under his hand and the seal of the Colony, a court, which shall be called a court of survey, and shall consist of not less than three nor more than five members, of whom one shall be a judge, district judge or magistrate and who shall preside over the court, and the remainder shall be masters of the British mercantile marine or persons of nautical engineering or other special skill or knowledge, and in such case the following provisions shall have effect—”.

13. Section 61 of the principal Ordinance is amended by the deletion of subsection (4) and the substitution therefor of the following—

Amendment
of section 61.

“(4) The obligations imposed by this section shall fall on the owners, agents or charterers in the case of any ship without a master.”.

14. Section 66 of the principal Ordinance is amended in subsection (2) by the deletion of the words and comma “, and in either of such cases” and the substitution therefor of the following—

Amendment
of section 66.

“and in addition thereto”.

15. Section 68 of the principal Ordinance is amended—

Amendment
of section 68.

- (a) in subsection (1) by the deletion of the words “a fine of one thousand dollars, or to imprisonment for six months” and the substitution therefor of the following—

“a fine of one thousand dollars and imprisonment for six months”;

- (b) by the insertion after subsection (1) of the following new subsection—

“(1A) Without prejudice to anything contained in subsection (1), where any dead body, ballast, rubbish, oil or other substance is cast or deposited from any vessel into the waters of the Colony, the owner, master, agent or charterers of such vessel shall be liable to a fine of one thousand dollars and imprisonment for six months.”; and

- (c) by the addition after subsection (7) of the following new subsection—

“(8) In any proceedings under this section in respect of any contravention of the provisions of paragraph (d) or (e) of subsection (1) or of paragraph (d) of subsection (3) the onus of proving that permission was granted or that consent was given shall rest upon the defendant.”.

Amendment
of section 71.

16. Section 71 of the principal Ordinance is amended—

- (a) in subsection (1) by the insertion after the words “entitled to grant permission” of the following—

“subject to such conditions or restrictions as he may think fit to impose”; and

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

“(2) Any person who, without the previous written permission of the Director—

(a) does or causes to be done any breaking-up operations of any vessel or any wrecked, submerged, sunken or stranded vessel lying within the waters of the Colony shall be liable to a fine of three thousand dollars and to imprisonment for six months; or

(b) fails to comply with any condition or restriction imposed by or in connexion with any such written permission shall be liable to a fine of three thousand dollars and to a further penalty of a fine of one hundred dollars for each day during which such failure to comply continues after notice under the hand of the Director requiring compliance has been served upon the owner of the vessel or his servant or agent or upon the person for the time being in charge of the vessel.”.

- 17. Section 86 of the principal Ordinance is amended in subsection (1) by the deletion of the words “Dangerous Goods Ordinance, 1873” and the substitution therefor of the following—**

Amendment
of section 86.

“Dangerous Goods Ordinance, 1956”.

- 18. Section 87 of the principal Ordinance is amended in subsection (1) by the deletion of the words “Dangerous Goods Ordinance, 1873” and the substitution therefor of the following—**

Amendment
of section 87.

“Dangerous Goods Ordinance, 1956”.

- 19. Section 111 of the principal Ordinance is amended in subsection (1)—**

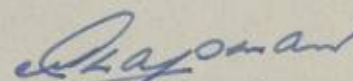
Amendment
of section
111(1).

- (a) by the insertion after paragraph (c) of the following new paragraph—

“(d) fees to be paid whenever either by or under this Ordinance or otherwise the official signature of the Director to any certificate, authorization, consent, licence, permit or exemption, or to any alteration, transfer or renewal thereof, addition thereto or endorsement thereon, is requested or required, or whenever a search of the registers of his department is granted;” and

- (b) by paragraph (d) being re-numbered paragraph (e).

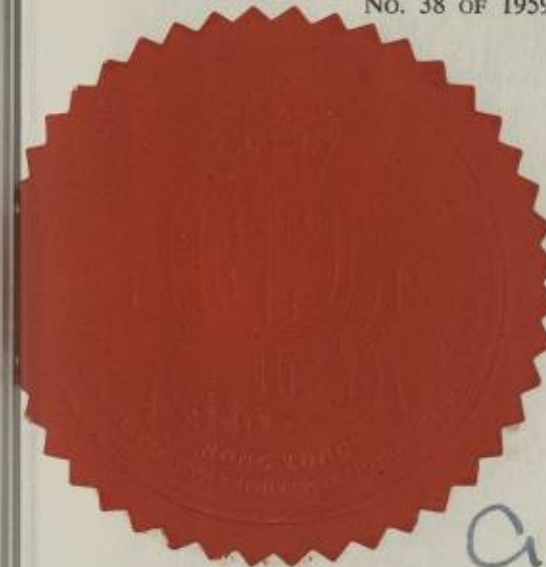
Passed the Legislative Council of Hong Kong, this 21st day of October, 1959.


Deputy Clerk of Councils.

(Secretariat GR17/3231/53)

HONG KONG

No. 38 OF 1959.



I assent.

Claude J. Jones

Officer Administering the Government.

26th November, 1959.

An Ordinance to prohibit the unauthorized making, displaying in public, sale or exposing for sale or possession for sale, or use of copies of the Colony Armorial Bearings.

[27th November, 1959.]

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 Colony Armorial Bearings (Protection) Ordinance, 1959. Short title.

2. In this Ordinance—

“Armorial Bearings” means the armorial ensigns and supporters granted and assigned for the Colony under Royal Warrant dated the 21st day of January, 1959. Interpretation.

3. Except with the written permission of the Colonial Secretary, which may be given in general or particular terms, and subject to such conditions, if any, prescribed therein, no person shall— Prohibition.

(a) in any manner or in connexion with any matter whatsoever, make, display in public, or sell or expose for or have in his possession for sale; or

(b) in connexion with any business, trade, calling or profession, use,

any copy of the Armorial Bearings; or any bearings, crest, arms, badge, token, emblem, device or thing so closely resembling the Armorial Bearings as to lead to the belief that the bearings, crest, arms, badge, token, emblem, device or thing in question is such Armorial Bearings.

Penalty.

4. Any person who contravenes the provisions of section 3 shall be liable to a fine of five thousand dollars and to imprisonment for three months.

Passed the Legislative Council of Hong Kong, this 25th day of November, 1959.

Raymond
Deputy Clerk of Councils.

(Secretariat GR2/2461/47)

HONG KONG

No. 39 OF 1959.



I assent.

Charles Burgess

Officer Administering the Government.

26th November, 1959.

An Ordinance to amend the title of the Hong Kong Royal Naval Volunteer Reserve.

[1st January, 1959.]

WHEREAS Her Majesty's Naval Reserves have been unified under the title of the Royal Naval Reserve and it is considered expedient and desirable that the Hong Kong Royal Naval Volunteer Reserve should have a like title:

Preamble

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

1. This Ordinance may be cited as the Hong Kong Royal Naval Reserve (Change of Style) Ordinance, 1959, and shall be deemed to have come into operation on the 1st day of January, 1959.

Short title and commencement.

2. The enactments set out in column 1 of the Schedule are amended in the manner specified in column 2 thereof opposite such enactment.

Amendments of certain enactments. Schedule.

SCHEDULE.

[s. 2.]

Enactment.
Royal Hong Kong Defence Force
Ordinance, 1951 (No. 25 of 1951).

section 2

section 5(3)

Hong Kong Royal Naval Volunteer
Reserve (General Service)
Ordinance, 1951 (No. 26 of 1951).

long title

section 1

section 2

Hong Kong Royal Naval Volunteer
Reserve Regulations, 1951.
(G.N.A. 155/51).

Amendment.

In the definition of "Naval Reserve"
delete the word "Volunteer".

In paragraph (b) delete the word
"Volunteer".

Delete the word "Volunteer".

In the short title delete the word
"Volunteer".

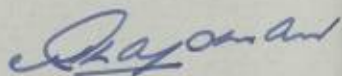
In the definition of "Naval Reserve"
delete the word "Volunteer".

Delete the word "Volunteer" from

(i) the title of these regulations;
(ii) the references to the Hong Kong
Royal Naval Volunteer Reserve
(General Service) Ordinance,
1951; and

(iii) the titles "Royal Naval Volun-
teer Reserve" and "Hong Kong
Royal Naval Volunteer Reserve".

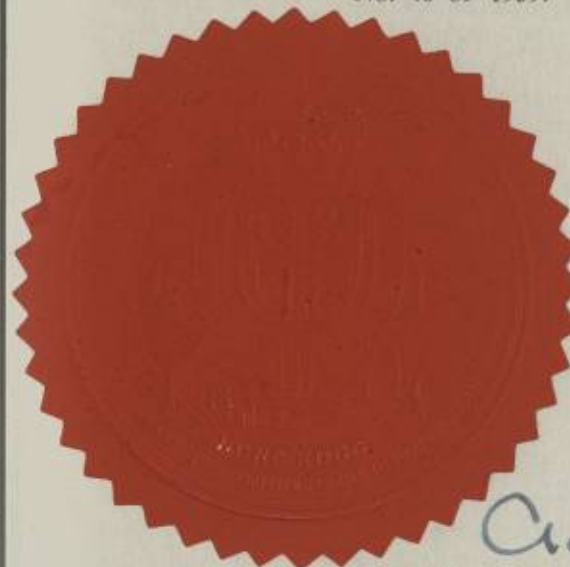
Passed the Legislative Council of Hong Kong, this 25th day of
November, 1959.


Deputy Clerk of Councils.

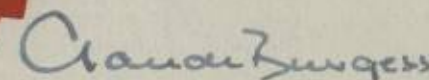
(Secretariat D/RNVR)

HONG KONG

No. 40 OF 1959.



I assent.


Officer Administering the Government.

26th November, 1959.

An Ordinance to amend the Police Supervision Ordinance, 1956.

[27th November, 1959.]

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 Police Supervision Short title,
(Amendment) Ordinance, 1959.

2. Section 2 of the Police Supervision Ordinance, 1956 (herein-
after referred to as the principal Ordinance) is amended by the insertion
after the definition of "court" of the following new definition—

Amendment
of section 2.
(12 of 1956).

" "identification book" includes a duplicate identification book;".

3. Subsection (1) of section 5 of the principal Ordinance is
amended—

Amendment
of section 5.

(a) by the deletion of the full stop at the end thereof and the
substitution therefor of a comma;

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

"but may be extended by an order made under para-
graph (a) of subsection (3) of section 12.".

Amendment
of section 6.

4. Section 6 of the principal Ordinance is amended—

(a) in subsection (1)—

(i) by the deletion of the words “the Commissioner of Police or any police officer authorized by him in that behalf” and the substitution therefor of the following—

“a police officer not below the rank of sub-inspector”;

(ii) by the deletion of the full-stop at the end thereof and the substitution therefor of a colon;

(iii) by the addition at the end thereof of the following proviso—

“Provided that no person shall be required to report more than once in any period of seven days unless otherwise directed by the Governor, the Governor in Council, the court or a magistrate, as the case may be, and such direction may be given at the time of making the police supervision order or at any time during its currency.”;

(b) in subsection (2) by the deletion from sub-paragraph (i) of paragraph (d) of the words “the Commissioner of Police or a police officer acting on his behalf” and the substitution therefor of the following—

“a police officer not below the rank of sub-inspector”;

(c) in subsection (3) by the deletion of the words “detained for a period not exceeding seventy-two hours” and the substitution therefor of the following—

“detained for such period, not exceeding seventy-two hours, as may be necessary”.

Amendment
of section 8.

5. Section 8 of the principal Ordinance is amended by the insertion after the words “police officer” of the following—

“not below the rank of sub-inspector”.

Amendment
of principal
Ordinance
by addition
of new
sections.

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

“Duty to
report loss of
identification
book.

8A. A person against whom a police supervision order has been made who loses his identification book during the currency of such order shall forthwith attend in person and report the loss thereof at the place specified in such book for reporting.

Issue of
duplicate
identification
book upon
loss,
defacement
or alteration
without
authority.

8B. (1) Whenever it appears to a police officer that a person against whom a police supervision order has been made has lost his identification book during the currency of such order or that the identification book of such a person has, without lawful authority, been destroyed, defaced or otherwise altered during the currency of such order, such person may be taken into police custody and

detained for such period, not exceeding forty-eight hours, as may be necessary for the purpose specified in subsection (2).

(2) A police officer shall issue to such person a duplicate identification book containing the particulars prescribed in paragraph (d) of subsection (2) of section 6 and for that purpose may exercise the powers specified in paragraph (c) of that subsection.

Duty to
produce
identification
book when
so required
by a police
officer.

8C. A person against whom a police supervision order has been made shall, during the currency thereof, produce his identification book for examination when required to do so by a police officer.”.

Amendment
of section 12.

7. Section 12 of the principal Ordinance is amended—

(a) in subsection (1)—

(i) by the deletion of the words “guilty of an offence” and the substitution therefor of the following—

“guilty of an indictable offence”;

(ii) by the insertion in paragraph (e) after the word “been” of the following—

“destroyed.”;

(iii) by the deletion of the comma at the end of paragraph (e) and the substitution therefor of a semi-colon;

(iv) by the addition after paragraph (e) of the following new paragraph—

“(f) without reasonable excuse fails to report forthwith the loss of his identification book,”

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

“(3) Where a person is convicted of an offence contrary to paragraph (a) of subsection (1) the court or magistrate may, in addition to any other penalty which he may inflict for such offence—

(a) if the police supervision order to which such person is subject is current at the date of conviction, order that the period of police supervision specified in such order be extended by a further period which shall not be greater than the period between the date on which he first failed to report and the date of his conviction for such offence;

- (b) if such police supervision order has expired before the date of such conviction make a further police supervision order against such person for a like period to that specified in paragraph (a).

(4) Where the period of police supervision is extended by an order made pursuant to paragraph (a) of subsection (3), the court or magistrate making such order shall endorse on the police supervision order the period of extension."

Repeal and replacement of section 13.

8. Section 13 of the principal Ordinance is repealed and replaced by the following—

"Presumption as to change of residence.

13. For the purposes of this Ordinance a person against whom a police supervision order has been made who is absent at any time between the hours of midnight and 5 a.m. on two consecutive nights from his registered place of residence without the permission of a police officer not below the rank of sub-inspector endorsed on his identification book shall be presumed to have changed his residence unless he proves to the contrary."

Amendment section 14.

9. Paragraph (d) of section 14 is amended—

- (a) by the deletion of the word "and" and the substitution thereof of a comma;
- (b) by the insertion after the words "purporting to be signed by a police officer" of the following—

"and an endorsement on a police supervision order under subsection (4) of section 12 purporting to be signed by a judge or magistrate".

Passed the Legislative Council of Hong Kong, this 25th day of November, 1959.

[Signature]
Deputy Clerk of Councils.

(Secretariat GR11/3231/56)

HONG KONG

No. 41 OF 1959.



I assent.

[Signature]
Officer Administering the Government.

26th November, 1959.

An Ordinance to amend the Defences (Firing Areas) Ordinance, Chapter 196.

[27th November, 1959.]

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

1. This Ordinance may be cited as the Defences (Firing Areas) Short title. (Amendment) Ordinance, 1959.

2. Section 3 of the Defences (Firing Areas) Ordinance (hereinafter referred to as the principal Ordinance) is amended—

Amendment of section 3. (Cap. 196).

- (a) in paragraph (a) by the deletion of the word "and" at the end thereof;
- (b) in paragraph (b) by the substitution of a comma for the colon at the end thereof and the addition thereafter of the following—
"and"; and
- (c) by the insertion after paragraph (b) of the following new paragraph—

"(c) practice firing of explosive minesweeps may take place over all or any of the firing areas described in Part III of the First Schedule:"

Amendment
of section 4.

3. Section 4 of the principal Ordinance is amended—

- (a) in subsection (5) by the insertion immediately after the words "in Part II" of the following—
"or Part III"; and
- (b) by the addition after subsection (10) of the following new subsection—

"(11) No practice firing of explosive mine-sweeps under the provisions of this Ordinance shall take place—

- (Cap. 149). (a) on any day which is a general holiday by virtue of the Holidays Ordinance other than a Sunday; or
- (b) between half an hour before sunset and half an hour after sunrise."

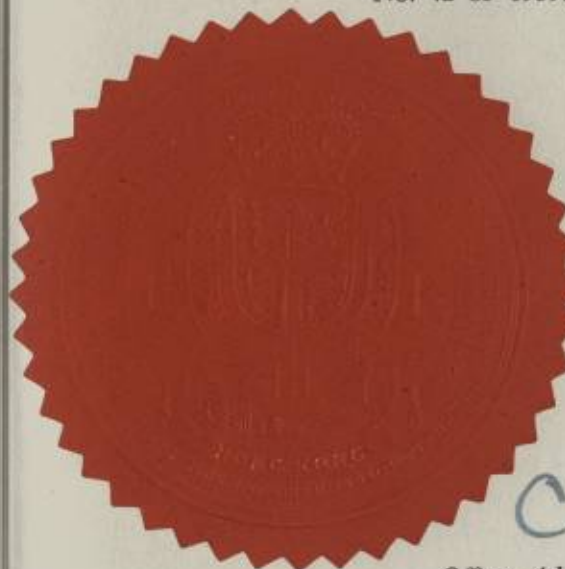
Passed the Legislative Council of Hong Kong, this 25th day of November, 1959.

Raymond
Deputy Clerk of Councils.

(Secretariat BL2/494/54)

HONG KONG

No. 42 OF 1959.



I assent.

Claude Burgess
Officer Administering the Government.

26th November, 1959.

An Ordinance to amend the Road Traffic Ordinance, 1957.

[27th November, 1959.]

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

1. This Ordinance may be cited as the Road Traffic (Amendment) Ordinance, 1959. Short title.

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

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

"(a) goods vehicles;"

(b) by the deletion in items (d) and (e) of subsection (2) of the words "public cars" and the substitution therefor of the following—

"hire cars";

(c) by the deletion in subsection (2) of the semi-colon at the end of item (f) and the addition thereto of the following—

"or for a recognized and predetermined purpose;"

- (d) by the deletion in subsection (2) of the full stop at the end of item (l) and the substitution therefor of a semi-colon; and
 (e) by the addition at the end of subsection (2) of the following new item—

“(m) public cars, that is to say cars which stand or ply for hire and are used to carry passengers at separate and distinct fares within the Colony on a recognized and predetermined route or for a recognized and predetermined purpose.”.

Amendment
of section 3.

3. Section 3 of the principal Ordinance is amended by the deletion of the full stop at the end of subsection (2) and the addition thereto of the following—

“and to charge such fee as may be prescribed by such regulation for the doing of any such thing or the exercise of any such function.”.

Amendment
of section 5A.

4. Section 5A of the principal Ordinance is amended by the deletion of subsection (2) and the substitution therefor of the following—

“(2) Any regulation made in exercise of the powers conferred by subsection (1) shall be subject to the approval of the Legislative Council.”.

Saving.

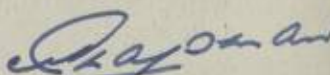
5. (1) All regulations made heretofore under the principal Ordinance making provision in any criminal proceedings for a contravention thereof for—

- (a) the person charged with such contravention to prove certain facts; or
 (b) certain facts to be presumed, with or without the proof of other facts, until the contrary is proved,

shall be deemed to have been made in accordance with the provisions of section 5A of the principal Ordinance and to have been approved by the Legislative Council.

(2) Any goods vehicles which at the date of coming into operation of this Ordinance is registered either as a private goods vehicle or as a public goods vehicle shall be deemed to be registered as a goods vehicle.

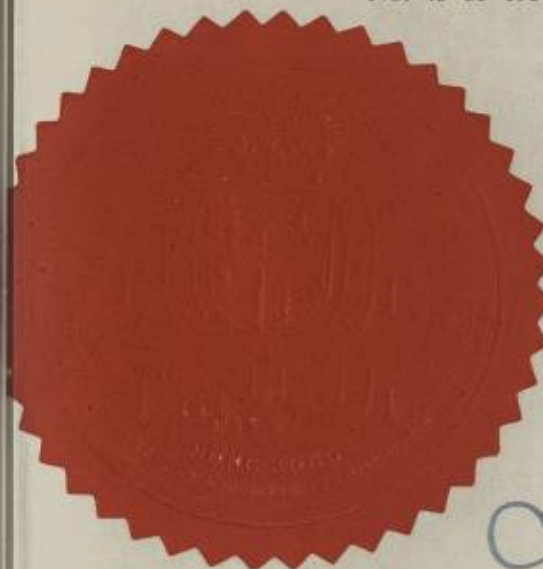
Passed the Legislative Council of Hong Kong, this 25th day of November, 1959.


 Deputy Clerk of Councils.

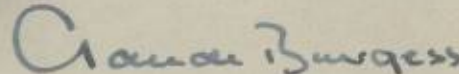
(Secretariat GR33/3231/54)

HONG KONG

No. 43 OF 1959.



I assent.



Officer Administering the Government.

26th November, 1959.

An Ordinance to authorize and validate the use of the District Land Office, Tsuen Wan, in the New Territories as a New Territories Land Office.

[27th November, 1959.]

WHEREAS by section 10 of the New Territories Ordinance it is provided that where in any Ordinance the expression “Land Office” or “District Land Office” is used it shall include such places as the Governor in Council may by order from time to time approve as a New Territories Land Office: Preamble.

AND WHEREAS an office known and used as the District Land Office, Tsuen Wan, in the New Territories has been used with effect from the 1st day of September, 1959, in all respects as if the Governor in Council had approved the use of such office as a New Territories Land Office in accordance with the said section 10:

AND WHEREAS such office was used in the absence of the said approval of the Governor in Council:

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

Short title.

1. This Ordinance may be cited as the District Land Office, Tsuen Wan (Authorization and Validation) Ordinance, 1959.

Authoriza-
tion and
validation.

2. With effect from the 1st day of September, 1959, the office known and used as the District Land Office, Tsuen Wan, in the New Territories shall be deemed to have been duly approved as a New Territories Land Office by order of the Governor in Council made in accordance with section 10 of the New Territories Ordinance, and any act or thing done at such office which, in pursuance of the provisions of any enactment, ought to have been done at that office if it had been duly approved as a New Territories Land Office shall for all purposes be deemed to have been validly done.

(Cap. 97).

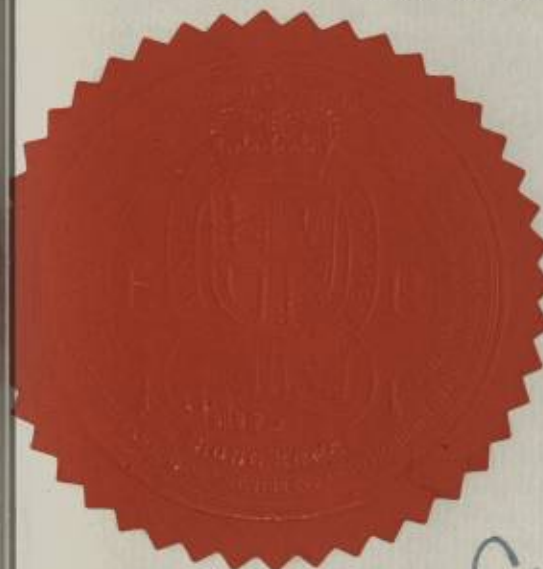
Passed the Legislative Council of Hong Kong, this 25th day of November, 1959.

Sharon
Deputy Clerk of Councils.

(Secretariat GR10/3231/52)

HONG KONG

No. 44 OF 1959.



I assent.

Claude Burgess
Officer Administering the Government.

26th November, 1959.

An Ordinance to amend the Buildings Ordinance, 1955.

[1st January, 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 Buildings (Amendment) Ordinance, 1959, and shall come into operation on the 1st day of January, 1960.

Short title
and com-
mencement.

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

Amendment
of section 2.
(68 of 1955).

(a) the deletion from the definition "building" of the following—
"lift,";

(b) the addition thereto, in the appropriate place in the alphabetical order having regard to the initial letter of each of them, of the following definitions—

"access road" means a road on land held under lease, licence or otherwise from the Crown or on land over which the Crown has granted a right of way, providing

access only to buildings used or intended to be used wholly or mainly for purposes of habitation, and which is not a street;

"contraventions of the provisions of this Ordinance" includes failure to comply with any order given or any condition imposed by the Building Authority under the provisions of this Ordinance and any material divergence or deviation from any plan approved by him;

"drain" means a drain used for the drainage of one building and any buildings and yards appurtenant thereto;

"drainage works" means any work connected with the construction, repair, alteration, disconnexion, trapping and ventilation of drains or sewers;

"escalator works" means any work, not being building works, for the installation of a new escalator and the machinery and equipment connected therewith and any work, not being building works, for the alteration of an escalator, other than the replacement of any part of the escalator or the machinery or equipment connected therewith by a part of similar design;

"frontagers" means, in the case of a private street the owners of premises fronting, joining or abutting on such street, and in the case of an access road the owners of premises to which such road provides access;

"lift" means a lift to which this Ordinance is, by regulations, made to apply and has the meaning assigned to it by regulations;

"lift works" means any work, not being building works, for the installation of a new lift and the machinery and equipment connected therewith and any work, not being building works, for the alteration of a lift or the machinery or equipment connected therewith, other than the replacement of any part of the lift or the machinery or equipment connected therewith by a part of similar design;

"plan" includes drawings, details, diagrams, calculations, structural details and structural calculations;

"private street" means a street on land held under lease, licence or otherwise from the Crown or on land over which the Crown has granted a right of way;

"registered escalator contractor" means any person whose name is for the time being on the register of escalator contractors maintained under section 6;

"registered lift contractor" means any person whose name is for the time being on the register of lift contractors maintained under section 6;

"sewer" does not include a drain as defined in this section, but includes all sewers and drains used for the drainage of more than one building and any buildings and yards appurtenant thereto;"; and

(c) the deletion, at the end of the definition "street" of the full stop and the substitution therefor of a semicolon; and the addition, at the end thereof, of the following definition—

" "street works" means any work for the construction, formation or laying out of any private street or access road, including the surfacing, channelling, draining and lighting thereof, or for the reconstruction, alteration or repair thereof."

3. Part I of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of Part I.

"PART I.

Authorized Architects, Registered Contractors, Registered Lift Contractors and Registered Escalator Contractors.

Register of Authorized Architects.

3. (1) The Building Authority shall keep a register (hereinafter referred to as the architects' register) of all persons who are qualified to perform the duties of an authorized architect in accordance with the provisions of this Ordinance, and shall publish a list of such persons annually in the *Gazette*.

(2) Every applicant for inclusion in the architects' register shall submit his application in the prescribed form to the Building Authority.

(3) The Building Authority may appoint a Committee to be known as the Architects' Registration Committee to assist him in his consideration of such applications.

(4) No person shall be included in the architects' register unless he has the qualifications prescribed by regulations:

Provided that any person who is at the date of the coming into operation of this Ordinance registered as an authorized architect under the provisions of the Buildings Ordinance shall be deemed to be registered as if he had duly applied for and obtained registration under this section.

(Cap. 123).

(5) In respect of every application for inclusion in the architects' register, the Building Authority shall within three months—

- (a) upon payment by the applicant of the prescribed fee publish in the *Gazette* and enter in the architects' register the name of the applicant; or
- (b) inform the applicant that his application is deferred for a period not exceeding twelve months; or
- (c) refuse the application.

(6) Any person, whose application for registration is refused, may appeal to a disciplinary board appointed under section 5.

(7) The Building Authority may remove from the architects' register the name of any person who ceases, for any reason, to practise.

Appointment
and duties
of authorized
architects.

4. (1) Every person for whom building works or street works are to be carried out shall appoint an authorized architect in respect thereof.

(2) If an authorized architect so appointed becomes unwilling to act or unable, whether by reason of the termination of his appointment or for any other reason, to act, the person for whom the building works or street works are to be or are being carried out shall appoint another authorized architect in his stead.

(3) An authorized architect so appointed shall—

- (a) supervise the carrying out of the building works or street works, as the case may be, in the manner prescribed by regulations;
- (b) notify the Building Authority of any contravention of the regulations which would result from the carrying out of any work shown in any plan approved by the Building Authority in respect of the building works or street works; and
- (c) comply generally with the provisions of this Ordinance.

Appointment
and powers
of disciplinary
board.

5. (1) For the purposes of subsection (6) of section 3 and section 5B, the Governor may, from time to time, on application made to him by the Building Authority, appoint a disciplinary board.

(2) Every such board shall consist of—

- (a) three authorized architects;
- (b) the Building Authority or his representative; and

(c) a legal adviser.

(3) The Building Authority or his representative shall be the chairman of any such disciplinary board and, where any such board is appointed for the purposes of section 5B, the legal adviser shall have the conduct of the inquiry.

(4) For the purposes of any inquiry under section 5B, a disciplinary board appointed under this section shall have all such powers as are vested in the Supreme Court in relation to—

- (a) enforcing the attendance of witnesses and examining them upon oath or otherwise;
- (b) compelling the production of documents;
- (c) ordering the inspection of premises; and
- (d) entering upon and viewing premises.

Appeals under
section 3(6).

5A. (1) Upon an appeal under subsection (6) of section 3, the disciplinary board may either—

- (a) confirm the decision of the Building Authority; or
- (b) direct that—

(i) the appellant's name be entered in the architects' register; or

(ii) the appellant appear before the Building Authority at a professional interview as required by regulations; or

(iii) the appellant pay the prescribed fee and pass an examination as required by regulations.

(2) The decision of the disciplinary board shall be final.

Disciplinary
proceedings
in respect
of authorized
architects.

5B. (1) Where it appears to the Building Authority that an authorized architect has been convicted by any court of such an offence or has been guilty of such negligence or misconduct as—

- (a) renders the architect unfit to be on the architects' register; or
- (b) makes the further inclusion on the architects' register of the architect prejudicial to the due administration of this Ordinance; or
- (c) renders the architect deserving of censure,

the Building Authority may bring the matter to the notice of a disciplinary board appointed under section 5.

(2) Where, after due inquiry, the disciplinary board is satisfied that the architect has been convicted of such an offence or has been guilty of such negligence or misconduct, such board may—

- (a) order that the name of the architect be removed from the architects' register either permanently or for such period as the board thinks fit; or
- (b) order that the architect be reprimanded; and
- (c) order that its findings and order be published in the *Gazette*.

- (3) (a) Any authorized architect aggrieved by any order made in respect of him under this section may appeal to a judge of the Supreme Court and upon any such appeal the judge may confirm, reverse or vary the order of the disciplinary board:

Provided that the judge may, notwithstanding that he is of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if he considers that no substantial miscarriage of justice has actually occurred.

- (b) The practice in relation to any such appeal shall be subject to any rules of court made under the Supreme Court Ordinance.

(Cap. 4).

Registers of registered contractors, registered lift contractors and registered escalator contractors, etc.

6. (1) The Building Authority shall keep the following registers, namely—

- (a) a register (hereinafter referred to as the contractors' register) of all persons who are qualified to perform the duties of a registered contractor in accordance with the provisions of this Ordinance;
- (b) a register (hereinafter referred to as the register of lift contractors) of all persons who are qualified to carry out works in connexion with the installation, alteration, maintenance and repair of lifts and the machinery and equipment connected therewith; and
- (c) a register (hereinafter referred to as the register of escalator contractors) of all persons who are qualified to carry out work in connexion with the installation, alteration, maintenance and repair of escalators and the machinery and equipment connected therewith.

(2) Every applicant for inclusion in any of such registers shall submit his application, in the prescribed form, to the Building Authority.

- (3) (a) In respect of every such application, the Building Authority shall within three months—

- (i) upon payment by the applicant of the prescribed fee, publish in the *Gazette* and enter in the appropriate register the name of the applicant, and issue to him a certificate of registration in the prescribed form; or

- (ii) inform the applicant that his application has been deferred for a period not exceeding six months; or

- (iii) refuse the application.

- (b) In considering any application for inclusion in the register of lift contractors or the register of escalator contractors, the Building Authority shall have regard to the qualifications and experience of the applicant or of those persons employed by him who will supervise and carry out lift works or escalator works, as the case may be.

- (4) (a) Any person whose application for inclusion in such contractors' registers is refused may appeal to a disciplinary board appointed under subsection (2) of section 8.

- (b) Any person whose application for inclusion in the register of lift contractors or the register of escalator contractors is refused may appeal to a disciplinary board appointed in accordance with the provisions of subsection (3) of section 8.

(5) The Building Authority shall publish annually in the *Gazette* a list of the names of the persons in each such register.

(6) The Building Authority may remove from the relevant register the name of any registered contractor, registered lift contractor or registered escalator contractor who ceases, for any reason, to engage in building works or street works, lift works, or escalator works, respectively.

Appointment and duties of registered contractors.

7. (1) Every person for whom building works or street works are to be carried out shall appoint a registered contractor in respect thereof.

(2) If a registered contractor appointed in respect of building works or street works becomes unwilling to act or unable, whether by reason of the termination of his appointment or for any other reason, to act, the person for

whom the building works or street works, as the case may be, are to be or are being carried out shall appoint another registered contractor in his stead.

- (3) A registered contractor so appointed shall—
- (a) give continuous supervision to the carrying out of the building works or street works, as the case may be;
 - (b) notify the Building Authority of any contravention of the regulations which would result from the carrying out of the work shown in any plan approved by the Building Authority in respect of the building works or street works; and
 - (c) comply generally with the provisions of this Ordinance.

Appointment and duties of registered lift contractors and escalator contractors.

7A. (1) Every person for whom lift works or escalator works are to be carried out shall appoint a registered lift contractor or registered escalator contractor, as the case may be, in respect thereof.

(2) If a registered lift contractor or registered escalator contractor so appointed becomes unwilling to act or unable, whether by reason of the termination of his appointment or for any other reason, to act, the person for whom the lift works or escalator works are to be or are being carried out shall appoint another registered lift contractor or registered escalator contractor, as the case may be, in his stead.

(3) A registered lift contractor or registered escalator contractor so appointed shall—

- (a) give continuous supervision to the carrying out of the lift works or escalator works; and
- (b) comply generally with the provisions of this Ordinance.

Appointment and powers of disciplinary board.

8. (1) For the purposes of subsection (4) of section 6 and section 8B, the Governor may, from time to time, on application made to him by the Building Authority, appoint a disciplinary board.

(2) Every board appointed to hear an appeal under paragraph (a) of subsection (4) of section 6 or to hear and determine any proceedings under section 8B against a registered contractor shall consist of—

- (a) two registered contractors;
- (b) three authorized architects;
- (c) the Building Authority or his representative; and
- (d) a legal adviser.

(3) Every board appointed to hear an appeal under paragraph (b) of subsection (4) of section 6 or to hear and determine any proceedings under section 8B against a registered lift contractor or a registered escalator contractor shall consist of—

- (a) an authorized architect who is qualified as an engineer;
- (b) three engineers having such qualifications as the Building Authority 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 Building Authority or his representative; and
- (d) a legal adviser.

(4) The Building Authority or his representative shall be the chairman of any such disciplinary board and, where any such board is appointed for the purposes of section 8B, the legal adviser shall have the conduct of the inquiry.

(5) For the purposes of any inquiry under section 8B, a disciplinary board appointed under this section shall have all such powers as are vested in the Supreme Court in relation to—

- (a) enforcing the attendance of witnesses and examining them upon oath or otherwise;
- (b) compelling the production of documents;
- (c) ordering the inspection of premises; and
- (d) entering upon and viewing premises.

Appeals under section 6(4).

8A. (1) Upon an appeal under subsection (4) of section 6, the disciplinary board may either—

- (a) confirm the decision of the Building Authority; or
- (b) direct that the appellant's name be entered in the appropriate register.

(2) The decision of the disciplinary board shall be final.

Disciplinary proceedings in respect of registered contractors, etc.

8B. (1) Where it appears to the Building Authority that a registered contractor or a registered lift contractor or a registered escalator contractor has been convicted by any court of such an offence or has, in the carrying out

of any building works or street works, lift works or escalator works, respectively, been guilty of such negligence or misconduct, as—

- (a) renders such contractor unfit to be on the contractors' register or the register of lift contractors or the register of escalator contractors, as the case may be; or
 - (b) makes the further inclusion in the contractors' register or the register of lift contractors or the register of escalator contractors of the contractor prejudicial to the due administration of this Ordinance; or
 - (c) renders the contractor deserving of censure,
- the Building Authority may bring the matter to the notice of a disciplinary board appointed under section 8.

(2) Where, after due inquiry, the disciplinary board is satisfied that the contractor has been convicted of such an offence or has been guilty of such negligence or misconduct, such board may—

- (a) order that the name of the contractor be removed from the contractors' register or the register of lift contractors or the register of escalator contractors, as the case may be, either permanently or for such period as the board thinks fit; or
 - (b) order that the contractor be fined a sum not exceeding two thousand dollars, which sum shall be recoverable under section 23 as though it were the cost of works carried out by the Building Authority; or
 - (c) order that the contractor be reprimanded; and
 - (d) order that its findings and order be published in the *Gazette*.
- (3) (a) Any registered contractor, registered lift contractor or registered escalator contractor aggrieved by any order made in respect of him under this section may appeal to a judge of the Supreme Court and upon any such appeal the judge may confirm, reverse or vary the order of the disciplinary board:

Provided that the judge may, notwithstanding that he is of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if he considers that no substantial miscarriage of justice has actually occurred.

- (b) The practice in relation to any such appeal shall be subject to any rules of court made under the Supreme Court Ordinance.
- (c) The decision of the judge shall be final."

(Cap. 4).

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

Repeal and replacement of section 9.

"Approval and consent required for commencement of building works, etc.

9. (1) Save as otherwise provided, no person shall commence or carry out any building works or street works without having first obtained from the Building Authority—

- (a) his approval in the prescribed form of documents submitted to him in accordance with the regulations; and
- (b) his consent in the prescribed form for the commencement of the building works or street works shown in the approved plan.

(2) Neither the approval of any plans nor the consent to the commencement of any building works or street works shall be deemed—

- (a) to confer any title to land;
- (b) to act as a waiver of any term in any lease or licence; or
- (c) to grant any exemption from or to permit any contravention of any of the provisions of this Ordinance or of any other enactment.

Approval and consent deemed to be given unless refusal notified.

9A. (1) Where an application is made in the prescribed form for the Building Authority to approve plans or to consent to the commencement of building works or street works, he shall be deemed to have given his approval or consent, as the case may be, unless within the period prescribed by the regulations he has notified his refusal to give his approval or consent, as the case may be, in writing setting out the grounds for such refusal, and where one of such grounds is that further particulars and plans are required, he shall specify such plans and particulars.

(2) The grounds set out for any refusal to approve plans shall not be treated as being exhaustive, and no such refusal shall be construed as implying any approval of any part of such plans.

Grounds
on which
approval or
consent may
be refused.

(Cap. 131).

9B. (1) The Building Authority may refuse to give his approval of any plans of building works where—

- (a) the plans are not such as are prescribed by regulations or are not such as he may have required under this section;
- (b) he has not received application for their approval in the prescribed form or any such application does not contain the particulars required therein;
- (c) the carrying out of the building works shown thereon would contravene the provisions of this Ordinance or of any other enactment, or would contravene any approved or draft plan prepared under the Town Planning Ordinance;
- (d) he has not received such other documents as are prescribed by regulations;
- (e) such fees as are prescribed by regulations have not been paid;
- (f) the carrying out of the building works shown thereon would result in a building differing in height, design, type or intended use from buildings in the immediate neighbourhood or previously existing on the same site;
- (g) the building works consist of, or any part thereof involves, the construction, formation or laying out of any means of access or other opening, not being a street or access road, to or from any street, and the place at or manner in which such means of access or other opening opens on to the street is, in his opinion, such as to be dangerous or likely to be dangerous or prejudicial to the safety or convenience of traffic using the street, or which may be expected to use the same;
- (h) in his opinion, it is necessary for him to have further particulars of such plans or of the building works shown thereon or, where all the plans prescribed by regulations have not been submitted, to have one or more of the other plans prescribed by regulations, to enable him fully to consider such plans;
- (i) any further particulars or other plans delivered to him, upon his refusal, under paragraph (h), to give his approval to any plans, are not to his satisfaction;
- (j) such plans differ materially from those approved by the Governor in Council upon the exemption

(Cap. 255).

from the provisions of the Landlord and Tenant Ordinance of the premises to which they relate.

(2) The Building Authority may refuse to give his approval of any plans of street works where—

- (a) the plans are not such as are prescribed by regulations;
 - (b) he has not received application for their approval in the prescribed form or any such application does not contain the particulars required therein;
 - (c) the carrying out of the street works shown thereon would contravene the provisions of this Ordinance or of any other enactment;
 - (d) in the case of an access road, the place at or manner in which the access road opens on to a street is, in his opinion, such as to be dangerous or likely to be dangerous or prejudicial to the safety or convenience of traffic using the street or access road, or which may be expected to use the same;
 - (e) such fees as are prescribed by regulations have not been paid;
 - (f) in the opinion of the Building Authority, it is necessary for him to have further particulars of such plans to enable him fully to consider such plans;
 - (g) any further particulars delivered to him, upon his refusal under paragraph (f) to give his approval to any plans, are not to his satisfaction.
- (3) The Building Authority may refuse to give his consent to the commencement of any building works or street works where—
- (a) he has not received and given his approval to all the plans thereof prescribed by regulations;
 - (b) he has not received such other documents as may be prescribed by regulations;
 - (c) such fees as are prescribed by regulations have not been paid; or
 - (d) a period exceeding two years has elapsed since the approval of any of the prescribed plans in respect of the building works or street works, except where such lapse occurs in respect of plans prepared in connexion with an application for the exemption of the building from the provisions of the Landlord and Tenant Ordinance.

(Cap. 255).

Conditions
may be
imposed in
certain cases.

9C. Where an application is made to the Building Authority in respect of any of the building works or street works set out in Column A, he may take such action by way of imposing conditions and requirements by orders in writing, and refusing his approval of plans or his consent to commence the building works or street works as is set out in Column B opposite the particular item in Column A.

A	B
1. Approval of plans of building works in connexion with an existing building which would result in a new building.	1. For the purpose of making such new building comply with the standard of structural stability and public health established from time to time by regulations— (a) require plans to be submitted showing additional building works, and refuse approval of the plans already submitted pending his approval of such plans together with the plans required to be submitted under this section; and (b) require to be carried out the building works shown on such approved additional plans or such other building works as he may consider necessary.
2. Approval of plans of building works for the erection of a new building to which access is to be obtained by means of an existing access road which does not comply with the regulations.	2. For the purpose of making such access road comply with the regulations— (a) require plans to be submitted showing the necessary street works; and (b) require street works to be carried out in accordance with an approved plan.
3. Approval of plans of street works where in the opinion of the Building Authority— (a) the bearing capacity of the ground forming the foundation of the carriage-way is such that the thicknesses of materials to be used in the surfacing thereof, as prescribed by regulations, are inadequate; or (b) that the volume of traffic which may be expected to use such street is such that a carriage-way constructed in accordance with the regulations will be inadequate.	3. Require such carriage-way to be constructed in such manner as he may prescribe.

A	B
4. Approval of plans of building works or street works involving the construction, formation, laying out or any alteration of any access to or opening to or from any street.	4. Require such access or opening to be constructed and sited in such manner as in his opinion will ensure the safety and convenience of traffic and pedestrians using or expected to use such street.
5. Consent to commence building works to be carried out on land— (a) abutting or fronting on a new private street; or (b) to which access is to be obtained by means of a new access road or an access road to which alterations are to be made.	5. For the purpose of making such private streets or access roads comply with the regulations— (a) require plans of street works to be submitted and may refuse his consent to the commencement of the building works until he has approved such plans; and (b) require street works to be carried out in accordance with an approved plan.
6. Consent to commence building works involving the structural use of steel, concrete or timber.	6. Prescribe conditions for— (a) maximum loads and stresses; (b) tests of materials; (c) the use of materials; (d) standards of workmanship; and (e) qualified supervision.”.

5. Section 10 of the principal Ordinance is amended by—

- (a) the insertion after the word “building” in paragraph (a) of subsection (1) of the words—
“or to carry out any street works”;
- (b) the insertion after the word “owner” in paragraph (b) of subsection (1) of the words—
“or by the person for whom the street works are being, or are to be, carried out”;
- (c) the deletion from subsections (1) and (2) of the words “under section 9”;
- (d) the deletion from subsection (1) of the words “the building owner may commence such work” and the substitution therefor of the following—
“such work may be commenced”; and
- (e) the insertion after the word “owner” in subsection (2) of the words—
“or person for whom the street works are being carried out”.

Amendment
of section 10.

Repeal and
replacement
of section 11.

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

"Resumption
of work
suspended.

11. (1) Where any building works or street works for the commencement and carrying out of which the consent of the Building Authority has been obtained are not commenced within three months thereof, or if commenced are suspended for such period, such consent shall be deemed to be revoked.

(2) The Building Authority may, upon application being made in the prescribed form, renew such consent and by order in writing impose such conditions as in his opinion are made necessary by such delay in commencement or by such suspension."

Amendment
of section 12.

7. Section 12 of the principal Ordinance is amended by the deletion of subsection (2) and the substitution therefor of the following—

"(2) (a) The Building Authority may refuse to issue a permit under this section where—

(i) the building works have been carried out in contravention of any of the provisions of this Ordinance; or

(ii) any street works required under the provisions of this Ordinance in connexion with any new private street or any access road, onto which the building abuts or fronts or by which access is obtained, remain to be completed.

(b) Where at the time of the application a lift has not yet been installed in the liftway provided therefor, the Building Authority may refuse to issue a permit under this section in respect of the building containing such liftway until it has been protected to his satisfaction so as to avoid danger to persons using such building.

(3) Upon the expiration of fourteen days from the date of the receipt by the Building Authority of the application in the prescribed form for a permit, such permit shall be deemed to have been granted, unless the Building Authority has by notice in writing served on the building owner refused to issue such permit, specifying the ground for such refusal."

Amendment
of section 13.

8. Section 13 of the principal Ordinance is amended by—

(a) the insertion after the word "premises" in subsection (1) of the following—

"or enter upon any land";

(b) the insertion after the word "any" in paragraph (b) of subsection (1) of the following—

"drainage works or";

(c) the deletion of paragraph (a) of subsection (2) and the substitution therefor of the following—

"(a) access to every part of any building works, street works, lift works or escalator works shall be provided by the registered contractor, registered lift contractor, or registered escalator contractor as the case may be; and"; and

(d) the deletion from paragraph (b) of subsection (2) of the words "in respect of the building works".

9. Section 14 of the principal Ordinance is repealed and replaced by the following—

Repeal and
replacement
of section 14.

"Building
works, etc.
to cease
on order of
Building
Authority.

14. Where in the opinion of the Building Authority any building works, street works, lift works or escalator works are being carried out in contravention of any of the provisions of this Ordinance, or are connected with any building works that have been so carried out, he may by order in writing served on the registered contractor, registered lift contractor or registered escalator contractor as the case may be, require that such works cease until the order is withdrawn."

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

Repeal and
replacement
of section 15.

"Order for
demolition,
removal, or
alteration
of building,
building
works, street
works, lift
works or
escalator
works.

15. (1) Where any building has been erected, or where any building works, street works, lift works or escalator works have been or are being carried out in contravention of any of the provisions of this Ordinance the Building Authority may by order in writing require—

(a) the demolition of the building, building works, or street works;

(b) the removal of the lift or escalator; or

(c) such alteration of the building, building works, street works, lift works or escalator works as may be necessary to cause the same to comply with the provisions of this Ordinance, or otherwise to put an end to the contraventions thereof;

and in every case specify the time within which such requirements are to be complied with.

(2) An order made under subsection (1) shall be served—

- (a) where the building has been erected or the lift works or escalator works have been completed on the owner of the building, lift or escalator as the case may be;
- (b) where the street works have been completed, upon the frontagers; or
- (c) where the building works, street works, lift works or escalator works have not been completed, upon the person for whom such works are being carried out or his agent.

(3) If an order made under subsection (1) be not complied with, the Building Authority may demolish, remove or alter or cause to be demolished, removed or altered such building, building works, street works, lift works or escalator works.

(4) The cost of works carried out under subsection (3) may be recovered from the persons upon whom orders had been served under subsection (2); and where such an order had been served on frontagers the Building Authority shall apportion such cost—

- (a) in the case of private streets, according to the frontages of the premises owned by such frontagers; or
- (b) in the case of access roads, equally.

(5) For the purposes of this section, the owner of a lift or escalator shall not include the supplier of such lift or escalator or the agent of such supplier who has, under a contract for the sale or installation of such lift or escalator, retained the ownership of such lift or escalator pending payment of the cost or balance of the cost thereof or the giving of any other consideration.”.

Amendment
of section 16.

11. Section 16 of the principal Ordinance is amended by the deletion of paragraph (b) of subsection (3) and the substitution thereof of the following—

- “(b) where the Building Authority could have refused to give approval to plans of such building works under paragraph (f) of subsection (1) of section 9B.”.

12. Section 19 of the principal Ordinance is amended by—

Amendment
of section 19.

- (a) the insertion after the word “shall” in subsection (1) of the following—

“, save as provided by regulations, ”; and

- (b) the deletion of subsection (4).

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

Repeal and
replacement
of section 20.

“Construction
and main-
tenance
of private
streets and
access roads.

20. (1) Every private street and access road shall be surfaced, channelled, sewered and drained to the satisfaction of the Building Authority and in compliance with regulations and lighted to the satisfaction of the Building Authority, and shall be maintained in good order to his satisfaction, by the frontagers.

(2) Where any private street or access road is not so surfaced, channelled, sewered, drained, lighted or maintained in good order, the Building Authority—

- (a) may by order in writing served on the frontagers require them to carry out, within such time as may be specified therein, such work as he considers necessary; or
- (b) where, in the case of a private street, the public interest would, in his opinion, be better served if such work were carried out by him or under his direction, may, subject to the provisions of subsection (3), carry out such work himself, notwithstanding that the frontagers may be willing to carry out such work.
- (3) (a) Where, pursuant to the provisions of paragraph (b) of subsection (2) the Building Authority intends to carry out any work, he shall give notice of his intention to the frontagers.
- (b) Any such frontager who wishes to object to the carrying out of such work by the Building Authority shall give notice of his objection, specifying the grounds thereof, within a period of fourteen days from the giving of the notice required by paragraph (a).
- (c) The Building Authority shall not commence or authorize the commencement of such work until the expiration of the said period of fourteen days

or, where he has received any objection within such period, until he has considered and made reply thereto, whichever is the later.

(4) If any order made under paragraph (a) of subsection (2) is not complied with, the Building Authority may carry out or cause to be carried out the work required thereby to be carried out.

(5) The Building Authority may recover the cost of any work carried out pursuant to the provisions of paragraph (b) of subsection (2) or of subsection (4) from the frontagers; and the Building Authority shall apportion such cost—

(a) in the case of private streets, according to the frontages of the premises owned by such frontagers; or

(b) in the case of access roads, equally.

(6) (a) Upon the application of the frontager on a private street or, where there are more than one of the greater part in value of such frontagers, the Building Authority may, where he considers that the use of the street by the public is such as to justify its maintenance at the expense of the Government, undertake the further maintenance of the street.

(b) The Building Authority shall not undertake the further maintenance of any private street until—

(i) the owner or owners of the land on which the street is constructed have surrendered such land to the Government free from all competing rights, titles, interests, trusts, claims, liens, demands and restrictions of all kinds whatsoever; and

(ii) any order which he may have made under paragraph (a) of subsection (2) has been complied with.

(7) The Building Authority may exempt from the application of this section, either wholly or in part, any private street on which no buildings front or abut.

(8) The cost of the supply of gas or electricity for the lighting of any private street shall be borne by the Government.

Openings to
or from
streets.

20A. (1) Save where the Building Authority has given his consent—

(a) under this section, or

(b) for the commencement of building works or street works which include such works,

no person shall carry out works for the construction, formation, laying out, or alteration of any means of access or opening to or from any street.

(2) The Building Authority may refuse to give his consent for such works where in his opinion the intended access or opening to or from any street is such as to—

(a) be dangerous or likely to be dangerous; or

(b) be prejudicial to the safety or convenience of traffic or pedestrians using or expected to use such street.

(3) In giving his consent the Building Authority may by order in writing impose such conditions as he considers necessary for securing the safety and convenience of traffic and pedestrians using or expected to use the street.

(4) Works for the construction, formation, laying out or alteration of any means of access or opening to or from any street shall be deemed to be street works for the purposes of sections 13, 14, 15, 23, 24, 25, and Parts IV, V and VI of this Ordinance.”

14. Section 22 of the principal Ordinance is amended by the insertion after the word “Authority” in subsection (2) of the following—
“or competent authority”.

Amendment
of section 22.

15. Section 23 of the principal Ordinance is amended by the deletion of subsection (10) and the substitution therefor of the following—

Amendment
of section 23.

“(10) At any time before such costs and any interest accrued thereon has been wholly recovered, a memorial of the certificate referred to in subsection (1) may be registered in the Land Office against the title of any premises in respect of which such cost arose, and upon such registration the cost and any interest accrued or thereafter accruing shall—

(a) be recoverable by action in Court in accordance with the provisions of this section from any person who from such Land Office register then or thereafter appears to be the owner of such premises;

Provided that the amount recovered by virtue of this subsection shall not exceed the value of that person's interest in the premises charged; and Provided further

that where the amount so recovered is equal to the value of the premises the charge created under paragraph (b) shall become void; and

- (b) constitute a first charge on the said premises which shall give the Building Authority the same powers and remedies in respect thereof as if he were a mortgagee having power of sale and lease and of appointing a receiver:

Provided that the charge shall be void and no liability shall accrue under this subsection against a *bona fide* purchaser or mortgagee of the premises for valuable consideration who, subsequent to the completion of the works specified in the certificate and before the registration of the memorial thereof, has acquired and registered an interest in the premises to be charged.”.

Addition of
new section
23A.

16. The principal Ordinance is amended by the addition, after section 23, of the following new section—

“Disposal of
materials
resulting
from works
carried out
by Building
Authority.

23A. (1) Where the Building Authority has carried out or caused to be carried out works consequent upon the non-compliance with an order made by him under section 15 or 17 he may dispose of any materials resulting from such work.

(2) Where the Building Authority has carried out or caused to be carried out any works under subsection (3) or (4) of section 17 other than as a result of the non-compliance of an order made by him—

- (a) he shall serve notice on the owner of the building concerned specifying the place at which and the time within which, being not less than three days from the date of the notice, any materials resulting from such work may be collected; and
- (b) in the event of such materials not being collected within the time specified in the notice he may dispose of the same.”.

Addition of
new section
24A.

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

“Admissibility
in evidence
of certified
copies of
documents,
etc.
(Cap. 123).

24A. (1) A copy, certified by the Building Authority or any public officer authorized by him in writing in that behalf as a true copy, of any document made, issued or given under or for the purposes of this Ordinance or the Buildings Ordinance repealed by section 35, shall be admissible in evidence in any legal proceeding in every case in which the original could have been received in evidence.

(2) Any such copy which purports to be certified by the Building Authority or any such public officer shall be deemed to have been so certified until the contrary is proved.

(3) The Building Authority or any public officer authorized by him may, upon payment of the prescribed fee, certify and issue any such copy to any person requiring the same.

(4) Nothing in this section shall be deemed to affect any claim of the Crown to withhold any document on the ground that its production would be contrary to the public interest.”.

18. Section 26 of the principal Ordinance is amended by—

Amendment
of section 26.

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

“(1) The Governor in Council may by rule or regulation prescribe or provide for—

- (a) registration and control of—
- (i) authorized architects,
 - (ii) registered contractors,
 - (iii) registered lift contractors,
 - (iv) registered escalator contractors;
- (b) the manner of making application for and granting of approval of plans of building works or street works, and the giving of consent to commence or carry on such works, including cases where it is desired—
- (i) to add to or alter building works or street works the commencement of which has already been consented to, or
 - (ii) to commence certain parts of building works or street works before other parts;
- (c) planning and design of buildings including—
- (i) streets;
 - (ii) projections;
 - (iii) heights, volumes and open spaces including scavenging lanes;
 - (iv) lighting and ventilation;

- (v) sanitation;
- (vi) staircases and fire-escapes;
- (vii) domestic buildings;
- (viii) buildings for special uses including industrial buildings, places of public entertainment and schools;
- (ix) any seawall, breakwater, jetty, mole, quay, wharf or pier;
- (x) exceptional structures; and
- (xi) timber yards, hoardings and scaffoldings;
- (d) the construction of buildings including—
 - (i) materials;
 - (ii) loads and stresses;
 - (iii) foundations, floors and sites;
 - (iv) walls and piers;
 - (v) roofs, flues and chimneys;
 - (vi) structural steel work, re-inforced concrete, and timber;
 - (vii) fire-resisting construction;
 - (viii) retaining walls;
 - (ix) plumbing and drainage;
 - (x) wells;
 - (xi) lifts and escalators; and
 - (xii) refuse chutes;
- (e) lifts and escalators, including the carrying out of other works in connexion with lift works;
- (f) the testing of drainage works and matters ancillary thereto;
- (g) the granting of permits for and control of buildings required for a limited time or constructed of short-lived materials;
- (h) plans, notices and certificates to be delivered to the Building Authority;
- (i) fees;
- (j) forms;
- (k) the better carrying into effect of the purposes of this Ordinance.”;
- (b) the deletion of subsection (6).

19. The principal Ordinance is amended by the addition, after section 26, of the following new section—

Addition of new section 26A.

“Application of new regulations.

26A. (1) Any regulations made under this Ordinance may provide that where plans of building works, street works, lift works or escalator works are submitted to the Building Authority within such period from the coming into operation of the regulations as may be prescribed therein, he may approve any such plans which comply with the provisions of the law before the coming into operation of such regulations and may give consent to the commencement of the works shown therein; and the provisions of subsection (2) shall apply to such works and to any building which may be erected, any street or access road which may be formed, constructed or laid out or any lift or escalator installed in consequence thereof.

(2) Where at the date of the coming into operation of any regulations made under this Ordinance any building works, street works, lift works or escalator works are being carried out or consent to their commencement has been given the provisions of the law prior to the coming into operation of such regulations shall apply to such works:

Provided that in the exercise of his powers under section 11 the Building Authority may require compliance with such regulations coming into operation since the giving of his consent to the commencement of the works in respect of which he is exercising such powers.”.

20. Section 27 of the principal Ordinance is amended by—

Amendment of section 27.

(a) in subsection (2)—

(i) the insertion after the word “works” in the first item of paragraph (1) in the table of the words “or street works”;

(ii) the addition, at the end of paragraph (1) in the table, of the following—

“subsection (1) of section 20A—(Openings to or from streets).”;

(iii) the deletion of paragraph (5) in the table and the substitution therefor of the following—

“(5) The use by any person for whom building works, street works, lift works or escalator works are being carried out, or by any authorized architect, registered contractor, registered lift contractor or registered

escalator contractor, of any defective materials or of any materials which do not comply with the provisions of this Ordinance.”;

- (b) the deletion of subsection (3) and the substitution therefor of the following—

“(3) Any person, being a person directly concerned in or with any building works, street works, lift works or escalator works, who permits the commission of any offence specified in this section shall be deemed to be guilty of such offence and shall be liable to the penalty prescribed therefor.”;

- (c) the addition at the end thereof of the following new subsection—

“(6) Any prosecution under the provisions of this Ordinance may be commenced within six months of the commission of the offence or within six months of the same being discovered by or coming to the notice of the Building Authority.”.

Amendment
of section 28.

21. Section 28 of the principal Ordinance is amended by—

- (a) the deletion of the colon at the end of paragraph (b) of subsection (1) and the addition thereto of a semicolon and the following—

“and

- (c) any street or access road vested in and maintained by the Crown or the Government.”;

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

“(2) Save as otherwise provided, no alteration shall be required to any existing building, private street, access road or lift erected or constructed in accordance with the laws of the Colony or to any existing escalator.”;

- (c) the insertion after the word “works” in the first place where it occurs in subsection (3) of the following—

“other than drainage works or site formation works”.

Amendment
of section 29.

22. Section 29 of the principal Ordinance is amended by—

- (a) the insertion after the words “application therefor” in subsection (1) of the following—

“and upon payment of the prescribed fee”;

- (b) the deletion from subsection (2) of the words “, or section 4 (authorized architect to be appointed), or section 7 (registered contractor to be appointed)”;

- (c) the deletion of subsection (5) and the substitution therefor of the following—

“(5) This section shall not apply to section 9.”.

23. Section 30 of the principal Ordinance is amended by the deletion from subsection (2) of the words “a member of the Authorized Architects Consulting Committee” and the substitution therefor of the following—

Amendment
of section 30.

“an authorized architect”.

24. Section 31 of the principal Ordinance is amended by the deletion from subsection (1) of the word “Every” and the substitution therefor of the following—

Amendment
of section 31.

“Any person prejudiced in the manner set out in subsection (1) of section 30 may institute an appeal and such”.

25. Section 35 of the principal Ordinance is amended by the deletion, at the end of the proviso to subsection (1), of the full stop and the substitution therefor of a colon and the following—

Amendment
of section 35.

“Provided further that that Ordinance shall continue in operation in relation to building works which were being carried out at the commencement of this Ordinance and in relation to any building erected in consequence thereof.”.

26. (1) The new section 7A, added to the principal Ordinance by section 3 of this Ordinance, shall not apply to any lift works or escalator works which have, at the date of the commencement of this Ordinance, been commenced, notwithstanding that such works may be completed after such date.

Savings.

(2) The sections substituted by sections 3 and 4 of this Ordinance for sections 7 and 9 of the principal Ordinance shall not apply to any street works which have, at the date of the commencement of this Ordinance, been commenced, notwithstanding that such works may be completed after such date.

27. Where, under subsection (2) of section 9 of the principal Ordinance repealed by section 4 of this Ordinance, the Building Authority has given his consent to the carrying out of building works which conform with the provisions of the Buildings Ordinance repealed by section 35 of the principal Ordinance (hereinafter referred to in this

Application.

(Cap. 123).

section as the repealed Ordinance), the principal Ordinance shall apply to such building works and to any building erected in consequence thereof, and in its application thereto shall be construed as though there were substituted for any reference in the principal Ordinance, whether express or by virtue of the provisions of paragraph (h) of section 14 of the Interpretation Ordinance, to the Building (Planning) Regulations, 1956, or the Building (Construction) Regulations, 1956, a reference to the provisions of sections 4 to 21 inclusive, sections 23 to 33 inclusive, sections 35 to 69 inclusive, sections 71 to 78 inclusive, section 101 and section 107 of the repealed Ordinance and the provisions of the Exceptional Buildings Regulations, the Verandahs and Balconies Regulations and the Matshed Regulations.

(Cap. 1)
(G.N.A.
37/56).
(G.N.A.
38/56).
(Vol. IX
pp 406, 407
& 425).

Commence-
ment of
sections 25
and 27.

28. Sections 25 and 27 shall be deemed to have had effect as from the 1st day of June, 1956, being the date of commencement of the principal Ordinance.

Provision for
a reprint of
the principal
Ordinance as
amended.

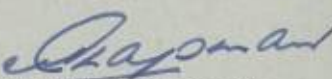
29. (1) The Government Printer shall, if directed by the Governor, cause to be prepared and published a reprint of the principal Ordinance incorporating therein all additions, omissions, substitutions and amendments effected by this Ordinance and by any other enactment amending the principal Ordinance, and shall, if so directed, print as part of such reprint and as an appendix thereto section 1 and sections 26, 27 and 28 of this Ordinance together with this section.

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

(Cap. 1).

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

Passed the Legislative Council of Hong Kong, this 25th day of November, 1959.


Deputy Clerk of Councils.

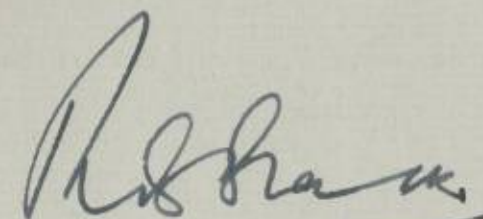
(Secretariat BL1/741/52II)

HONG KONG

No. 45 OF 1959.



I assent.



Governor.

10th December, 1959.

An Ordinance to provide for the Establishment and Functions of an Advisory and Consultative Body for the New Territories and for purposes connected therewith—

[11th December, 1959.]

WHEREAS the HEUNG YEE KUK has in the past served as a valuable advisory body to the Government on New Territories affairs and has been a forum where leaders of opinion in the Territories have been able to exchange views; Preamble.

AND WHEREAS it is now considered desirable that the Heung Yee Kuk should become a statutory advisory body with a constitution so framed as to ensure that it will as far as possible be truly representative of informed and responsible opinion in the New Territories;

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

PART I.

Establishment and Constitution of Heung Yee Kuk.

Short title. 1. This Ordinance may be cited as the Heung Yee Kuk Ordinance, 1959.

Establishment and constitution of Heung Yee Kuk.

2. (1) There shall be established in the New Territories, which expression shall be read and construed in this Ordinance as meaning the New Territories excluding New Kowloon, a body to be known as the Heung Yee Kuk (鄉議局) (hereinafter referred to as the Kuk).

(2) The Kuk shall consist of—

- (a) the Chairman and two Vice-Chairmen who shall be members of the Executive Committee and shall be elected by the Full Council;
- (b) a Full Council; and
- (c) an Executive Committee of the Full Council.

Full Council.

3. (1) The Full Council shall consist of *Ex Officio* Councillors and Special Councillors.

(2) (a) The following shall be *Ex Officio* Councillors—

(i) the Chairmen and Vice-Chairmen of Rural Committees, who shall be deemed to have resigned as Councillors on ceasing to hold such office, and

(ii) New Territories Unofficial Justices of the Peace.

(b) Special Councillors shall not exceed twenty-one in number, not more than seven of whom shall be elected by the *Ex Officio* Councillors of each of the three districts of Tai Po, Yuen Long and Southern Districts from among Village Representatives or such other persons as may be approved by the District Commissioner.

(3) For the purposes of this Ordinance—

(a) the term "Village Representative" means a person elected or otherwise chosen to represent a village who is approved by the District Commissioner, the term "Rural Committee" means a Rural Committee being a society registered or exempted from registration under the Societies Ordinance and approved by the District Commissioner, and on the withdrawal of such registration, exemption or approval the Village Representative, or Chairman or Vice-Chairman of the Rural Committee, as the case may be, shall become disqualified and cease to be a Councillor of the Kuk or eligible for election thereto;

(b) the term "Southern District" includes Tsuen Wan District;

(Cap. 151).

(c) where any doubt arises as to whether any person is a New Territories Unofficial Justice of the Peace a certificate issued by the Colonial Secretary shall be conclusive as to that matter; and

(d) (i) where the District Commissioner refuses to approve any person as a candidate for election as a Special Councillor or refuses to approve any person, or withdraws approval of any person, as a Village Representative, such person may within fourteen days of such refusal or withdrawal appeal therefrom by way of petition to the Governor in Council, whose decision shall be final;

(ii) pending the determination of an appeal instituted under sub-paragraph (i), or where there is no appeal the expiry of the period limited therefor, no disqualification shall be deemed to have taken place and no person shall cease to be eligible for election as a Special Councillor by reason of the District Commissioner's refusal or withdrawal of approval:

Provided that where a person, notwithstanding the District Commissioner's refusal or withdrawal of approval, is elected as a Special Councillor during such period, he shall become disqualified and cease to be a Councillor of the Kuk in the event of his petition being rejected, or if he does not appeal, on the expiry of the period limited therefor.

4. (1) The Executive Committee shall consist of *Ex Officio* Members and Ordinary Members.

Executive Committee.

(2) (a) The following shall be *Ex Officio* Members—

- (i) the Chairmen of Rural Committees, and
- (ii) New Territories Unofficial Justices of the Peace.

(b) Ordinary Members shall not exceed fifteen in number, and shall be Councillors of, and elected by, the Full Council.

(3) The Full Council shall be deemed to have delegated to the Executive Committee such of its powers as are necessary for the carrying out of the objects of the Kuk.

PART II.

Election and Tenure of Office of Chairman, Members and Councillors.

5. (1) The Chairman, Vice-Chairmen, Members of the Executive Committee and Councillors of the Full Council shall be elected in the manner prescribed in the First Schedule.

(2) Upon election the Chairman, Vice-Chairmen, Ordinary Members and Special Councillors shall hold office for a term of two years commencing on the first day of June.

Election of office of Chairman, Members and Councillors. First Schedule.

(3) The first elections held under this Ordinance shall be held on and after such date as the Governor may order, and persons elected shall hold office until the thirty-first day of May, 1962.

Disquali-
fication.

6. No person shall hold office as a Chairman, Vice-Chairman, Member of the Executive Committee or Councillor of the Full Council who is under the age of twenty-one years, or who is or at any time becomes—

- (a) under any law in force in the Colony found or declared to be of unsound mind;
- (b) an undischarged bankrupt;
- (c) a person who has been convicted by any of Her Majesty's Courts, whether or not within the Colony, of any offence for which he has been sentenced to a term of imprisonment exceeding six months; or
- (d) a person who has been convicted by any Court in the Colony within the preceding five years of any offence in connexion with any illegal organization.

Returning
Officer.

7. (1) All elections shall be conducted by a Returning Officer appointed by the Governor. Such Returning Officer shall be in sole charge of the conduct of such elections, appointing such Assistant Returning Officers as he shall see fit to assist him. On the completion of every election the Returning Officer shall declare each person elected to have been validly or invalidly elected as the case may be.

First
Schedule.

(2) Where any question arises concerning the interpretation of the election rules set out in the First Schedule the same shall be interpreted by the Returning Officer whose decision shall be final, or by an Assistant Returning Officer from whose decision appeal may be made to the Returning Officer.

Vacancies
and invalid
elections.

8. (1) Where—

- (a) any vacancy occurs by reason of the death, resignation or disqualification of any Chairman, Vice-Chairman, Member or Councillor, or
- (b) the election of any Chairman, Vice-Chairman, Member or Councillor is declared invalid by the Returning Officer,

a fresh election shall take place within six months of the vacancy occurring or the election being declared invalid, and the Governor may extend the term of office for which the election was being held for such period as he may see fit not exceeding six months from the date of such vacancy occurring.

(2) In the event of the Returning Officer declaring two successive elections to be invalid the Governor may appoint any person eligible for election to be the Chairman, Vice-Chairman, Member or Councillor

as the case may be, and such person shall hold office as if he had been duly elected thereto.

(3) In the event of the Chairman dying, resigning or becoming disqualified the Vice-Chairman first elected shall assume the office of Chairman until such time as a new Chairman shall have been elected.

PART III.

Functions of the Kuk.

9. The objects of the Kuk shall be—

Objects.

- (a) to promote and develop mutual co-operation and understanding among the people of the New Territories;
- (b) to promote and develop co-operation and understanding between the Government and the people of the New Territories;
- (c) to advise the Government on social and economic developments in the interests of the welfare and prosperity of the people of the New Territories;
- (d) to encourage the observance of all such customs and traditional usages of the people of the New Territories as are conducive to their welfare and to the preservation of public morality; and
- (e) to exercise such functions as they may be invited to from time to time by the Governor.

10. (1) For the purpose of furthering the objects of the Kuk, it may—

Powers.

- (a) appoint a Secretary, Treasurer and other office bearers and determine their duties;
- (b) appoint such staff as it may require and make provision for the payment of their salaries;
- (c) appoint sub-committees and delegate functions to them;
- (d) appoint such advisers as may be approved by the District Commissioner.

(2) The provisions set out in the Second Schedule shall apply to the exercise of the powers and functions of the Kuk.

Second
Schedule.

11. (1) Accounts shall be kept in a form to be approved by the District Commissioner in respect of all funds other than the personal donations of the Chairman, Vice-Chairmen, Members and Councillors.

Accounts.

(2) Failure to keep accounts and to produce the same in the form required under subsection (1), shall be an offence on the part of the Chairman, Vice-Chairmen and the Treasurer of the Kuk, and on conviction each shall be liable to a fine of two thousand dollars.

PART IV.

Miscellaneous.

Incorporation of Chairman and Vice-Chairmen.

12. The Chairman and Vice-Chairmen for the time being of the Kuk shall be a body corporate which shall be known as the Heung Yee Kuk Incorporated and which—

- (a) may sue and be sued; and
- (b) may enter into contracts, and acquire and hold property in trust for the purposes of this Ordinance.

Vesting of property.

13. (1) On the coming into operation of this Ordinance the property known as Lot 800 A in D.D. 6 and situated at 6 to 8 Shung Tak Street in Tai Po, New Territories shall be transferred to and vested in the Crown, and all rights in, upon or over such property shall be extinguished and cease to exist.

(2) Any person having title to such property immediately before the coming into operation of this Ordinance may claim compensation in like manner as if such property had been resumed under the Crown Lands Resumption Ordinance, and the provisions of that Ordinance shall apply in respect of such claims.

(Cap. 124).

(3) On the coming into existence of the Heung Yee Kuk Incorporated it shall be entitled to a lease of such property on the same terms and conditions as existed in the former Crown lease or on such other terms and conditions as may be agreed between the Heung Yee Kuk Incorporated and Government.

Use of words Heung Yee Kuk.

14. (1) The words Heung Yee Kuk (鄉議局) shall be used solely by, and in connexion with, the Kuk established under this Ordinance.

(2) Any person other than the Chairman, Vice-Chairmen, Councillors, Members or Officers of the Kuk who uses any term or conducts himself in any manner which is calculated to give the impression that he is an Officer, Member or Councillor of the Kuk, shall be guilty of an offence and liable to a fine of two thousand dollars.

Amendment of Schedules.

15. (1) The provisions contained in the First and Second Schedules may be amended by resolution of two thirds of the members of the Full Council. Such resolution shall require the prior approval of two thirds of the members of the Executive Committee.

(2) Any such amendment shall be subject to the approval of the Governor.

FIRST SCHEDULE.

[ss. 5(1) & 7(2).]

Rules for conduct of elections.

General provisions.

1. The following provisions shall apply to all elections—

- (a) Every person entitled to vote shall have one vote for each vacancy. In the case of elections for Special Councillors, Councillors may vote only for vacancies in their own district of Tai Po, Yuen Long or

Southern District as the case may be, and in this Schedule the term "district" shall be read and construed as referring only to such places.

- (b) Voting shall be by secret ballot.
- (c) The candidate receiving the highest number of votes shall be declared elected unless the Returning Officer declares the election invalid under section 7 of the Ordinance.

2. (1) Nominations for Special Councillors for any district shall be sent to the Returning Officer before such date as may be announced by him, and shall be proposed and seconded by *Ex Officio* Councillors of that district and countersigned by the candidate signifying his willingness to serve as a Special Councillor.

Nominations for Special Councillors.

(2) The Returning Officer shall send a list of the names of persons nominated as Special Councillors for each district to all Rural Committees in that district.

3. The election of Special Councillors shall take place at a meeting of *Ex Officio* Councillors for each district, which meeting shall be called by the Returning Officer not less than twenty-one days after the date fixed by the Returning Officer under paragraph 2(1) nor less than fourteen days after the despatch by him of the list of candidates under paragraph 2(2):

Elections of Special Councillors.

Provided that in the event of the number of candidates in a district being equal to or less than the number of vacancies in that district, the Returning Officer shall declare such candidates as duly elected, and no meeting of *Ex Officio* Councillors for that district need be called.

4. All Councillors other than *Ex Officio* Members of the Executive Committee shall be considered as candidates for election as Ordinary Members of the Executive Committee unless they signify in writing to the Returning Officer their unwillingness to serve as such Members. The election for Ordinary Members of the Executive Committee shall take place at a meeting of the Full Council to be called by the Returning Officer not less than fourteen days after the last of the elections for Special Councillors.

Elections of Ordinary Members of Executive Committee.

5. (1) Subject to the provisions of sub-paragraph (2) all members of the Executive Committee shall be considered as candidates for election as Chairman or Vice-Chairmen unless they signify in writing to the Returning Officer their unwillingness to serve as such office bearers.

Elections of Chairman and Vice-Chairmen.

(2) No member of the Executive Committee from the same district as the newly elected Chairman shall be eligible as a candidate for the office of Vice-Chairmen. Similarly no member of the Executive Committee from the district of either the newly elected Chairman or newly elected Vice-Chairman shall be eligible as a candidate for the other Vice-Chairman.

6. Subject to the provisions of section 7 of the Ordinance the Executive Committee may make rules for the conduct of elections, and such rules shall require the prior approval of the District Commissioner before coming into operation.

Election rules.

SECOND SCHEDULE.

[s. 10(2).]

Rules for the exercise of powers and functions.

1. The Full Council shall hold meetings once every six months, and at the request of not less than ten Councillors or of the District Commissioner, or by order of the Executive Committee. At such meetings one third of the Councillors shall constitute a quorum.

Meetings of Full Council.

2. The Executive Committee shall hold meetings once in every month, and at the request of not less than five members or of the District Commissioner. At such meetings one half of the members shall constitute a quorum.

Meetings of Executive Committee.

Chairman.

3. (1) The Chairman or in his absence a Vice-Chairman shall take the chair at meetings of the Full Council and of the Executive Committee. If neither the Chairman nor either of the Vice-Chairman is present the Councillors attending shall elect a Chairman for that meeting.

(2) The Chairman shall have a vote and where the votes are equal a casting vote.

Minutes.

4. (1) The Secretary appointed by the Executive Committee shall keep minutes of proceedings of the Full Council and of the Executive Committee and such minutes shall record the names of the Councillors attending as well as all resolutions passed.

(2) The Chairman shall obtain the confirmation of the Full Council or of the Executive Committee as the case may be that minutes are a true record and shall then sign the same.

(3) Such minutes shall be open to inspection by any Councillor or Member, or by the District Commissioner.

Standing orders.

5. (1) The Executive Committee may make standing orders for the regulation and procedure of the meetings of the Full Council and of the Executive Committee and such standing orders may make provision for the preservation of order at such meeting.

(2) Standing orders made under sub-paragraph (1) require the prior approval of the District Commissioner before coming into operation.

Expenditure.

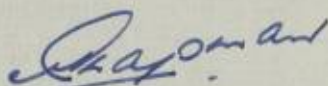
6. The Executive Committee may authorize the expenditure of the Kuk's funds, and for this purpose, may delegate their powers to not less than two Councillors who shall act together on such terms and conditions as the Executive Committee may impose.

Accounting.

7. (1) Subject to section 11 of the Ordinance the Executive Committee may make such rules for the keeping of accounts and preparation of estimates.

(2) Rules made under sub-paragraph (1) require the prior approval of the District Commissioner before coming into operation.

Passed the Legislative Council of Hong Kong, this 9th day of December, 1959.


Deputy Clerk of Councils.

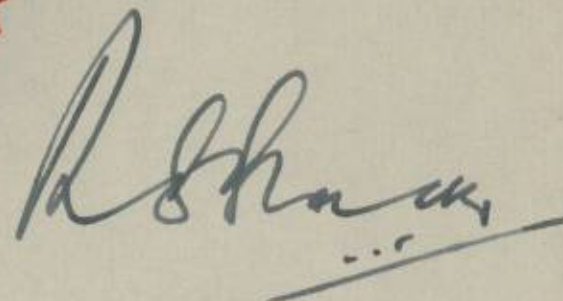
(Secretariat CR587/57III)

HONG KONG

No. 46 OF 1959.



I assent.



Governor.

10th December, 1959.

An Ordinance to amend the "Star" Ferry Company (Service) Ordinance, 1951.

[11th December, 1959.]

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 "Star" Ferry Company Short title. (Service) (Amendment) Ordinance, 1959.

2. Section 2 of the "Star" Ferry Company (Service) Ordinance, 1951 (hereinafter referred to as the principal Ordinance) is amended by the deletion from the definition "piers" therein of the words "at the northern end of Ice House Street" and the substitution therefor of the following—

"immediately to the west of Queen's Pier".

Amendment
of section 2.
(41 of 1951).

Amendment
of Schedule.

3. Sub-paragraph (2) of paragraph 2 of the Schedule to the principal Ordinance is amended by the deletion of the words "Eastern side of the public pier at Kowloon Point" and the substitution therefor of the following—

"Southern boundary of Kowloon Marine Lot No. 10, as such boundary existed on the 1st day of October, 1959".

Passed the Legislative Council of Hong Kong, this 9th day of December, 1959.

Deputy Clerk of Councils.

(Secretariat GR8/3231/47)

HONG KONG

No. 47 OF 1959.

I assent.

Governor.

17th December, 1959.

An Ordinance to amend the Ferries Ordinance, Chapter 104.

[18th December, 1959.]

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 Ferries (Amendment) Ordinance, 1959.

2. Section 9 of the Ferries Ordinance is repealed and replaced by the following—

"Exemption.

9. This Ordinance shall not apply to any ferry maintained by the "Star" Ferry Company, Limited, between the Government pier situated immediately to the West of Queen's Pier in Victoria, and the Government pier situated at Kowloon Point."

Repeal and
replacement
of section 9.
(Cap. 104).

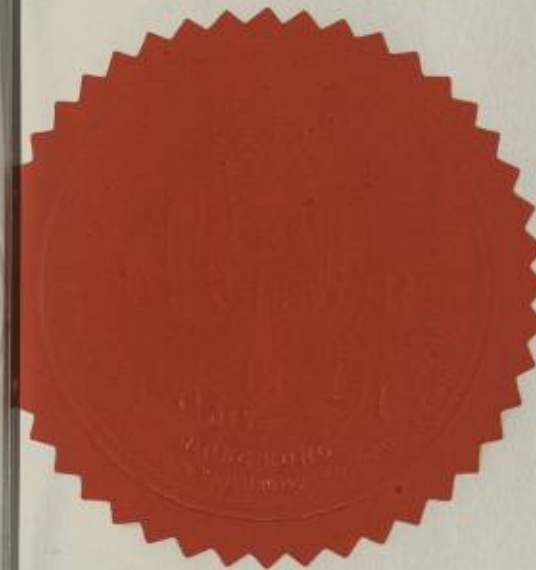
Passed the Legislative Council of Hong Kong, this 16th day of December, 1959.

Deputy Clerk of Councils.

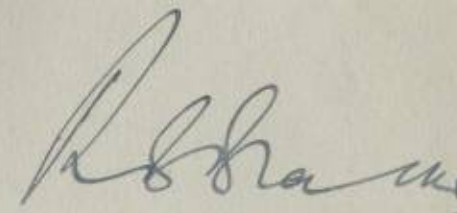
(Secretariat GR8/3231/47)

HONG KONG

No. 48 OF 1959.



I assent.


Governor.

17th December, 1959.

An Ordinance to amend the Summary Offences Ordinance, Chapter 228.

[18th December, 1959.]

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 Summary Offences Short title.
(Amendment) Ordinance, 1959.

2. The Summary Offences Ordinance (hereinafter referred to as the principal Ordinance) is amended by the addition after section 2 of the following new section—

"Delegation
of powers.

2A. Where under any provision of this Ordinance any public officer is empowered to permit or consent to the doing of any thing or to issue any licence in respect thereof, such power may be exercised by any public officer in the same department as that of the officer to whom the power is granted who is authorized in writing in that behalf by such officer."

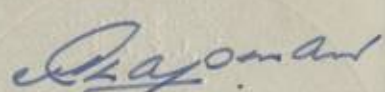
Addition of
new section.
(Cap. 228).

Amendment
of section 3.

3. Paragraph (1) of section 3 of the principal Ordinance is amended by the insertion after the word "place," of the following—
"or into the waters of the Colony."

Passed the Legislative Council of Hong Kong, this 16th day of December, 1959.

(Secretariat GR L/M 8764/59)


Deputy Clerk of Councils.



PUBLIC RECORDS OFFICE
OF HONG KONG

H.K.R.S. No. **30**

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