

section 37A applies passes into the ownership of the person carrying on a trade, profession or business who incurred the capital expenditure under the hire purchase agreement, the reducing value of such machinery or plant computed in accordance with that section shall be included in the class of machinery or plant for the purposes of section 39B for the years of assessment following the year of assessment during the basis period for which the machinery or plant passed into the ownership of that person.

(3) Where any machinery or plant which is included in a class of machinery or plant for the purposes of section 39B and which was used wholly and exclusively in the production of profits chargeable to tax under Part IV is subsequently not so used wholly and exclusively in the production of such profits, the provisions of this Part which applied immediately prior to the commencement of the Inland Revenue (Amendment) (No. 4) Ordinance 1980 shall apply to such machinery or plant in respect of the year of assessment during the basis period for which the machinery or plant is subsequently not used wholly and exclusively in the production of profits chargeable to tax under Part IV, and the reducing value of such machinery or plant shall be deemed to be such an amount as the Commissioner may consider it would have realized had it been sold in the open market at the time it ceased to be used wholly and exclusively in the production of such profits, and such reducing value shall be excluded from the total reducing value of that class of machinery or plant.

(4) For the purposes of subsection (2), in the application of section 37A, subsection (2) of that section shall be read as if "during the basis period" was substituted for "at the end of the basis period".

**39D.** (1) Where at the end of a basis period for a year of assessment the aggregate reductions made under section 39B(4) in respect of a class of machinery or plant exceed the aggregate capital expenditure incurred by a person on the provision of machinery or plant belonging to that class—

- (a) a charge, to be known as a "balancing charge", shall be made on him, and the amount on which it is made shall be an amount equal to the excess; and
- (b) the reducing value at the end of the basis period for that year of assessment shall be nil.

(2) Subject to subsection (3) and except where subsection (4) applies, where a person ceases to carry on his trade, profession or business in a year of assessment, the aggregate of the sale, insurance, salvage or compensation moneys, if any, of the machinery or plant in respect of which an initial allowance or annual allowance has been made shall be compared with the amount of the reducing value of the class of machinery or plant at the end of the basis period for that year of assessment and—

- (a) where there are no sale, insurance, salvage or compensation moneys, or where the amount of the reducing value exceeds the aggregate of such moneys, an allowance, to be known as a "balancing allowance", shall be made to him, and the amount

(63 of 1980.)

Balancing allowances and charges under the pooling system.

thereof shall be the amount of the reducing value or, as the case may be, the excess thereof over the aggregate of the said moneys; or

- (b) where there are sale, insurance, salvage or compensation moneys, and the aggregate of such moneys exceeds the amount, if any, of the reducing value, a charge, to be known as a "balancing charge", shall be made on him, and the amount on which it is made shall be an amount equal to the excess or, where the reducing value is nil, to the aggregate of the said moneys.

(3) Subsection (2) shall not apply on the occasion on which any machinery or plant, to which section 39B(7) applies, passes by way of succession.

(4) Where by reason of a person ceasing to carry on his trade, profession or business machinery or plant in respect of which an initial allowance or annual allowance has been made is put out of use and there are no sale, insurance, salvage or compensation moneys, such person shall, subject to subsection (5), be deemed to have received immediately prior to such cessation, sale moneys for such machinery or plant of such an amount as the Commissioner may consider it would have realized had it been sold in the open market at the time of cessation.

(5) If a person sells any machinery or plant referred to in subsection (4) within 12 months of the date of cessation he may claim the adjustment of any balancing allowance or balancing charge which may have been made to or on him as if such sale had taken place immediately prior to the date of cessation and notwithstanding section 70 an assessor shall make any necessary correction to any assessment.

(6) Notwithstanding anything contained in this section, where the aggregate of any sale, insurance, salvage or compensation moneys in respect of any machinery or plant exceeds the capital expenditure incurred on the provision of that machinery or plant, the aggregate of such moneys shall—

- (a) for the purposes of calculating a balancing charge under subsection (2)(b); and
- (b) in calculating the reducing value of the class of machinery or plant under section 39B(4),

not exceed the capital expenditure incurred on the provision of that machinery or plant.

(7) For the purposes of subsection (6), the capital expenditure of the machinery or plant shall be taken as—

- (a) in a case where section 37(2A) applies, the "cost of the asset" computed in accordance with that section;
- (b) in a case where section 39B(6) applies, the capital expenditure computed in accordance with that section; or
- (c) in any other case, the aggregate capital expenditure incurred by the person in question on the pro-

vision of the machinery or plant for the purposes of producing profits chargeable to tax under Part IV."

Amendment of section 40.

4. Section 40(1) of the principal Ordinance is amended by inserting, after the definition of "capital expenditure on the provision of machinery or plant", the following definition—

"class of machinery or plant" means the items of machinery or plant for which the same rate of depreciation is prescribed by the Board of Inland Revenue."

Passed by the Hong Kong Legislative Council this 5th day of November 1980.

*[Handwritten signature]*

Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*[Handwritten signature]*

Clerk to the Legislative Council.

No. 64 OF 1980



I assent.

*[Handwritten signature]*  
Acting Govern

of producing profits chargeable to tax under Part IV."

Section 40(1) of the principal Ordinance is amended by inserting the following definition—

"machinery or plant" means the items of machinery or plant which the same rate of depreciation is prescribed by the Director of Inland Revenue."

Enacted by the Hong Kong Legislative Council this 5th day of November 1980.

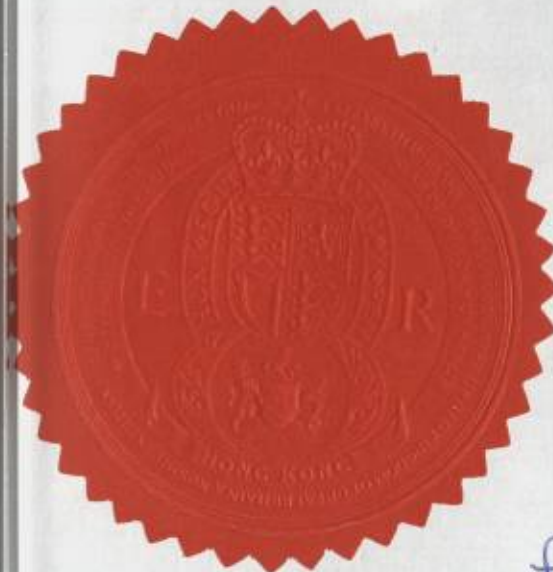
*[Signature]*  
Clerk to the Legislative Council.

*Printed impression has been carefully compared by me with the original bill, and is found by me to be a true and correct copy of the said bill.*

*[Signature]*  
Clerk to the Legislative Council.

**HONG KONG**

No. 64 OF 1980



I assent.

*[Signature]*  
Acting Governor.

6 November 1980.

An Ordinance to amend the Merchant Shipping Ordinance.

[7 November 1980]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Merchant Shipping (Amendment) Ordinance 1980. Short title.

2. Section 2 of the principal Ordinance is amended in the definition of "ship" by inserting before "includes" the following—  
"except where section 50A applies)". Amendment of section 2. (Cap. 281.)

3. The principal Ordinance is amended in Part VIII by adding, before section 51, the following—  
Addition of new section 50A.

**50A.** In this Part, unless the context otherwise requires—

"certificate" and "certificate of competency" include a certificate of competency issued under Part IV of the Shipping and Port Control Ordinance;

(Cap. 313.)

"ship" includes every description of vessel used in navigation."

Amendment of section 56.

4. Section 56(1) of the principal Ordinance is amended by deleting "granted under this Ordinance".

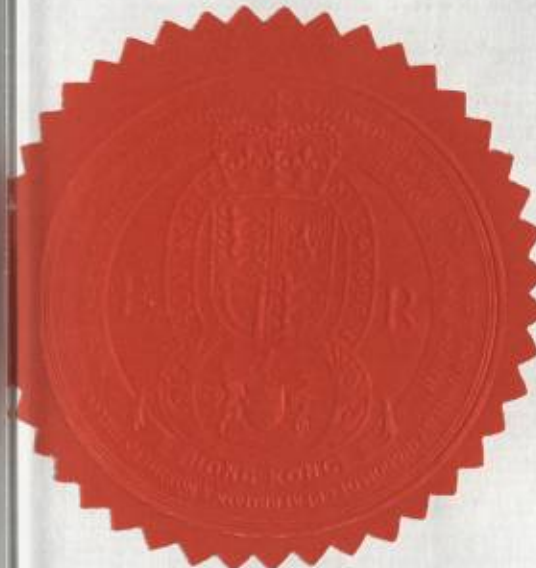
Passed by the Hong Kong Legislative Council this 5th day of November 1980.

*[Signature]*  
 Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*[Signature]*  
 Clerk to the Legislative Council.

No. 65 of 1980



I assent.

*[Signature]*  
 Acting Govern  
 6 November 1

of this Ordinance".

by the Hong Kong Legislative Council this 5th day of 1980.

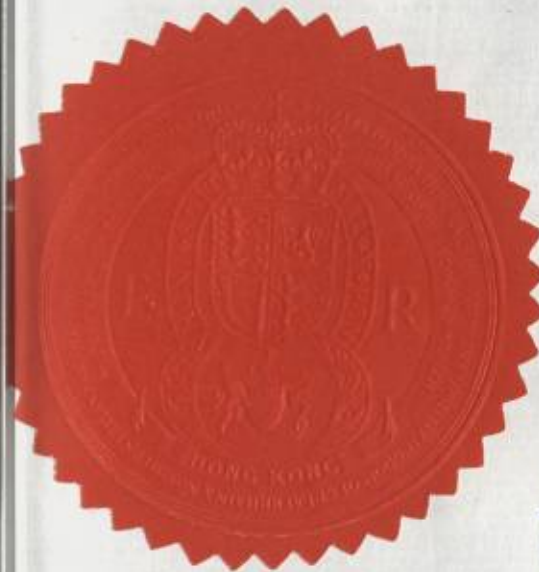
*[Signature]*  
Clerk to the Legislative Council.

printed impression has been carefully compared by me with the bill, and is found by me to be a true and correct copy of the said bill.

*[Signature]*  
Clerk to the Legislative Council.

**HONG KONG**

No. 65 OF 1980



I assent.

*[Signature]*  
Acting Governor.

6 November 1980.

An Ordinance to amend the Evidence Ordinance.

[7 November 1980]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Evidence (Amendment) Ordinance 1980. Short title.

2. Section 53 of the principal Ordinance is repealed.

Repeal of  
section 53.  
(Cap. 8.)

3. Section 54(5) of the principal Ordinance is amended by deleting "made in pursuance of section 53".

Amendment of  
section 54.

4. Section 55 of the principal Ordinance is amended—

Amendment of  
section 55.

(a) in subsection (1), by inserting after the definition of "film" the following definition—

"(Cap. 4,  
sub. leg.)  
(Cap. 4.)

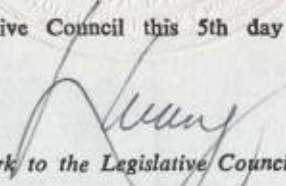
"rules" means the Rules of the Supreme Court made under section 54 of the Supreme Court Ordinance"; and

(b) in subsection (3), by deleting "under this Part" and substituting the following—

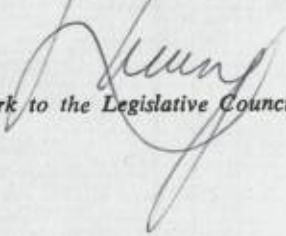
"under section 54 of the Supreme Court Ordinance".

- Amendment of section 57. 5. Section 57 of the principal Ordinance is amended by deleting subsections (2), (3), (4), (5), (6) and (8).
- Amendment of section 58. 6. Section 58(1) of the principal Ordinance is amended by deleting "made in pursuance of Part IV or this Part".
- Amendment of section 60. 7. Section 60 of the principal Ordinance is amended—  
 (a) in subsection (2)—  
 (i) in the definition of "legal proceedings", by deleting the full stop and substituting a semicolon; and  
 (ii) by inserting after the definition of "legal proceedings" the following definition—  
 "(Cap. 4, sub. leg.) "rules" means the Rules of the Supreme Court made under section 54 of the Supreme Court Ordinance."; and  
 (Cap. 4.) (b) in subsection (3), by deleting "in pursuance of Part IV" and substituting the following—  
 "under section 54 of the Supreme Court Ordinance".
- Repeal of section 61. 8. Section 61 of the principal Ordinance is repealed.
- Amendment of section 69. 9. Section 69 of the principal Ordinance is amended by deleting "Part IV or".

Passed by the Hong Kong Legislative Council this 5th day of November 1980.

  
 Clerk to the Legislative Council.

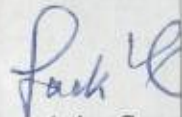
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
 Clerk to the Legislative Council.

No. 66 OF 1980



I assent.

  
 Acting Governor  
 6 November 1980

(3), (4), (5), (6) and (8).

Section 58(1) of the principal Ordinance is amended by deleting the words "in pursuance of Part IV or this Part".

Section 60 of the principal Ordinance is amended—  
subsection (2)—

in the definition of "legal proceedings", by deleting the full stop and substituting a semicolon; and

by inserting after the definition of "legal proceedings" the following definition—

"rules" means the Rules of the Supreme Court made under section 54 of the Supreme Court Ordinance."; and

subsection (3), by deleting "in pursuance of Part IV" and substituting the following—

"under section 54 of the Supreme Court Ordinance".

Section 61 of the principal Ordinance is repealed.

Section 69 of the principal Ordinance is amended by deleting

the words "in pursuance of Part IV" and substituting the following—  
"under section 54 of the Supreme Court Ordinance".  
Passed by the Hong Kong Legislative Council this 5th day of November 1980.

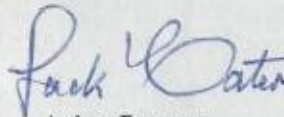
  
Clerk to the Legislative Council.

**HONG KONG**

No. 66 OF 1980



I assent.

  
Acting Governor.

6 November 1980.

An Ordinance to validate the purported conferral of the degree of Doctor of Laws *honoris causa* on certain persons by The Chinese University of Hong Kong.

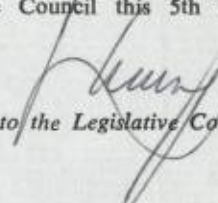
[7 November 1980]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as The Chinese University of Hong Kong (Validation) Ordinance 1980. Short title.

2. Where before the commencement of this Ordinance the degree of Doctor of Laws *honoris causa* was purported to be conferred on a person by The Chinese University of Hong Kong, the conferral of such degree shall not be invalid by reason only that the degree of Doctor of Laws was on such prior date not one of the degrees which The Chinese University of Hong Kong was empowered to confer and such degree shall be deemed to have been validly conferred on such person. Validation.

Passed by the Hong Kong Legislative Council this 5th day of November 1980.

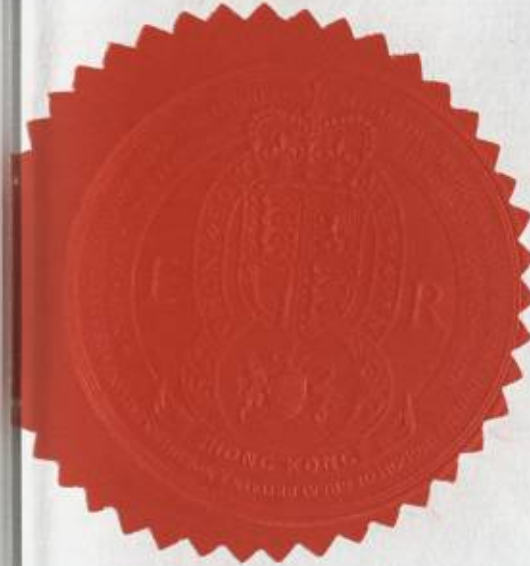
  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*[Signature]*  
Clerk to the Legislative Council.



No. 67 OF 1980

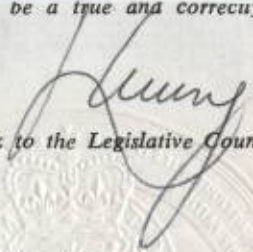


I assent.

*[Signature]*  
Governor.

4 December 1980

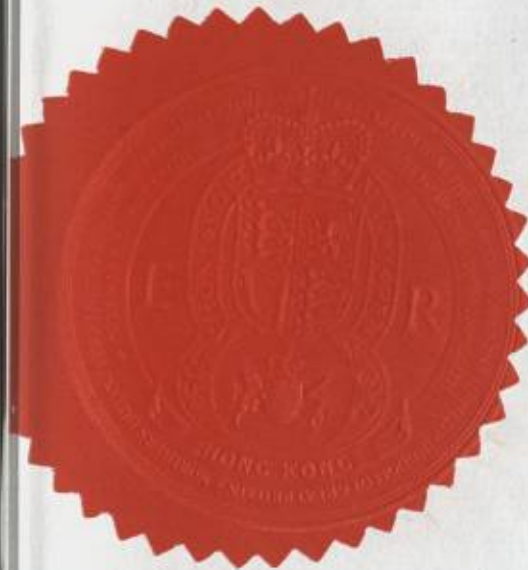
bill, and is found by me to be a true and correct copy of the said bill.

  
Clerk to the Legislative Council.

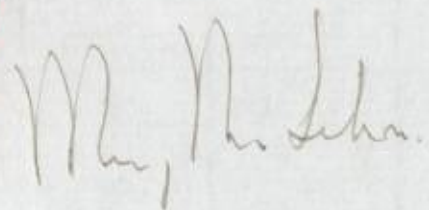


**HONG KONG**

No. 67 OF 1980



I assent.



Governor.

4 December 1980.

An Ordinance to amend the Public Order Ordinance.

[ ]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Public Order (Amendment) Ordinance 1980 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*. Short title and commencement.

2. Section 2 of the principal Ordinance is amended—

(a) by inserting after the definition of "closed area" the following—

"designated public area" means an area designated as a designated public area by the Governor under section 10;"

Amendment of section 2. (Cap. 245.)

(b) by deleting the definition of "meeting" and substituting the following—

"meeting" means any gathering or assembly of persons convened or organized for the purpose of the discussion of issues or matters of interest or concern to the general public or a section thereof, or for the purpose of the expression of views on such issues or matters, and includes any gathering or assembly of persons whether or not previously convened or organized at which any

person assumes or attempts to assume control or leadership thereof for any such purpose; but does not include any gathering or assembly of persons convened or organized exclusively—

- (a) for social, recreational, cultural, academic, educational, religious or charitable purposes, or as a conference or seminar *bona fide* intended for the discussion of topics of a social, recreational, cultural, academic, educational, religious, charitable, professional, business or commercial character;
- (b) for the purpose of a funeral;
- (c) for the purposes of any public body; or
- (d) for the purpose of carrying out any duty or exercising any power imposed or conferred by any Ordinance;”;

- (c) by inserting after the definition of “political organization” the following—

““procession” means a procession organized as such for a common purpose;”.

Repeal and replacement of Part III.

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

### “PART III

#### CONTROL OF MEETINGS, PROCESSIONS AND GATHERINGS

General powers of Commissioner of Police.

(Cap. 228.)

6. The Commissioner of Police may, if it appears to him to be necessary or expedient in the interests of public order so to do, in such manner as he may think fit by order—

- (a) notwithstanding the issue of any permit under section 4(29) of the Summary Offences Ordinance, control and direct the extent to which music may be played, or to which music or human speech or any other sound may be amplified, broadcast, relayed, or otherwise reproduced by artificial means, in—
  - (i) public places; or
  - (ii) places other than public places if such music, human speech or sound is directed towards persons in public places;
- (b) control and direct the conduct of all public gatherings and specify the route by which, and the time at which, any public procession may pass;
- (c) for any of the purposes aforesaid, give or issue such orders as he may consider necessary or expedient.

Regulation of public meetings.

7. (1) Subject to this Ordinance, a public meeting may take place if, but only if,—

- (a) the Commissioner of Police is notified under section 8 of the intention to hold the meeting; and
- (b) the holding of the meeting is not prohibited by the Commissioner of Police under section 9.

(2) This section shall not apply to—

- (a) a meeting of not more than 30 persons;

- (b) a meeting in private premises (whether or not the public or any section of the public are permitted to attend) if—

(i) the capacity of the premises does not exceed 200 persons; and

(ii) the attendance at the meeting does not exceed 200 persons or, where the capacity of the premises is less than 200 persons, the capacity thereof;

- (c) a meeting in any school registered or provisionally registered or exempted under the Education Ordinance, or in any college registered under the Post Secondary Colleges Ordinance, or in any educational establishment established by any Ordinance, if—

(i) the meeting is organized or approved by an accredited society or similar body of such school, college or educational establishment; and

(ii) the meeting is held with the consent of the management of such school, college or educational establishment in accordance with the terms of that consent,

whether or not the public or any section of the public are permitted to attend.

(Cap. 279.)  
(Cap. 320.)

Notification of public meetings.

8. (1) For the purposes of section 7, notice of the intention to hold a public meeting shall be given in writing to the Commissioner of Police not less than 7 days (excluding Sundays and general holidays) prior to the date on which the meeting is intended to be held:

Provided that the Commissioner of Police may, if he thinks fit, accept shorter notice in any particular case.

(2) Notice under subsection (1) shall be given by being delivered in person by the person giving it or any person on his behalf to the officer in charge of a police station, and shall contain particulars of the following matters—

- (a) the name and address and telephone number of the person organizing the meeting and any society or organization promoting or connected with the holding of the meeting;
- (b) the purpose and subject-matter of the meeting;
- (c) the date, location, time of commencement and duration of the meeting;
- (d) the number and names of persons proposed as platform-speakers for the meeting;
- (e) the amplification devices, if any, intended to be used at the meeting;
- (f) the nature, form and contents of advertisements, printed matter, posters or banners intended for publication, distribution or display in respect of the meeting.

Power of Commissioner of Police to prohibit notified public meeting.

9. (1) Subject to this section, the Commissioner of Police may prohibit the holding of any public meeting notified under section 8(1) on any of the following grounds—

- (a) that the notice does not comply with section 8(2);

- (b) that advertisements of the public meeting have been published, distributed or displayed in contravention of this Ordinance;
  - (c) that the holding of the public meeting is, in the opinion of the Commissioner, likely to prejudice the maintenance of public order or to be used for any unlawful purpose;
  - (d) that any person or society or organization connected or associated with the holding or conduct of the public meeting or, in the opinion of the Commissioner, likely to be concerned in the holding, convening, organizing, forming or conduct thereof, has been convicted of any offence under this Ordinance.
- (2) Notice of a prohibition under subsection (1) shall be given—
- (a) either orally or in writing, to the person or to one of the persons (if more than one) promoting, directing, organizing or managing the public meeting; or
  - (b) by publication, either orally or in writing, in such manner, or by posting a notice thereof in such place, as the Commissioner of Police may think fit.
- (3) The power conferred by subsection (1) shall not be exercised in respect of any public meeting notified under section 8 after the expiration of 4 days (excluding Sundays and general holidays) from the date on which the public meeting is so notified:

Provided that in the case of a public meeting in respect of which less than 7 days' notice (excluding Sundays and general holidays) is accepted under section 8(1), the power so conferred may be exercised at any time not later than 24 hours prior to the date on which such public meeting is intended to be held.

Designated public areas.

General conditions applying to public meetings.

10. The Governor may by order designate any area as a designated public area for the purposes of this Part.
11. (1) The Governor in Council may by order prescribe general conditions in respect of the holding of public meetings, including conditions relating to any of the following matters—
- (a) the maintenance of good order and public safety at any public meeting;
  - (b) the location, time and duration of any public meeting;
  - (c) the presentation of any stage performance or other entertainment at any public meeting;
  - (d) the use of sound amplifiers or any amplified public-address system or similar devices at any public meeting;
  - (e) the publication, distribution, display or use of any advertisement, printed-matter, banner, poster, notice or other device publicizing or otherwise relating to any public meeting or the purpose or subject-matter thereof;
  - (f) the collection of money or the sale of badges at any public meeting;

- (g) the dispersal of the persons attending any public meeting at the conclusion thereof.

(2) Subject to subsection (1), the Commissioner of Police may impose additional conditions in respect of any public meeting notified under section 8 relating to the time at which such public meeting may be held and, in the case of a public meeting intended to be held in a place other than a designated public area, the conduct of such public meeting; and notice of any condition so imposed shall be given in writing to the person by whom such public meeting is so notified or any other person concerned in the holding, convening, organizing or forming thereof.

(3) References in this section to a public meeting shall not include references to a meeting referred to in section 7(2).

Compliance with safety requirements for public meetings in private premises.

Regulation of public processions.

12. In respect of any public meeting held in private premises, it shall be the duty of the owner or occupier of the premises, and any person who organizes or assists in the organization of the meeting, to comply with any restriction or requirement imposed by or under any Ordinance relating to the safety of persons or the prevention of fire.

13. (1) Subject to this Ordinance, a public procession may take place if, but only if—

- (a) the procession is authorized by a licence issued in writing by the Commissioner of Police under this section; and
  - (b) any conditions imposed by the Commissioner of Police under this section or by section 15 in respect of the procession are complied with.
- (2) This section shall not apply to—
- (a) any public procession which is not a procession on a public highway or thoroughfare or in a public park;
  - (b) any public procession consisting of not more than 20 persons;
  - (c) any public procession of a nature or description specified by the Commissioner of Police by notice in the *Gazette*.

(3) Application for a licence under this section shall be made to the Commissioner of Police not less than—

- (a) in the case of a public procession held solely for the purposes of a funeral at which the body is present, 24 hours prior to the forming of the procession; and
- (b) in any other case, 7 days prior to the date on which the procession is intended to take place:

Provided that the Commissioner of Police may, if he thinks fit in any particular case, accept an application which is made less than 7 days prior to such date.

(4) The Commissioner of Police may issue a licence under this section in respect of a public procession, in such form as he may determine, if he is satisfied that the public

procession is not likely to prejudice the maintenance of public order or to be used for any unlawful purpose.

(5) A licence issued under this section in respect of any public procession shall be subject to such conditions relating to the forming, conduct, route, times of passing and dispersal of the procession as the Commissioner of Police may impose, and any condition so imposed shall be attached to the licence prior to the issue thereof.

(6) The Commissioner of Police may refuse to issue a licence under this section in respect of any public procession, except a public procession solely for the purposes of a funeral, if—

- (a) the applicant or any person or society associated directly or indirectly with the application or likely in the opinion of the Commissioner of Police to be concerned in the organizing, convening, forming or conduct of the public procession has, in relation to any public gathering, at any time contravened the provisions of this Ordinance or any other law or any condition of a licence issued under this Ordinance or any other law; or
- (b) the public procession has been advertised or otherwise publicized prior to the determination of the application.

(7) References in this section to conditions imposed by the Commissioner of Police include, unless the context otherwise requires, references to such conditions as amended under section 14.

14. (1) The Commissioner of Police may at any time, if it appears to him to be necessary or expedient in the interests of public order or for preventing the carrying out of any unlawful purpose so to do—

- (a) cancel any licence issued by him under section 13; or
- (b) amend the conditions of any such licence.

(2) Notice of any such cancellation or amendment shall be given—

- (a) in writing to the licensee;
- (b) in writing to any other person concerned in the organizing, convening, forming or conduct of the public procession; or
- (c) by publication in such manner, or by posting in such place, as the Commissioner of Police may think fit.

15. It shall be a condition of every licence issued under section 13 that the licensee shall be present at the public procession from the first assembly thereof to the final dispersal thereof, unless he is prevented from being so present by reason of illness or other unavoidable cause, and shall forthwith comply with any directions which may be given to him by any police officer for ensuring the due performance of and compliance with the conditions of the licence and the maintenance of public order throughout the period of assembly, conduct and dispersal of the public procession.

Cancellation and amendment of licence for public procession.

General condition of licence for public procession.

Appeals.

16. Any person aggrieved by a prohibition under section 9, or whose application for a licence under section 13 is refused, or whose licence is cancelled or amended under section 14, may appeal in writing to the Governor against such order or refusal or cancellation or amendment and the Governor may on any such appeal confirm, reverse or vary the decision appealed against.

Police powers over meetings, processions and gatherings.

17. (1) Any police officer may prevent the holding of, stop or disperse—

- (a) any public meeting which takes place in contravention of section 7 or in regard to which any condition prescribed or imposed under section 11 is being or has been contravened;
- (b) any public procession which takes place in contravention of section 13 or in regard to which any condition imposed by or under section 13, 14 or 15 is being or has been contravened.

(2) Any police officer of or above the rank of inspector may—

- (a) prevent the holding of, stop, disperse or vary the place or route of any public gathering, other than a public gathering exclusively for religious purposes, whether or not the public gathering is one to which section 7 or 13 applies; or
- (b) stop or disperse any public gathering exclusively for religious purpose or any meeting convened or held in any premises or place which is not a public place or any gathering or procession whatsoever or wheresoever,

if he reasonably believes that the same is likely to cause or lead to a breach of the peace.

(3) For the purpose of exercising the powers conferred by subsections (1) and (2), respectively, a police officer and a police officer of or above the rank of inspector may give or issue such orders as he may consider necessary or expedient, and such police officer and any other police officer may—

- (a) use such force as may be reasonably necessary to prevent the holding of, stop or disperse, as the case may be, the public meeting, public procession, public gathering or other meeting, gathering or procession; and
- (b) enter any premises or place whatsoever in which any meeting is taking place or any persons are gathered.

(4) If a police officer of or above the rank of inspector has reason to believe that a public meeting or public procession is likely to take place or form in any public place in contravention of section 7 or 13, he may cause access to that public place and to any other public place adjacent thereto to be barred and to be closed to the public or to any person or class of persons for such time as may be necessary to prevent the public meeting or public procession taking place.

(5) The closure of any public place under subsection (4) shall be notified by means of notices exhibited, or physical

barriers erected, at the places of access thereto, or by oral public announcement in the vicinity thereof, or in such other manner as the police officer aforesaid may think fit.

(6) Any police officer may use such force as may be reasonably necessary to prevent any person from entering or remaining in any public place to which access has been closed to him under this section.

Offences in relation to sections 6, 7, 8, 9, 11, 13, 14, 15 and 17.

**17A.** (1) Any person who—

- (a) refuses or wilfully neglects to obey any order given or issued under section 6 or 17(3); or
- (b) knowingly contravenes or suffers or permits any person so to contravene any condition prescribed or imposed by or under section 11, 13, 14 or 15 in respect of any public meeting or public procession; or
- (c) without the permission of any police officer on duty there, knowingly enters or remains in a public place to which access has been closed to him under section 17(4); or
- (d) publishes, distributes, displays, prints or circulates any advertisement, printed-matter, banner, poster, notice or other device publicizing, or in any other manner advertises or publicizes, a public meeting (other than a meeting referred to in section 7(2)) which has not been notified under section 8 or is prohibited under section 9 or a public procession (other than a public procession referred to in section 13(2)) which is not licensed under section 13,

shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and to imprisonment for 12 months.

(2) Where—

- (a) any public meeting or public procession takes place in contravention of section 7 or 13;
- (b) 3 or more persons taking part in or forming part of a public gathering refuse or wilfully neglect to obey an order given or issued under section 6; or
- (c) 3 or more persons taking part in or forming part of a public meeting, public procession or public gathering, or other meeting, procession or gathering of persons refuse or wilfully neglect to obey an order given or issued under section 17(3),

the public meeting, public procession or public gathering, or other meeting, procession or gathering of persons, as the case may be, shall be an unauthorized assembly.

(3) Where any public meeting, public procession or public gathering, or other meeting, procession or gathering of persons, is an unauthorized assembly by virtue of subsection (2)—

- (a) every person who, without lawful authority or reasonable excuse, knowingly takes or continues to take part in or forms or continues to form part of any such unauthorized assembly; and

(b) every person who—

(i) holds, convenes, organizes, forms or collects, or assists or is concerned in the holding, convening, organizing, forming or collecting of, any public meeting or public procession referred to in subsection (2)(a); or

(ii) continues or attempts to continue to hold or conduct, or to direct otherwise than for the purpose of securing obedience to an order given or issued under section 6 or 17(3), any public gathering such as is referred to in subsection (2)(b), or any public meeting, public procession or public gathering, or other meeting, procession or gathering of persons, referred to in subsection (2)(c),

after the same has become an unauthorized assembly as aforesaid,

shall be guilty of an offence and shall be liable—

- (i) on conviction on indictment, to imprisonment for 5 years; and
- (ii) on summary conviction, to a fine of \$5,000 and to imprisonment for 3 years.

(4) Where in any prosecution for an offence under subsection (1)(b) or (c) or subsection (3)(a) it is alleged that the person charged with the offence did or omitted to do any act knowingly, his state of mind as so alleged shall in the absence of proof to the contrary be presumed.

Disorder in public places.

**17B.** (1) Any person who at any public gathering acts in a disorderly manner for the purpose of preventing the transaction of the business for which the public gathering was called together or incites others so to act shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and to imprisonment for 12 months.

(2) Any person who in any public place behaves in a noisy or disorderly manner, or uses, or distributes or displays any writing containing, threatening, abusive or insulting words, with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be caused, shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and to imprisonment for 12 months.

Prohibition of offensive weapons at public meetings and processions.

**17C.** (1) Any person who, while present at any public meeting or on the occasion of any public procession, has with him any offensive weapon, without lawful authority or reasonable excuse, shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and to imprisonment for 2 years.

(2) For the purposes of this section, a person shall not be deemed to be acting in pursuance of lawful authority unless he is on duty as—

- (a) a police officer;
- (b) a member of the Royal Hong Kong Auxiliary Police Force when the Force or the part of the Force to which such member belongs, or such member, has been called out under section 16(1) or (2) of the Royal Hong Kong Auxiliary Police Force Ordinance;

- (c) a member of the Fire Services Department;
- (d) a public officer;
- (e) a member of Her Majesty's forces;
- (f) an officer or member of the Royal Hong Kong Regiment when on active service under the Royal Hong Kong Regiment Ordinance;
- (g) an officer or member of the Royal Hong Kong Auxiliary Air Force when on active service under the Royal Hong Kong Auxiliary Air Force Ordinance; or
- (h) an officer of the Independent Commission Against Corruption established under the Independent Commission Against Corruption Ordinance.

(Cap. 199.)

(Cap. 198.)

(Cap. 204.)

(3) Where any person is convicted of an offence under subsection (1), the court may make an order for the forfeiture of any offensive weapon in respect of which the offence was committed.

Power of  
Commissioner  
of Police  
to prohibit  
public  
gatherings.

**17D.** (1) The Commissioner of Police may, if it appears to him to be necessary or expedient in the interests of public order so to do, prohibit the holding or continuance of a public gathering in any area, premises or place or on any particular day.

(2) Notice of a prohibition under subsection (1) shall be given—

- (a) either orally or in writing, to the person or to one of the persons (if more than one) promoting, directing, organizing or managing the public gathering; or
- (b) by publication, either orally or in writing, in such manner, or by posting a notice thereof in such place, as the Commissioner of Police may think fit.

(3) Any person who, after notice of a prohibition under subsection (1) has been given, takes part in the promotion, direction, organization or management of a public gathering which is held or continued in contravention of a prohibition under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and to imprisonment for 3 years.

(4) Any police officer may give or issue such orders and use such force as may be reasonably necessary to prevent the holding or continuance of a public gathering the holding or continuance of which has been prohibited under subsection (1) and to disperse any gathering of persons thereat.

(5) Any person who refuses or wilfully neglects to obey any order given or issued under subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and to imprisonment for 12 months.

Power of  
Governor  
in Council  
to prohibit  
public  
gatherings.

**17E.** (1) The Governor in Council may, if he is satisfied that, by reason of particular circumstances existing in Hong Kong or in any part thereof, it is necessary for the prevention of serious public disorder to prohibit the holding of public gatherings in Hong Kong or any part thereof, prohibit the holding in Hong Kong or any part thereof of all public

gatherings, or of any class of public gatherings, for such period not exceeding 3 months as may be specified.

(2) Any person who—

(a) takes part in the promotion, direction, organization or management of a public gathering which is held or intended to be held in contravention of a prohibition under this section; or

(b) takes part in or attends, or incites any other person to take part in or attend, any such public gathering,

shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and to imprisonment for 3 years.

Proof.

**17F.** A certificate purporting to be under the hand of the Commissioner of Police specifying—

(a) the terms and date of any order given under section 6 or prohibition under section 9;

(b) any conditions imposed under section 11(2);

(c) the terms, date and conditions of any licence issued under section 13;

(d) the terms, date and the manner of service of any notice given under section 14(2);

(e) the terms, date and method of giving notice of any prohibition made or order given or issued under section 17D(1) or (4),

shall be *prima facie* evidence of such matter contained in such certificate in all legal proceedings.

Supplemental.

**17G.** This Part shall be construed as being in addition to and not in derogation of the provisions of any Ordinance, and nothing in this Part relating to any matter shall affect the liability of any person to comply with any provision of any Ordinance in respect of the same matter."

4. Sections 27 and 29 of the principal Ordinance are repealed.

Repeal of  
sections  
27 and 29.

5. Section 31 of the principal Ordinance is amended by inserting after subsection (2) the following—

Amendment of  
section 31.

"(2A) The Commissioner of Police may delegate to any public officer or the person for the time being holding any office designated by him to exercise the powers conferred by subsection (2); and the reference in subsection (1) to a permit issued by the Commissioner of Police shall be construed accordingly."

6. Section 33(2) of the principal Ordinance is amended by deleting "21" wherever it occurs and substituting the following—

Amendment of  
section 33.

"25".

7. Section 37 of the principal Ordinance is amended by inserting after subsection (2) the following—

Amendment of  
section 37.

"(2A) The Commissioner of Police may delegate to any public officer or the person for the time being holding any office designated by him to exercise the power to issue a permit conferred by subsection (2)(a); and the reference in subsection (3) to a permit issued under subsection (2) shall be construed accordingly."

Amendment of section 50. 8. Section 50(4) of the principal Ordinance is amended by deleting "11" and substituting the following—

"17".

Amendment of section 52. 9. Section 52 of the principal Ordinance is amended in paragraph (a) by deleting "7, 31, 37" and substituting the following—

"13".

Transitional. 10. Any licence issued under Part III of the principal Ordinance and in force immediately before the commencement of this Ordinance shall continue to have effect after such commencement, and the principal Ordinance shall apply thereto, as if this Ordinance had not been enacted.

Passed by the Hong Kong Legislative Council this 3rd day of December 1980.

*[Signature]*  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*[Signature]*  
Clerk to the Legislative Council.

No. 68 OF 1980



I assent.

*[Signature]*

Governor.

4 December

An Ordinance to amend the Summary Offences Ordinance

substituting the following—

"17".

Section 52 of the principal Ordinance is amended in paragraph (a) 7, 31, 37" and substituting the following—

"13".

A licence issued under Part III of the principal Ordinance immediately before the commencement of this Ordinance is to have effect after such commencement, and the principal provisions shall all apply thereto, as if this Ordinance had not been enacted.

Enacted by the Hong Kong Legislative Council this 3rd day of December 1980.

  
Clerk to the Legislative Council.

This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.

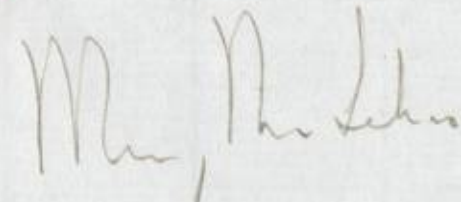
  
Clerk to the Legislative Council.

**HONG KONG**

No. 68 OF 1980



I assent.



Governor.

4 December 1980.

An Ordinance to amend the Summary Offences Ordinance.

[5 December 1980]

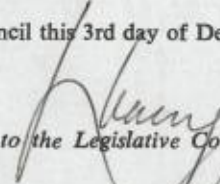
Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Summary Offences (Amendment) (No. 2) Ordinance 1980. Short title.

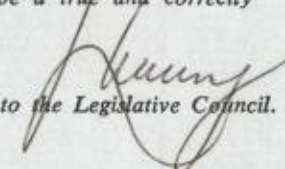
2. Section 25 of the principal Ordinance is repealed.

Repeal of section 25. (Cap. 228.)

Passed by the Hong Kong Legislative Council this 3rd day of December 1980.

  
Clerk to the Legislative Council.

This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.

  
Clerk to the Legislative Council.

No. 69 of 1980



I assent.

A handwritten signature in black ink, appearing to be "M. S. Wong".

Governor

4 December

An Ordinance to prohibit false trade descriptions.



(Cap. 43.)

"Convention country" has the meaning assigned to it by section 13A(6) of the Trade Marks Ordinance;

"Director" means the Director of Trade, Industry and Customs, and includes the Commissioner of Trade, Industry and Customs and any Deputy or Assistant Commissioner of Trade, Industry or Customs;

[cf. 1968 c. 29, s. 3.]

"false trade description" means—

- (a) a trade description which is false to a material degree;
- (b) a trade description which, though not false, is misleading, that is to say, likely to be taken for such an indication of any of the matters specified in the definition of "trade description" as would be false to a material degree;
- (c) anything which, though not a trade description, is likely to be taken for an indication of any of the matters specified in the definition of "trade description" and, as such an indication, would be false to a material degree;
- (d) a false indication, or anything likely to be taken as an indication which would be false, that any goods comply with a standard specified or recognized by any person or implied by the approval of any person if there is no such person or no standard so specified, recognized or implied; or
- (e) a false indication, or anything likely to be taken as an indication which would be false, that any goods of any class or type—
  - (i) being goods in respect of which duty is payable under the laws of Hong Kong, are supplied free of the duty so payable in respect of that class or type of goods; or
  - (ii) not being goods in respect of which duty is payable under the laws of Hong Kong, are supplied free of the duty so payable;

"goods" includes vessel and aircraft, things attached to land and growing crops;

"goods in transit" means goods which—

- (a) are brought into Hong Kong solely for the purpose of taking them out of Hong Kong; and
- (b) remain at all times in or on the vessel, aircraft or vehicle in or on which they are brought into Hong Kong;

"import" means to bring, or cause to be brought, into Hong Kong;

"premises" includes any place and any stall, vehicle, vessel or aircraft;

[cf. 1968 c. 29, s. 2(1).]

"trade description" means an indication, direct or indirect, and by whatever means given, of any of the following matters with respect to any goods or parts of goods, that is to say—

- (a) quantity (which includes length, width, height, area, volume, capacity, weight and number), size or gauge;
- (b) method of manufacture, production, processing or reconditioning;
- (c) composition;
- (d) fitness for purpose, strength, performance, behaviour or accuracy;

(e) any physical characteristics not included in the preceding paragraphs;

(f) testing by any person and results thereof;

(g) approval by any person or conformity with a type approved by any person;

(h) place or date of manufacture, production, processing or reconditioning;

(i) person by whom manufactured, produced, processed or reconditioned;

(j) other history, including previous ownership or use;

"trade mark" means—

(a) a trade mark registered in Hong Kong under the Trade Marks Ordinance; (Cap. 43.)

(b) a trade mark registered in the register of trade marks kept under or preserved by the Trade Marks Act 1938; (1938 c. 22.)

(c) a trade mark—

(i) registered, or in respect of which an application for registration has been made, in a British territory or a Convention country; and

(ii) capable of registration in Hong Kong under the Trade Marks Ordinance; and

(iii) in respect of which a period of 6 months has not expired since the date of the application for the registration thereof in a British territory or a Convention country.

(2) (a) For the purposes of this Ordinance, goods shall be deemed to have been— [cf. 1968 c. 29, s. 36.]

(i) manufactured in the country in which they last underwent a treatment or process which changed permanently and substantially the shape, nature, form or utility of the basic materials used in their manufacture; or

(ii) produced in the country in which they were wholly grown or mined.

(b) The Director of Trade, Industry and Customs may by order specify—

(i) in relation to any description of goods, what treatment or process is to be regarded for the purposes of this Ordinance as resulting or not resulting in a permanent and substantial change in shape, nature, form or utility of the basic materials used in their manufacture;

(ii) in relation to any description of goods different parts of which were manufactured or produced in different countries, or of goods assembled in a country different from that in which their parts were manufactured or produced, in which of those countries the goods are to be regarded for the purposes of this Ordinance as having been manufactured or produced.

(3) For the purposes of this Ordinance, a trade description or statement published in any newspaper, book or periodical or in any film or sound or television broadcast shall not be deemed to be a trade description applied or statement made in the course of a trade or business unless it is or forms part of an advertisement. [cf. 1968 c. 29, s. 39(2).]

Special provisions applicable to goldware. [cf. 1973 c. 43, s. 1(4).]

3. (1) Notwithstanding the definition of "false trade description" in section 2, a trade description which indicates the fineness (whether in parts per thousand or in carats) of gold shall be a false trade description if that indication is false to any extent or degree, except by understating the fineness.

[cf. 1973 c. 43, Sch. 1.]

(2) For the purpose of construing descriptions relating to the fineness of gold—

Schedule.

(a) a description indicating that an article, or the metal in an article, is so many carats shall be presumed to be an indication that the article or metal is of gold, and that its fineness is that specified in the table in the Schedule for that number of carats;

(b) paragraph (a) shall not apply if (as in a case where the article is a precious stone) the word "carat" is used as a measure of weight for precious stones, and not as a measure of fineness.

(3) Notwithstanding the definition of "false trade description" in section 2—

(a) a trade description which indicates that any article (other than an article of pure gold) is of gold shall be a false trade description unless the article consists solely of gold alloy and—

(i) contains not less than 8 carats of gold; or

(ii) bears a mark clearly indicating in carats, by number or by number and the letters "k", "c" or "ct", the fineness of the gold content; or

(iii) bears a mark clearly indicating in parts per thousand the fineness of the gold content; and

(b) a mark calculated to be taken as an indication of the fineness of gold of an article—

(i) which is plated with or enclosed in gold alloy or gilded; or

(ii) to which gold alloy is soldered or otherwise affixed,

shall be a false trade description unless it is manifest from the appearance of the article that the mark refers solely to the part of the article which consists of gold alloy.

(4) Any number of 1 or 2 digits on an article which indicates or purports to indicate, or is likely to be taken as an indication of, the fineness in carats of its gold content shall be a false trade description unless the article contains at least the same proportion of pure gold as the number bears to 24.

(5) Any number of 3 digits on an article which indicates or purports to indicate, or is likely to be taken as an indication of, the fineness in number of parts per thousand of its gold content shall be a false trade description unless the article contains gold of such a standard of fineness.

(6) For the purposes of this section "fineness" means the proportion of pure gold in accordance with subsection (4) or the number of parts by weight of gold in accordance with subsection (5) as the case may require.

Marking orders. [cf. 1968 c. 29, s. 8.]

4. (1) The Governor in Council may by order require that any goods specified in the order shall be marked with or accompanied by any information (whether or not amounting to or including a trade description) or instruction relating to the goods and, subject to the provisions of this

Ordinance, impose requirements for securing that the goods are so marked or accompanied, and regulate or prohibit the supply of goods with respect to which the requirements are not complied with; and the requirements may extend to the form and manner in which the information or instruction is to be given.

(2) Where an order under this section is in force with respect to goods of any description, any person who, in the course of any trade or business, supplies or offers to supply goods of that description in contravention of the order commits an offence.

(3) An order under this section may make different provision for different circumstances and may, in the case of goods supplied in circumstances where the information or instruction required by the order would not be conveyed until after delivery, require the whole or part thereof to be also displayed near the goods.

5. (1) The Governor in Council may by order require that any description of advertisements of any goods specified in the order shall contain or refer to information (whether or not amounting to or including a trade description) relating to such goods and subject to the provisions of this Ordinance impose requirements as to the inclusion of that information or of an indication of the means by which it may be obtained.

Information to be given in advertisements. [cf. 1968 c. 29, s. 9.]

(2) An order under this section may specify the form and manner in which any such information or indication is to be included in advertisements of any description and may make different provision for different circumstances.

(3) Where an advertisement of any goods to be supplied in the course of any trade or business fails to comply with any requirement imposed under this section, any person who publishes the advertisement commits an offence.

## PART II

### FALSE TRADE DESCRIPTIONS OR REPRESENTATIONS AND FORGED TRADE MARKS

6. (1) A person applies a trade description or trade mark or mark to goods if he—

Applying a trade description, trade mark or mark to goods. [cf. 1968 c. 29, s. 4.]

(a) affixes or annexes it to or in any manner marks it on or incorporates it with—

(i) the goods themselves; or

(ii) anything in, on or with which the goods are supplied;

(b) places the goods in, on or with anything which the trade description or trade mark or mark has been affixed or annexed to, marked on or incorporated with, or places any such thing with the goods;

(c) uses the trade description or trade mark or mark in any manner likely to be taken as referring to the goods; or

(d) makes in any affidavit, declaration or writing any statement to the effect that a trade description or trade mark or mark is applicable to the goods.

(2) An oral statement may amount to the use of a trade description or trade mark or mark.

(3) Where goods are supplied in pursuance of a request in which a trade description or trade mark or mark is used and the circumstances are such as to make it reasonable to infer that the goods are supplied as goods corresponding to that trade description or trade mark or mark, the person supplying the goods shall be deemed to have applied that trade description or trade mark or mark to the goods.

Offences in respect of trade descriptions.  
[cf. 1968 c. 29, s. 1.]

7. (1) Subject to the provisions of this Ordinance, any person who—

- (a) in the course of any trade or business—
  - (i) applies a false trade description to any goods; or
  - (ii) supplies or offers to supply any goods to which a false trade description is applied; or
- (b) has in his possession for sale or for any purpose of trade or manufacture any goods to which a false trade description is applied,

commits an offence.

(2) A person exposing goods for supply or having goods in his possession for supply shall be deemed to offer to supply them.

(3) Subject to the provisions of this Ordinance any person who disposes of or has in his possession any die, block, machine, or other instrument for the purpose of making, or applying to goods, a false trade description commits an offence unless he proves that he acted without intent to defraud.

Trade descriptions used in advertisements.  
[cf. 1968 c. 29, s. 5.]

8. (1) The following provisions of this section shall have effect where in an advertisement a trade description is used in relation to any class of goods.

(2) The trade description shall be taken as referring to all goods of the class, whether or not in existence at the time the advertisement is published—

- (a) for the purpose of determining whether an offence has been committed under section 7(1)(a)(i); and
- (b) where goods of the class are supplied or offered to be supplied by a person publishing or displaying the advertisement, also for the purpose of determining whether an offence has been committed under section 7(1)(a)(ii).

(3) In determining for the purposes of this section whether any goods are of a class to which a trade description used in an advertisement relates, regard shall be had not only to the form and content of the advertisement but also to the time, place, manner and frequency of its publication and all other matters making it likely or unlikely that a person to whom the goods are supplied would think of the goods as belonging to the class in relation to which the trade description is used in the advertisement.

Offences in respect of trade marks.

9. (1) Subject to the provisions of this Ordinance, any person who—

- (a) forges any trade mark;
- (b) falsely applies to any goods any trade mark or any mark so nearly resembling a trade mark as to be calculated to deceive;
- (c) makes any die, block, machine or other instrument for the purpose of forging, or of being used for forging, a trade mark;
- (d) disposes of or has in his possession any die, block, machine or other instrument for the purpose of forging a trade mark; or

(e) causes to be done anything referred to in paragraph (a), (b), (c) or (d),

commits an offence unless he proves that he acted without intent to defraud.

(2) Subject to the provisions of this Ordinance, any person who sells or exposes or has in his possession for sale or for any purpose of trade or manufacture, any goods to which any forged trade mark is applied, or to which any trade mark or mark so nearly resembling a trade mark as to be calculated to deceive is falsely applied, commits an offence.

(3) For the purposes of this section, a person shall be deemed—

- (a) to forge a trade mark who either—
  - (i) without the assent of the proprietor of the trade mark, makes that trade mark or a mark so nearly resembling that trade mark as to be calculated to deceive; or
  - (ii) falsifies any genuine trade mark, whether by alteration, addition, effacement or otherwise;
- (b) falsely to apply to goods a trade mark who without the assent of the proprietor of that trade mark applies that trade mark to good,

unless he proves that he acted without infringing the right of the proprietor of the trade mark conferred by section 27 of the Trade Marks Ordinance, and "forged trade mark" shall be construed accordingly.

(4) In any prosecution for an offence under subsection (1)(a) or (b) the burden of proving the assent of the proprietor shall lie on the defendant.

10. (1) Subject to the provisions of this Ordinance, any person who, in the course of any trade or business, gives, by whatever means, any false indication, direct or indirect, that any goods supplied by him are or are of a kind supplied to or approved by Her Majesty or any member of the Royal Family commits an offence.

False representations as to Royal approval or award, etc.  
[cf. 1968 c. 29, s. 12.]

(2) Subject to the provisions of this Ordinance, any person who, in the course of any trade or business, uses—

- (a) without the authority of Her Majesty, any device or emblem signifying the Queen's Award to Industry or anything so nearly resembling such a device or emblem as to be likely to deceive; or
- (b) without the authority of the Governor, any device or emblem signifying the Governor's Award for Hong Kong Design or anything so nearly resembling such a device or emblem as to be likely to deceive,

commits an offence.

11. Subject to the provisions of this Ordinance, any person who, in the course of any trade or business, gives, by whatever means, any false indication, direct or indirect, that any goods supplied by him are of a kind supplied to any person, commits an offence.

False representations as to supply of goods.  
[cf. 1968 c. 29, s. 13.]

12. (1) Subject to section 13, no person shall import or export any goods to which a false trade description or forged trade mark, which expression shall be construed in accordance with section 9(3), is applied.

Prohibited import and export of certain goods.

(2) Any person who imports or exports any goods contrary to subsection (1) commits an offence unless he proves that—

- (a) he did not know, had no reason to suspect and could not with reasonable diligence have found out that the goods are goods to which a false trade description or forged trade mark is applied; or

- (b) the goods are not intended for trade or business.
- (3) This section shall not apply to any goods in transit.

Power to exempt goods sold for export. [cf. 1968 c. 29, s. 32.]

13. In relation to goods which are intended for despatch to a destination outside Hong Kong, section 7 shall apply as if there were omitted from the matters included in the definition of "trade description" in section 2 those specified in paragraph (a) thereof, and, if the Governor by order specifies any other of those matters for the purposes of this section with respect to any description of goods, section 7 shall apply, in relation to goods of that description which are intended for despatch to a destination outside Hong Kong, as if the matters so specified were also omitted from those included in the definition of "trade description" in section 2.

### PART III ENFORCEMENT

Appointment of authorized officers.

14. (1) The Director may appoint any public officer to be an authorized officer for the purposes of this Ordinance.

(2) The Director may exercise any of the powers conferred on an authorized officer under this Ordinance.

Power to enter premises and inspect and seize goods and documents. [cf. 1968 c. 29, s. 27 & s. 28.]

15. (1) An authorized officer may, on production, if required, of evidence of his appointment—

- (a) make such purchases of goods as may appear expedient for the purpose of determining whether or not the provisions of this Ordinance are being complied with;
- (b) for the purpose of ascertaining whether any offence under this Ordinance has been or is being committed, inspect any goods and enter any premises other than domestic premises;
- (c) if he has reasonable cause to suspect that an offence under this Ordinance has been committed, seize or detain any goods for the purpose of ascertaining, by testing or otherwise, whether the offence has been committed;
- (d) if he has reasonable cause to suspect that an offence under this Ordinance has been committed and for the purpose of ascertaining whether it has been committed, require any person carrying on a trade or business or employed in connexion with a trade or business to produce any books or documents relating to the trade or business and may take copies of, or of any entry in, any such book or document;
- (e) in the case of any premises, vehicle, vessel (other than a ship of war) or aircraft (other than a military aircraft) in which he has reasonable cause to suspect that there are goods in respect of which an offence under this Ordinance has been or is being committed—
  - (i) subject to section 16, enter and search such premises;
  - (ii) stop and search such vehicle; or
  - (iii) stop, board and search such vessel or aircraft;
- (f) seize, remove or detain—
  - (i) any goods in respect of which he has reasonable cause to suspect an offence under this Ordinance has been or is being committed; and

(ii) anything which he has reason to believe may be required as evidence in proceedings for an offence under this Ordinance.

(2) An authorized officer may—

- (a) break open any container or open any vending machine for the purpose of exercising his powers under subsection (1)(f) to seize goods;
- (b) break open any outer or inner door of any place which he is empowered or authorized by or under this Ordinance to enter and search;
- (c) forcibly board any vessel or aircraft which he is empowered by this Ordinance to stop, board or search;
- (d) remove by force any person or thing obstructing him in the exercise of any power conferred on him by this Ordinance;
- (e) detain any person found in any premises which he is empowered or authorized by or under this Ordinance to search until such place has been so searched;
- (f) detain any vessel or aircraft which he is empowered by this Ordinance to stop, board and search, and prevent any person from approaching or boarding such vessel or aircraft until it has been so searched;
- (g) detain any vehicle which he is empowered by or under this Ordinance to stop and search until it has been so searched.

16. (1) No domestic premises shall be entered and searched by an authorized officer unless—

- (a) a magistrate has issued a warrant under subsection (2); or
- (b) the Director has given an authorization under subsection (3).

(2) A magistrate may, if he is satisfied by information on oath that there is reasonable ground for suspecting that there is in any domestic premises any goods or thing which may be seized, removed or detained under section 15(1)(f), issue a warrant authorizing an authorized officer to enter and search the premises.

(3) The Director may, if he is satisfied that there is reasonable ground for suspecting—

- (a) that there is in any domestic premises any goods or thing which may be seized, removed or detained under section 15(1)(f); and
- (b) that unless the premises are entered and searched immediately such goods or thing are likely to be removed from the premises,

authorize in writing an authorized officer to enter and search the premises.

(4) An authorized officer authorized under subsection (2) or (3) to enter and search any domestic premises may take with him such other persons and such equipment as may appear to him to be necessary.

17. (1) Without prejudice to any other Ordinance, any person who—

- (a) wilfully obstructs an authorized officer in the exercise of his powers or the performance of his duties under this Ordinance;
- (b) wilfully fails to comply with any requirement properly made to him by any such authorized officer; or

Restrictions on the entry and search of domestic premises.

Offences of obstruction and disclosure of information. [cf. 1968 c. 29, s. 29.]

- (c) without reasonable excuse fails to give such authorized officer any other assistance or information which the authorized officer may reasonably require of him for the purpose of the performance of the officer's functions under this Ordinance,

commits an offence.

- (2) Any person who discloses to any other person—  
 (a) any information with respect to any manufacturing process or trade secret obtained by him in premises which he has entered by virtue of this Ordinance; or  
 (b) any information obtained by him in pursuance of this Ordinance,

commits an offence unless the disclosure was made—

- (i) in or for the purpose of the performance by him or any other person of functions under this Ordinance, or  
 (ii) in the case of paragraph (b) under the direction or order of a court.

(3) Any person who, in giving any such information as is referred to in subsection (1)(c), makes any statement which he knows to be false commits an offence.

(4) Subject to subsection (5), nothing in this section shall be taken to—

- (a) require a person to answer any question or give any information if to do so might incriminate that person or the wife or husband of that person; or  
 (b) compel the production by a solicitor of a document containing a privileged communication made by or to him in that capacity or authorize the seizure of any such document in his possession.

(5) A person shall not be excused, by reason that to do so may incriminate that person or the wife or husband of that person of an offence under this Ordinance—

- (a) from answering any question put to that person in any civil proceedings;  
 (b) from complying with any order made in any such proceedings,

but no statement or admission made by a person in answering a question put or complying with an order made shall, in proceedings for an offence under this Ordinance, be admissible in evidence against that person or (unless they married after the making of the statement or admission) against the wife or husband of that person.

Penalties.

18. (1) Any person who commits an offence under section 4, 5, 7, 9, 10, 11 or 12 shall be liable—

- (a) on conviction on indictment, to a fine of \$500,000 and to imprisonment for 5 years; and  
 (b) on summary conviction, to a fine of \$100,000 and to imprisonment for 2 years.

(2) Any person who commits an offence under section 17 shall be liable to a fine of \$10,000 and to imprisonment for 1 year.

Time limit for prosecutions.

19. No prosecution for an offence under this Ordinance shall be brought after—

- (a) the expiration of 3 years from the date of commission of the offence; or

- (b) the expiration of 1 year from the date of discovery of the offence by the prosecutor,

whichever is the earlier.

20. Where a body corporate is convicted of an offence under this Ordinance, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

Offences by corporations.

21. Where the commission by any person of an offence under this Ordinance is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

Offences due to fault of other person.  
1968 c. 29.  
s. 23.

22. Subject to the provisions of this Ordinance, any person who, in Hong Kong, procures, counsels, aids, abets or is accessory to the commission outside Hong Kong of an act which, if committed in Hong Kong, would be an offence under this Ordinance, commits that offence as a principal and shall be liable to be prosecuted in Hong Kong as if the offence had been committed within Hong Kong.

Accessory to offences committed outside Hong Kong.

23. (1) Where any act or omission constitutes both an offence under this Ordinance and an offence under the Public Health and Urban Services Ordinance, evidence on behalf of the prosecution concerning any sample procured for analysis shall be admissible in proceedings in respect of the offence under this Ordinance if, but only if, the provisions of section 63 of the Public Health and Urban Services Ordinance have been complied with.

Samples.  
(Cap. 132.)

(2) The Governor in Council may by regulations provide that in any proceedings for an offence under this Ordinance in relation to such goods as may be specified in the regulations (other than proceedings for an offence referred to in subsection (1)) evidence on behalf of the prosecution concerning any sample procured for analysis shall not be admissible unless the sample has been dealt with in such manner as may be specified in the regulations.

24. (1) The Governor in Council may by regulations provide that certificates issued by such persons as may be specified by the regulations in relation to such matters as may be so specified shall, subject to this section, be received in evidence of those matters in any proceedings under this Ordinance.

Evidence by certificate.  
[cf. 1968 c. 29.  
s. 31.]

(2) Such a certificate shall not be received in evidence—

- (a) unless the party against whom it is to be given in evidence has been served with a copy thereof not less than 7 days before the hearing; or  
 (b) if that party has, not less than 3 days before the hearing, served on the other party a notice requiring the attendance of the person issuing the certificate.

(3) For the purposes of this section any document purporting to be such a certificate as is referred to in this section shall be deemed to be such a certificate unless the contrary is shown.

Description of  
trade mark in  
pleading.

25. In any information, indictment, pleading, proceeding or document in which any trade mark or forged trade mark is intended to be mentioned, it shall be sufficient, without further description and without any copy or facsimile, to state that trade mark or forged trade mark to be a trade mark or forged trade mark.

Defence  
mistake,  
accident, etc.  
1968 c. 29,  
s. 24.

26. (1) In any proceedings for an offence under this Ordinance it shall, subject to subsection (2), be a defence for the person charged to prove—

- (a) that the commission of the offence was due to a mistake or to reliance on information supplied to him or to the act or default of another person, an accident or some other cause beyond his control; and
- (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(2) If in any case the defence provided by subsection (1) involves the allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(3) In any proceedings for an offence under section 7(1)(a)(ii) or (b) it shall be a defence for the person charged to prove that he did not know, had no reason to suspect and could not with reasonable diligence have ascertained, that the goods did not conform to the description or that the description had been applied to the goods.

(4) In any proceedings for an offence under section 9(2) it shall be a defence for the person charged to prove that he did not know, had no reason to suspect and could not with reasonable diligence have ascertained, that a forged trade mark had been applied to the goods or that a trade mark or mark so nearly resembling a trade mark as to be calculated to deceive had falsely been applied to the goods.

Innocent  
publication of  
advertisements.  
1968 c. 29,  
s. 25.

27. In proceedings for an offence under this Ordinance committed by the publication of an advertisement, it shall be a defence for the person charged to prove that he is a person whose business it is to publish or arrange for the publication of advertisements and that he received the advertisement for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under this Ordinance.

Costs in  
proceedings.

28. In any proceedings under this Ordinance, the magistrate or court hearing the proceedings may, notwithstanding any provision of any other Ordinance, make such order as to costs as he or it may think fit.

Power to make  
orders with  
respect to  
property in  
possession of  
the Crown.  
(Cap. 221.)

29. Where any property has come into the possession of the Crown or any authorized officer acting under this Ordinance, section 102 of the Criminal Procedure Ordinance shall, subject to this Ordinance, apply to such property in all respects as though such property had come into the possession of the police in connexion with a criminal offence and such section shall be construed as though references to the Crown or such authorized officer, as the case may be, were substituted therein for references to the police.

30. (1) Any goods in respect of which an offence under this Ordinance has been committed shall be liable to forfeiture, whether or not any person has been convicted of any such offence.

Goods liable to  
forfeiture.

(2) Where goods are seized or detained by an authorized officer under section 15 the Director may at any time release such goods to the person who appears to him to be the owner thereof or to the authorized agent of the owner.

(3) Where the goods have not been released and an application for their forfeiture is to be made under section 31(1) the Director shall serve notice upon the owner of the goods requiring him to notify the Director in writing within the appropriate period under subsection (5) if he claims that the goods are not liable to forfeiture:

Provided that, if there is more than one owner of the goods, it shall be sufficient for the purposes of this subsection to give notice to one such owner.

(4) A notice under subsection (3) shall be deemed to have been duly served if—

- (a) it is delivered to the person on whom it is to be served;
- (b) it is sent by registered post addressed to such person at the place of residence or business of such person, if any, known to the Director; or
- (c) where it cannot be served in accordance with paragraph (a) or (b), the notice is exhibited at the head office of the Trade, Industry and Customs Department for a period of not less than 7 days.

(5) Where a notice is served under subsection (3) in respect of any goods seized or detained under this Ordinance any person (hereinafter in this section and in section 31 referred to as the claimant)—

- (a) who is the owner thereof or the authorized agent of the owner; or
- (b) who was in possession of the goods when they were seized or detained,

may, within 30 days of—

- (i) the date of the notice, if it is served under subsection (4)(a) or (b); or
- (ii) the first day on which it is exhibited, if it is served under subsection (4)(c),

give notice in writing to the Director that he claims that the goods are not liable to forfeiture.

(6) If, on the expiry of the appropriate period of time specified in subsection (5) for the giving of a notice of claim under that subsection, no such notice is given in writing to the Director, and the goods in respect of which notice is given under subsection (3) have not been released, they shall be forfeited to the Crown.

(7) Where goods seized or detained under section 15 are goods to which a forged trade mark is applied, or to which a trade mark or mark so nearly resembling a trade mark as to be calculated to deceive is falsely applied, the Director shall, wherever reasonably practicable, notify the proprietor of the trade mark or his agent.

31. (1) Where a notice of claim is given under section 30(5) and the Director does not release the goods to the claimant, the Attorney

Application for  
forfeiture.

General on behalf of the Director may apply to a magistrate, the District Court or the High Court as the Attorney General thinks fit for the forfeiture of the goods.

(2) Where an application under subsection (1) is made to the District Court or the High Court, it shall be made and proceeded with in accordance with rules of court, and may be begun by motion.

(3) Where an application under subsection (1) is made to a magistrate, the magistrate shall issue a summons to the claimant requiring him to appear before a magistrate on the hearing of the application and shall cause a copy of such summons to be served upon the Director.

(4) Subject to the provisions of this Ordinance an application to a magistrate under subsection (1) shall be deemed to be a complaint for the purposes of section 8 of the Magistrates Ordinance.

(Cap. 227.)

(5) If, on the hearing of the application under subsection (1)—

(a) neither the claimant nor any other person appears before the court or magistrate to make a claim and the court or magistrate is satisfied that notice of the date of the hearing issued in accordance with rules of the court under subsection (2) or the summons issued under subsection (3), as the case may be, was duly served on the claimant; or

(b) neither the claimant nor any person satisfies the court or magistrate that he has a claim,

and the court or magistrate is satisfied that the goods are liable to forfeiture, the court or magistrate shall order that the goods be forfeited to the Crown.

(6) If, on the hearing of the application under subsection (1), the court or magistrate is satisfied that—

(a) the goods are liable to forfeiture; and

(b) a person has a claim thereof,

the court or magistrate may order that—

(i) the goods be forfeited to the Crown;

(ii) the goods be destroyed;

(iii) any false trade description or forged trade mark applied to the goods be obliterated and thereafter the goods be disposed of in such manner and subject to any such condition as the court or magistrate may specify in the order; or

(iv) any false trade description or forged trade mark applied to the goods be obliterated and thereafter the goods be released to the owner thereof or the authorized agent of the owner subject to any condition which the court or magistrate may specify in the order.

(7) On the hearing of an application under subsection (1) a certified true copy of the record of any proceedings in respect of an offence under this Ordinance shall be admissible in evidence.

#### PART IV

##### MISCELLANEOUS

32. The fact that a trade description is a trade mark, or part of a trade mark, does not prevent it from being a false trade description when applied to any goods, except where the following conditions are satisfied, that is to say—

Trade marks containing trade descriptions.  
[cf. 1968 c. 29, s. 34.]

(a) that it could have been lawfully applied to the goods if this Ordinance had not been enacted;

(b) that the trade mark as applied is used to indicate such a connexion between the goods and the proprietor of the trade mark or a person registered under section 58 of the Trade Marks Ordinance as a registered user of the trade mark; and (Cap. 43.)

(c) that the person who is the proprietor of the trade mark is the same person as, or a successor in title of, the proprietor on the commencement of this Ordinance.

33. Where it appears to the Governor in Council—

Definition Orders.  
[cf. 1968 c. 29, s. 7.]

(a) that it would be in the interest of persons to whom any goods are supplied; or

(b) that it would be in the interest of persons by whom any goods are exported and would not be contrary to the interest of persons to whom such goods are supplied in Hong Kong,

that any expressions used in relation to the goods should be understood as having definite meanings, the Governor in Council may by regulations assign such meanings either—

(i) to those expressions when used in the course of a trade or business as, or as part of, a trade description applied to the goods; or

(ii) to those expressions when so used in such circumstances as may be specified in the regulations,

and where such a meaning is so assigned to an expression, it shall be deemed for the purposes of this Ordinance to have that meaning when used as referred to in paragraph (i) or, as the case may be, paragraph (ii) of this section.

34. A contract for the supply of any goods shall not be void or unenforceable by reason only of a contravention of any provision of this Ordinance.

Saving for civil rights.  
[cf. 1968 c. 29, s. 35.]

35. (1) Where any goods are seized or detained by an authorized officer under section 15 the Government shall, subject to this section, be liable to compensate the owner of the goods for any loss suffered by him by reason of the seizure or detention thereof or by reason that the goods, during the detention, are lost or damaged or deteriorate; but the owner shall not be entitled to compensation for any such loss if—

Compensation for loss of goods seized under section 15(1)(d).  
[cf. 1968 c. 29, s. 33.]

(a) the goods are forfeited;

(b) he is convicted of an offence under this Ordinance committed in relation to the goods; or

(c) an order has been made in respect of the goods under section 31(6).

(2) In any proceedings against the Government in respect of a claim for compensation on any of the grounds referred to in subsection (1), the amount of the compensation recoverable shall be such amount as is just and equitable in all the circumstances of the case, including the conduct and comparative blameworthiness of—

(a) the owner of the goods;

(b) the person in charge or control of the goods at the time they were seized;

(c) the agents of the person specified in paragraphs (a) and (b); and

(d) authorized officers, public officers and other persons concerned.

(3) No proceedings shall be maintainable in respect of any claim for compensation on any of the grounds referred to in subsection (1) unless the proceedings are commenced—

- (a) in the case of a claim for compensation in respect of goods released to their owner by order of a court or magistrate or by any person having authority to release the goods to him, not later than 6 months after the release thereof;
- (b) in the case of a claim for compensation on the ground that any goods were lost during the detention thereof, not later than 6 months after—
- (i) the discovery by the owner of the existence of such ground; or
- (ii) the date on which the owner could, by the exercise of reasonable diligence, have discovered the existence of such ground, whichever is the earlier.

Repeal.  
(Cap. 41.)  
(Cap. 41,  
sub. leg.)

36. (1) The Merchandise Marks Ordinance is repealed.

(2) The Merchandise Marks (Official Prosecutions) Regulations and the Merchandise Marks (Seizure of Prohibited Goods) Regulations are revoked.

Consequential  
amendments.  
(Cap. 133.)

37. (1) Section 20 of the Agriculture Pesticides Ordinance is amended by deleting "the Merchandise Marks Ordinance" and substituting the following—

"the Trade Descriptions Ordinance 1980".

(Cap. 342.)

(2) The Second Schedule to the Customs and Excise Service Ordinance is amended by deleting "Merchandise Marks Ordinance" and substituting the following—

"Trade Descriptions Ordinance 1980".

SCHEDULE

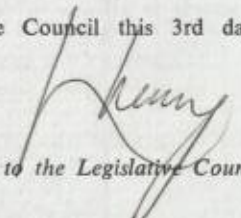
[s. 3.]

TABLE

<i>Number of carats</i>	<i>Indicates gold of fineness of</i>
8 .....	333 parts per thousand
9 .....	375 parts per thousand
12 .....	500 parts per thousand
14 .....	585 parts per thousand
15 .....	625 parts per thousand
18 .....	750 parts per thousand
22 .....	916.6 parts per thousand

and so in proportion for any other number of carats.

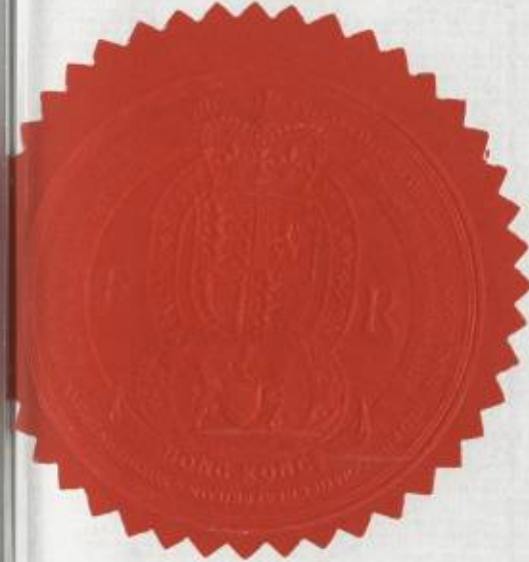
Passed by the Hong Kong Legislative Council this 3rd day of December 1980.

  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

No. 70 of 1980



I assent.

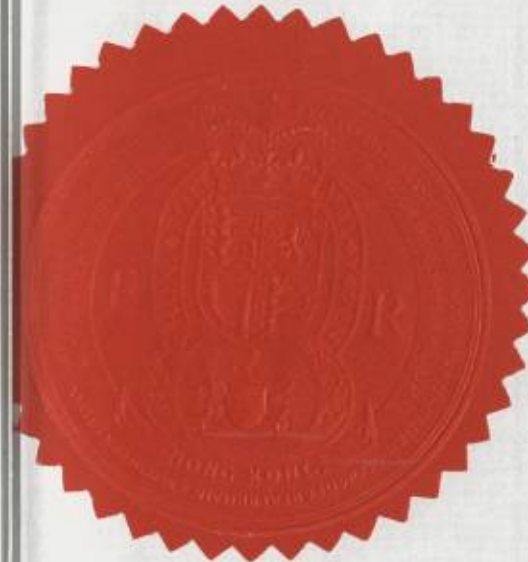
A handwritten signature in black ink, appearing to be "M. K. ...".

Governor

4 December

**HONG KONG**

No. 70 OF 1980



I assent.

*Governor.*

*4 December 1980.*

An Ordinance to amend the Undesirable Medical Advertisements Ordinance.

[5 December 1980]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Undesirable Medical Advertisements (Amendment) Ordinance 1980. Short title.

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

Repeal and replacement of section 4. (Cap. 231.)

"Prohibition of advertisements relating to abortion."

4. (1) Subject to subsection (2), no person shall in any manner write, print, or publish or cause to be written, printed or published any advertisement—

- (a) offering to procure the miscarriage of women;
- (b) canvassing the procurement of miscarriage of women;
- (c) inviting or inducing the procurement of miscarriage of women; or
- (d) referring to any thing whatsoever, in terms which are calculated to lead to the use of that thing for the procurement of miscarriage of women.

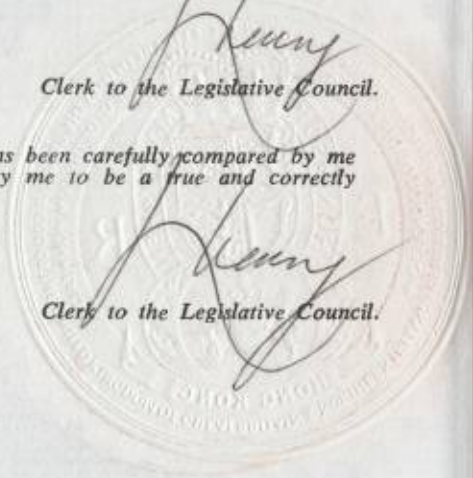
(2) Subsection (1) shall not apply to an advertisement published by or with the written authority of the Director of Medical and Health Services."

Passed by the Hong Kong Legislative Council, this 3rd day of December 1980.

*[Handwritten signature]*  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*[Handwritten signature]*  
Clerk to the Legislative Council.



No. 71 OF 1980



I assent.

*[Handwritten signature]*

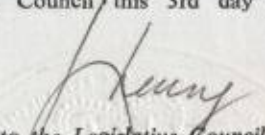
Governor.

18 December

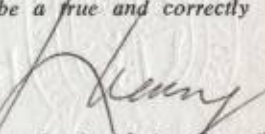
An Ordinance to approve a supplementary appropriation

published by or with the written authority of the Director of Medical and Health Services."

the Hong Kong Legislative Council, this 3rd day of 1980.

  
Clerk to the Legislative Council.

printed impression has been carefully compared by me with the original bill, and is found by me to be a true and correct copy of the said bill.

  
Clerk to the Legislative Council.

**HONG KONG**

No. 71 OF 1980

I assent.

  
Governor.

18 December 1980.

An Ordinance to approve a supplementary appropriation to the service of the financial year which ended on 31 March 1980.

[19 December 1980]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Supplementary Appropriation (1979-80) Ordinance 1980. Short title.

2. The appropriation in the manner expressed in the Schedule of a sum of \$1,667,811,168.94 from the general revenue and other funds of Hong Kong for the service of the financial year which ended on 31 March 1980 is approved. Approval of appropriation Schedule.

SCHEDULE

[s. 2]

<i>Number of Vote</i>	<i>Head of Expenditure</i>	<i>Amount</i>
		\$
21	His Excellency the Governor's Establishment	703,895.87
23	Audit Department	95,722.78
24	Census and Statistics Department	2,104,948.71

<i>Number of Vote</i>	<i>Head of Expenditure</i>	<i>Amount</i>
		\$
25	Civil Aviation Department	39,904.38
26	Defence: Auxiliary Medical Service	58,495.07
28	Defence: Miscellaneous Measures	192,869,262.25
29	Defence: Royal Hong Kong Auxiliary Air Force	8,024,039.78
30	Defence: Royal Hong Kong Regiment (The Volunteers)	474,734.05
31	Education Department	11,300,327.76
32	Education Subventions	150,723,548.72
33	Fire Services Department	16,258,777.33
34	Government Laboratory	302,378.07
35	Government Secretariat	13,963,683.45
37	Home Affairs Department	1,922,135.18
38	Housing Department	3,139,574.26
39	Immigration Department	17,786,263.21
42	Inland Revenue Department	3,830,444.18
43	Judiciary	3,133,736.48
44	Kowloon-Canton Railway	480,903.23
45	Labour Department	654,667.79
46	Legal Department	1,071,650.78
47	Legal Aid Department	1,279,054.88
48	London Office	4,253,385.10
49	Marine Department	7,618,561.06
50	Medical and Health Department	60,159,032.48
51	Medical Subventions	1,527,229.07
53	New Territories Administration	5,487,708.54
54	Office of Unofficial Members of Executive and Legislative Councils	137,538.72
56	Police: Royal Hong Kong Police Force	162,494,121.16
58	Post Office	24,602,711.64
59	Printing Department	4,146,030.56
60	Prisons Department	20,334,716.23
61	Public Debt	35,036,339.24
62	Public Services Commission	51,097.68
63	Public Works Department: Headquarters	755,507.44
65	Public Works Department: Engineering Development	28,064,002.71
68	Public Works Department: Water Supplies	31,811,768.26
69	Public Works Non-recurrent: Headquarters	48,677,678.93
70	Public Works Non-recurrent: Buildings	362,767,402.06
71	Public Works Non-recurrent: Engineering	95,733,369.11
73	Public Works Non-recurrent: Waterworks	5,683,168.89

<i>Number of Vote</i>	<i>Head of Expenditure</i>	<i>Amount</i>
		\$
74	Radio Television Hong Kong	1,787,899.43
75	Rating and Valuation Department	1,782,594.84
77	Registry of Trade Unions	68,822.30
79	Social Welfare Department	27,324,151.06
81	Standing Commission on Civil Service Salaries and Conditions of Service	843,250.13
82	Subventions: Miscellaneous	8,036,796.43
83	Trade Industry and Customs Department	7,980,762.21
84	Transfers to Funds	184,105,000.00
85	Transport Department	2,410,972.40
86	Treasury	2,028,570.93
87	Universities and Polytechnic	86,087,455.00
88	Urban Services Department	15,502,322.32
89	Government Land Transport Agency	293,054.80
		<u>\$1,667,811,168.94</u>

Passed by the Hong Kong Legislative Council this 17th day of December 1980.

*Henry*  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*Henry*  
Clerk to the Legislative Council.

No. 72 OF 1980



I assent.

*Governor.*

*18 December 1*



"site formation works" includes excavations on sloping land, filling, landslip preventive works and landslip remedial works;" and

- (b) in the definition of "building works", by inserting after "site formation" the following—  
"works".

Amendment of section 16.

4. Section 16 of the principal Ordinance is amended—

- (a) in subsection (1)(m)—  
(i) by inserting before "piling works" the following—  
"site formation works,";  
(ii) by inserting after "other building" in both places where it occurs the following—  
", street or natural, formed or man-made land"; and  
(iii) by inserting after "to the building" the following—  
", street or land";
- (b) in subsection (4)—  
(i) by inserting after "other building" in both places where it occurs the following—  
", street or natural, formed or man-made land"; and  
(ii) by inserting after "to the building" the following—  
", street or land"; and
- (c) in subsection (5)—  
(i) by inserting after "other building" in both places where it occurs the following—  
", street or natural, formed or man-made land"; and  
(ii) by inserting after "such building" the following—  
", street or land".

Amendment of section 17.

5. Section 17(1) of the principal Ordinance is amended—

- (a) in item 6 in the table—  
(i) in Column A, by deleting "Consent to commence building works involving the structural use of steel, concrete or timber." and substituting the following—  
"Approval of plans showing, or consent to commence, building works involving—  
(a) the structural use of steel, concrete or timber; or  
(b) site formation works."; and  
(ii) in Column B, by inserting after paragraph (c) the following paragraph—  
"(ca) instrumentation for checking design assumptions and monitoring the effect of the works;" and
- (b) in item 7 in the table, in Column A, by inserting before "piling works" the following—  
"site formation works,".

Amendment of section 19.

6. Section 19 of the principal Ordinance is amended—

- (a) in subsection (1)—  
(i) in paragraph (a), by inserting after "building" the following—  
", or any natural, formed or man-made land,"; and

(ii) in paragraph (b), by inserting after "building owner" the following—

", or the owner of the land or other person who under the terms of a Crown lease is under an obligation to maintain the land,"; and

- (b) in subsection (2), by inserting after "building owner" the following—

", or the owner of the land or other person referred to in subsection (1),".

7. Section 22(1)(a) of the principal Ordinance is amended by deleting "or structure" and substituting the following—

", structure, street or natural, formed or man-made land".

Amendment of section 22.

8. Section 23 of the principal Ordinance is amended, in paragraph (b), by inserting after "other building" wherever it occurs the following—

", street or natural, formed or man-made land".

Amendment of section 23.

9. Section 24(2) of the principal Ordinance is amended by inserting after paragraph (a) the following paragraph—

"(aa) where the building works, other than a building, have been completed, upon the owner thereof;".

Amendment of section 24.

10. The principal Ordinance is amended by adding after section 27 the following section—

"Dangerous hillsides, etc.

27A. (1) Where in the opinion of the Building Authority any natural, formed or man-made land, or any earth-retaining structure, has due to any cause been rendered so dangerous or liable to become so dangerous that it will collapse, or be likely to collapse, either totally or partially, and thereby will cause, or will be likely to cause, a risk of injury to any person or damage to any property, the Building Authority may by order in writing in the prescribed form served on the owner of the land or structure, or on the person who under the terms of a Crown lease is under an obligation to maintain the land or structure, declare the land or structure to be dangerous or liable to become dangerous.

Addition of new section 27A.

(2) Such order may—

- (a) require such investigation to be carried out as may be specified therein;  
(b) specify the work that must be done to make the land or structure safe;  
(c) require a fence or hoarding for the protection of the public; and  
(d) specify the time within which the work specified in the order shall be commenced and the time within which it shall be completed.

(3) Where the owner or person referred to in subsection (1) cannot be found or fails to comply with the requirements of an order served under this section, the Building Authority may carry out or cause to be carried out the work specified in the order or such other work as he considers to be necessary and the cost thereof shall be recoverable from the owner or person.

(4) In cases of emergency the Building Authority may carry out or cause to be carried out such work as may appear to him to be necessary either without notice to the owner or person referred to in subsection (1), or before or after such notice, and so far as it is in the opinion of the Building Authority attributable to such emergency the cost thereof shall be recoverable from the owner or person. The decision of the Building Authority that the particular case is one of emergency shall be final and binding on all persons."

Amendment of section 33.

11. Section 33 of the principal Ordinance is amended—

- (a) in subsection (5), by inserting after "any building" the following—  
"or land";
- (b) in subsection (7), by deleting "buildings" and substituting the following—  
"building or on the land"; and
- (c) in subsection (9), by inserting after "premises" wherever it occurs the following—  
"or land".

Amendment of section 34.

12. Section 34 of the principal Ordinance is amended by deleting "or 26" and substituting the following—  
", 24A, 26 or 27A".

Amendment of section 35.

13. Section 35(c) of the principal Ordinance is amended by inserting after "premises" wherever it occurs the following—  
"or land".

Amendment of section 38.

14. Section 38(1) of the principal Ordinance is amended by inserting after paragraph (b) the following paragraph—  
"(ba) the planning, design and construction of site formation works;"

Amendment of section 40.

15. Section 40 of the principal Ordinance is amended—

- (a) in subsection (1B)—
  - (i) in paragraph (b), by inserting after "26(1)," the following—  
"27A(1)"; and
  - (ii) in paragraph (ii), by deleting "or 26(1)" and substituting the following—  
", 26(1) or 27A(1)";

(b) by inserting after subsection (2AA) the following subsections—

"(2AB) Any person (whether or not an authorized person, a registered structural engineer or a registered contractor) directly concerned with any building works or street works set out in items 1, 2, 3, 4, 5 and 6 of Column A in the table to section 17(1) who contravenes any condition imposed, or fails to comply with any requirement of an order in writing, under that section in respect of such building works or street works, or the plans thereof, shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 1 year.

(2AC) Any person (whether or not an authorized person, a registered structural engineer or a registered contractor) directly concerned with any site formation works, piling works, excavation works or foundation works who contravenes

any condition imposed under item 7 in the table to section 17(1) in respect of such works, or the plans thereof, shall be guilty of an offence and shall be liable on conviction to a fine of \$250,000 and to imprisonment for 3 years."; and

(c) by inserting after subsection (7) the following subsection—

"(7A) Where anything is required to be done by an owner of land or by a person referred to in section 27A(1), it shall be a defence to any charge of failing to do that thing that any notice or order in respect of such thing required under this Ordinance to be served on the owner or on such person was served on another owner of the land or on another such person and not on the person charged."

16. Section 41(1) of the principal Ordinance is amended—

- (a) in paragraph (b), by deleting "and"; and
- (b) by inserting after paragraph (b) the following paragraph—

"(ba) any land vested in the Housing Authority or in any person on behalf of Her Majesty's naval, military or air force services, and any unleased land within the meaning of the Crown Land Ordinance other than such unleased land in respect of which a person is, under the terms of a Crown lease, under an obligation to maintain; and".

(Cap. 28.)

17. Section 50 of the principal Ordinance is amended—

- (a) in subsection (3), by inserting after "building" the following—  
"and the owner of any land";
- (b) in subsection (7), by inserting after "premises" wherever it occurs the following—  
"or land"; and

(c) in subsection (10)—

(i) in paragraph (a), by inserting before "piling works" the following—  
"site formation works,";

(ii) in paragraphs (a) and (b), by inserting after "other building" wherever it occurs the following—

", street or natural, formed or man-made land"; and

(iii) in paragraph (c)—

(A) by inserting after "other building" wherever it occurs the following—

", street or natural, formed or man-made land"; and

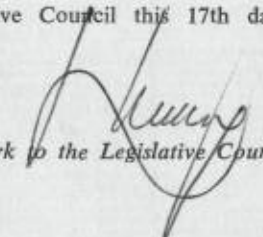
(B) by inserting after "such building" the following—

", street or land".

Amendment of section 41.

Amendment of section 50.

Passed by the Hong Kong Legislative Council this 17th day of December 1980.

  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*[Signature]*  
Clerk to the Legislative Council.

No. 73 of 1980

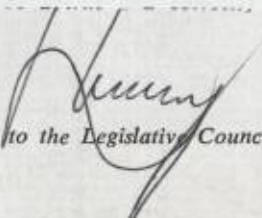


I assent.

*[Signature]*

Governor

...  
copy of the said bill.

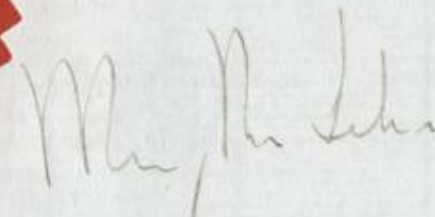
  
Clerk to the Legislative Council.

**HONG KONG**

No. 73 of 1980



I assent.



Governor.

18 December 1980.

An Ordinance to amend the Television Ordinance.

[31 December 1980]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Television (Amendment) Ordinance 1980 and shall come into operation on 31 December 1980. Short title and commencement.

2. Section 11(1) of the principal Ordinance is amended—

Amendment of section 11. (Cap. 52.)

(a) by deleting paragraph (b) and substituting the following—

“(b) shall ensure that, on or before the expiration of 4 years after the date of issue of its licence and at all times thereafter, not less than 51 per cent of the voting shares of the company are beneficially owned at all times by persons or companies ordinarily resident in Hong Kong;” and

(b) in paragraph (c), by deleting “paragraph (b)(i)” and substituting the following—

“paragraph (b)”.

Amendment of section 11A.

3. Section 11A of the principal Ordinance is amended—
- (a) in subsection (1)—
- (i) by inserting after paragraph (a) the following—  
“or”;
- (ii) by deleting “; or” at the end of paragraph (b) and substituting a full stop; and
- (iii) by deleting paragraph (c);
- (b) in subsection (2), by deleting “paragraph (b)(i)” and substituting the following—  
“paragraph (b)”; and
- (c) in subsection (4), by deleting paragraph (a) and substituting the following—  
“(a) the licensee shall, on or before the expiration of 4 years after the date of first renewal of its licence and at all times thereafter, ensure that not less than 51 *per cent* of the voting shares of the company are beneficially owned at all times by persons or companies ordinarily resident in Hong Kong.”.

Amendment of section 33.

4. Section 33 of the principal Ordinance is amended by inserting after subsection (1) the following—
- “(1A) A licensee who is required to supply material under subsection (1) shall either—
- (a) supply the material in a form specified by the Television Authority; or
- (b) make available on demand without charge such of its equipment as is necessary to enable the Television Authority to view the material.”.

Addition of new sections 36A and 36B.

5. The principal Ordinance is amended by adding, after section 36, the following—

“Board to consult affected licensees.

**36A.** (1) Subject to subsection (2), before advising the Television Authority to prohibit any broadcast under section 35(1) or 36 the Board shall consult with, and consider any representations made to it by, any licensee who in the opinion of the Board will be affected by any prohibition imposed thereunder.

(2) Where the Board thinks fit, it may, pending consultation and consideration in pursuance of subsection (1), advise the Television Authority to prohibit temporarily any broadcast under section 35(1) or 36.

Appeal to the Secretary for Home Affairs.

**36B.** (1) A licensee who is aggrieved by a prohibition imposed under section 35(1) or 36 may appeal by notice in writing to the Secretary for Home Affairs within 14 days after the date on which it is notified of the prohibition and such notice shall set out particulars of the prohibition to which the appeal relates and state the grounds of the appeal.

(2) The Secretary for Home Affairs shall send a copy of the notice of appeal to the Television Authority who shall within 7 days after receipt thereof furnish to the Secretary the reason for imposing the prohibition.

(3) The Secretary for Home Affairs shall appoint a time and place for the hearing of the appeal and shall give not less than 14 days' notice in writing thereof to the appellant and to the Television Authority.

(4) At the hearing of any appeal under this section the Secretary for Home Affairs shall hear and consider all evidence tendered and representations made by or on behalf of the appellant and the Television Authority whether or not the same would be admissible as evidence in legal proceedings.

(5) The Secretary for Home Affairs may determine an appeal by confirming, varying or reversing any prohibition appealed against.

(6) In matters not expressly provided for in this section the procedure at the hearing of an appeal before the Secretary for Home Affairs shall be such as he may determine.

(7) Where an appeal is lodged under this section the prohibition appealed against shall be complied with until the determination of the appeal.”.

6. Section 38 of the principal Ordinance is amended—

Amendment of section 38.

- (a) in subsection (1) by inserting after “Ordinance,” the following—  
“or is aggrieved by a decision of the Secretary for Home Affairs under section 36B,”;
- (b) by inserting after subsection (2) the following—

“(3) Where an appeal is lodged under this section against anything contained in any Code of Practice, or any direction issued by the Television Authority or any decision of the Television Authority or any decision of the Secretary for Home Affairs such thing, direction or decision shall be complied with until the appeal is determined by the Governor in Council.”.

7. Section 39(2) of the principal Ordinance is amended by inserting after “Authority” the following—

Amendment of section 39.

“or any decision of the Secretary for Home Affairs”.

8. Section 40 of the principal Ordinance is amended—

Amendment of section 40.

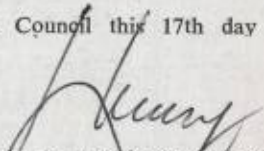
- (a) in subsection (1) by deleting “such form as he may prescribe” and substituting the following—  
“a form specified by him”; and
- (b) by inserting after subsection (2) the following—

“(2A) Without prejudice to subsection (1), a licensee shall submit to the Television Authority in a form specified by him a return showing—

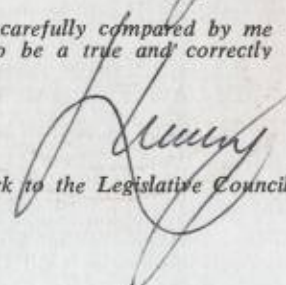
- (a) particulars of every change of the directors and office holders of the licensee company, within 7 days after the change occurs;
- (b) the name and place of residence of every person who on 31 December 1980 is registered as the holder of 5 *per cent* or more of the voting shares of the licensee company, within 7 days after that date;

- (c) the name and place of residence of every person who after 31 December 1980 is registered as the holder of 5 per cent or more of the voting shares of the licensee company, within 7 days after the date on which he is so registered;
- (d) particulars of any transfer of shares of the licensee company by or to a member who, immediately before the registration of such transfer by the licensee company, held 5 per cent or more of the voting shares of such company, within 7 days after the date on which such transfer is registered.”.

Passed by the Hong Kong Legislative Council this 17th day of December 1980.

  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

No. 74 OF 1980



I assent.



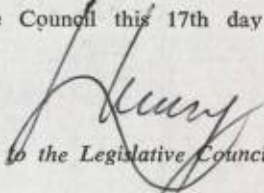
Governor.

18 December 1980

holder of 5 per cent or more of the voting shares of the licensee company, within 7 days after the date on which he is so registered;

- (d) particulars of any transfer of shares of the licensee company by or to a member who, immediately before the registration of such transfer by the licensee company, held 5 per cent or more of the voting shares of such company, within 7 days after the date on which such transfer is registered.”.

y the Hong Kong Legislative Council this 17th day of 80.

  
Clerk to the Legislative Council.

printed impression has been carefully compared by me bill, and is found by me to be a true and correctly copy of the said bill.

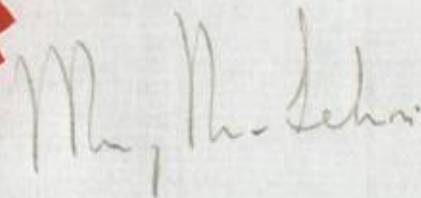
  
Clerk to the Legislative Council.

**HONG KONG**

No. 74 OF 1980



I assent.



Governor.

18 December 1980.

An Ordinance to enable public officers to assign part of their emoluments in certain circumstances, and for incidental and related matters.

[19 December 1980]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Public Officers (Assignment Short title. of Emoluments) Ordinance 1980.

2. (1) In this Ordinance, unless the context otherwise requires— Interpretation. “authorized officer” means—

- (a) the Secretary for the Civil Service;
- (b) any other public officer the Secretary for the Civil Service may by notice in the *Gazette* declare to be an authorized officer for the purposes of this Ordinance;

“emoluments” means, subject to subsection (2)—

- (a) in the case of a pensionable officer, the salary attached to his pensionable office, within the meaning of the Pensions Ordinance, (Cap. 89.) or, where provision is made for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office;

- (b) in the case of a non-pensionable officer, the salary payable to him in his substantive rank;
- (c) any pension payable under the Pensions Ordinance (other than a commuted pension gratuity); and
- (d) any annual allowance payable under the Pensions Ordinance to a non-pensionable officer.

(2) The Governor in Council may make regulations amending the definition of "emoluments" in subsection (1).

Assignability of emoluments.

3. (1) A public officer may with the written permission of an authorized officer assign such proportion or part of his emoluments for such period as the authorized officer may approve.

(2) Where an assignment is made under subsection (1), it shall, subject to section 6, be irrevocable during the period approved by an authorized officer under that subsection.

(3) Upon the making by a public officer of an assignment under subsection (1), the Government may, until that assignment is revoked in accordance with this Ordinance, deduct from the emoluments due to the public officer the amount assigned and remit it to the assignee.

Form of Assignment.

4. (1) An assignment under section 3(1) shall be in such form as may be approved by the Secretary for the Civil Service, who shall publish such approved form in the *Gazette*.

(2) Where any approved form is amended or replaced, such amendment or new form shall be published in the *Gazette*.

(3) An assignment purported to be made under section 3(1) that is not in a form approved by the Secretary for the Civil Service shall be void.

Assignment not to reduce emoluments below certain level.

5. (1) Subject to subsection (2), except with the written approval of an authorized officer, no deduction or payment shall be made in pursuance of an assignment under section 3(1) which has the effect of reducing the amount a public officer receives in any month to below 75% of the officer's emoluments payable at the time of the making of the assignment:

Provided that in no case shall any such deduction or payment have the effect of reducing the amount a public officer receives in any month to below 50% of such emoluments.

(2) In calculating the amount to be deducted under subsection (1) there shall be disregarded any other deductions made by the Government from the officer's emoluments.

Revocation of Assignments.

6. (1) Notwithstanding section 3(2), an assignment made by a public officer under section 3(1) shall be revoked—

- (a) by the death of the officer;
- (b) by the expiration of the period of the assignment approved by an authorized officer under section 3(1) or the repayment of the loan to which the assignment relates, whichever is the sooner;
- (c) by the making against the officer of an order under the Bankruptcy Ordinance adjudging him bankrupt.

(Cap. 6.)

(2) Notwithstanding section 3(2), a public officer who has made an assignment under section 3(1) may, with the written approval of an authorized officer—

- (a) amend the assignment;
- (b) suspend the operation of the assignment; or
- (c) revoke the assignment.

(3) An authorized officer shall not give approval for the purposes of subsection (2) until he has taken all reasonable steps to consult the assignee and taken into account any representation made by the assignee.

7. No action shall lie against the Government or any public officer (not being the public officer who made an assignment under section 3(1))—

Government not to be liable in respect of assignments.

- (a) by any public officer or any person claiming on behalf of any public officer in respect of any deduction or payment of his emoluments in pursuance of an assignment made under section 3(1) or an amended assignment under section 6(2)(a) or in respect of the exercise of any of the powers conferred by section 6(2);
- (b) by any person for failure to make any deduction or payment from the emoluments of any public officer in pursuance of an assignment made under section 3(1) or an amended assignment under section 6(2)(a) or in respect of any approval given under section 6(2).

8. Nothing in this Ordinance nor any assignment under this Ordinance shall prejudice any right or process of recovery of tax by the Commissioner of Inland Revenue, nor any right of the Government to recover any moneys or debt due to it, whether by deduction from a public officer's emoluments or otherwise.

Assignment not to prejudice tax and debts due to Government.

9. Section 12 of the Pensions Ordinance is amended by deleting "A pension" and substituting the following—

Amendment of Pensions Ordinance.

"(No. 74 of 1980.) Save as otherwise provided in the Public Officers (Assignment of Emoluments) Ordinance 1980, a pension".

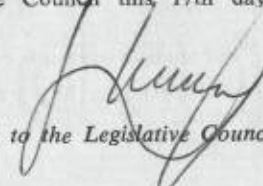
(Cap. 89.)

10. Section 19 of the Police Force Ordinance is amended—

Amendment of Police Force Ordinance. (Cap. 232.)

- (a) in subsection (1)—
  - (i) in paragraph (a) by deleting "or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever";
  - (ii) by deleting paragraph (b);
- (b) by deleting the full stop at the end of subsection (2) and substituting a semicolon; and
- (c) by inserting at the end of subsection (2) the following paragraph—
  - (No. 74 of 1980.) "(d) an assignment made under the Public Officers (Assignment of Emoluments) Ordinance 1980."

Passed by the Hong Kong Legislative Council this 17th day of December 1980.

  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

*[Handwritten Signature]*  
Clerk to the Legislative Council.

No. 75 OF 1980



I assent.

*[Handwritten Signature]*

Governor.

18 December

But, and is found by the Clerk to the Legislative Council  
copy of the said bill.

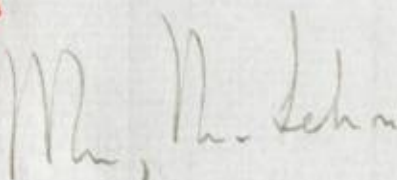
  
Clerk to the Legislative Council.

**HONG KONG**

No. 75 OF 1980



I assent.

  
Governor.

18 December 1980.

An Ordinance to amend the Legal Practitioners Ordinance.

[19 December 1980]

Enacted by the Governor of Hong Kong, with the advice and consent  
of the Legislative Council thereof.

1. This Ordinance may be cited as the Legal Practitioners (Amend- Short title.  
ment) (No. 2) Ordinance 1980.

2. Section 6(3) of the principal Ordinance is amended by inserting, Amendment of  
after "section 8", the following— section 6.  
"; complied with any indemnity rules made by the Council under (Cap. 159.)  
section 73A or is exempt from them".

3. Section 7 of the principal Ordinance is amended— Amendment of  
section 7.

(a) in paragraph (b), by deleting "and";

(b) by deleting the full stop at the end of paragraph (c) and sub-  
stituting the following—

"; and"; and

(c) by inserting after paragraph (c) the following paragraph—

"(d) he is complying with any indemnity rules made by the  
Council under section 73A or is exempt from them".

Addition of  
section 73A.

4. The principal Ordinance is amended by adding, after section 73, the following—

"Indemnity  
rules.

73A. (1) The Council may make rules (in this Ordinance referred to as "indemnity rules") concerning indemnity against loss arising from claims in respect of any description of civil liability incurred—

- (a) by a solicitor or former solicitor in connexion with his practice or with any trust or of which he is or formerly was a trustee;
  - (b) by an employee of a solicitor or former solicitor in connexion with that solicitor's practice or with any trust of which that solicitor or the employee is or formerly was a trustee.
- (2) For the purpose of providing such indemnity, indemnity rules—
- (a) may authorize or require the Society to establish and maintain a fund or funds;
  - (b) may authorize or require the Society to take out and maintain insurance with authorized insurers;
  - (c) may require solicitors or any specified class of solicitors to take out and maintain insurance with authorized insurers.
- (3) Without prejudice to the generality of subsections (1) and (2), indemnity rules—
- (a) may specify the terms and conditions on which indemnity is to be available, and any circumstances in which the right to it is to be excluded or modified;
  - (b) may provide for the management, administration and protection of any fund maintained by virtue of subsection (2)(a) and require solicitors or any class of solicitors to make payments to any such fund;
  - (c) may require solicitors or any class of solicitors to make payments by way of premium on any insurance policy maintained by the Society by virtue of subsection (2)(b);
  - (d) may prescribe the conditions which an insurance policy must satisfy for the purposes of subsection (2)(c);
  - (e) may authorize the Society to determine the amount of any payments required by the rules, subject to such limits, or in accordance with such provisions, as may be prescribed by the rules;
  - (f) may specify circumstances in which, where a solicitor (not being a solicitor who is exempt from complying with the rules) for whom indemnity is provided has failed to comply with the rules, the Society or insurers may take proceedings against him in respect of sums paid by way of indemnity in connexion with a matter in relation to which he has failed to comply;
  - (g) may specify circumstances in which solicitors are exempt from the rules;

(h) may empower the Council to take such steps as they consider necessary or expedient to ascertain whether or not the rules are being complied with; and

(i) may contain incidental, procedural or supplementary provisions.

(4) If any solicitor (not being a solicitor who is exempt from complying with indemnity rules) fails to comply with the rules any person may make a complaint in respect of that failure to the Disciplinary Committee.

(5) The Society shall have power, without prejudice to any of its other powers, to carry into effect any arrangements which it considers necessary or expedient for the purpose of indemnity under this section.

(6) Every rule made by the Council under this section shall be subject to the prior approval of the Chief Justice.

(7) No rule made under this section shall apply to a solicitor to whom section 75 applies in so far as such solicitor is acting in the course of the employment which gives rise to the application of that section."

Passed by the Hong Kong Legislative Council this 17th day of December 1980.

  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

No. 76 OF 1980



I assent.

A handwritten signature in black ink, appearing to be 'M. H. ...', written over the faint document.

Governor

23 December

**HONG KONG**

No. 76 OF 1980



I assent.

*Governor.*

**23 December 1980**

An Ordinance to provide for the incorporation of The Hong Kong Association of Banks, for the corporation to assume the functions and to take over the assets and liabilities of The Exchange Banks' Association, Hong Kong and for matters incidental thereto and connected therewith.

[ ]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

**PART I**

**PRELIMINARY**

1. This Ordinance may be cited as The Hong Kong Association of Banks Ordinance 1980 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*. Short title and commencement.

2. In this Ordinance, unless the context otherwise requires— Interpretation.  
"Association" means The Hong Kong Association of Banks incorporated by section 3;  
"business of banking" means any of the activities or functions of a licensed bank;  
"Committee" means the Committee established by section 8;

"Consultative Council" means the Consultative Council established by section 9;

"continuing members" means the continuing members under section 8(1)(a);

"deposit" means a loan of money at interest or repayable at a premium or repayable with any consideration in money or money's worth;

"Disciplinary Committee" means the Disciplinary Committee appointed under section 16;

"Exchange Banks' Association" means the unincorporated body known as The Exchange Banks' Association, Hong Kong existing immediately before the commencement of this Ordinance;

"licensed bank" means a bank licensed under section 7 or section 42 of the Banking Ordinance;

"member" means a member of the Association;

"Secretary" means the secretary of the Association appointed pursuant to section 13.

## PART II

### INCORPORATION, OBJECTS AND POWERS

3. (1) There is hereby established a body corporate to be known as The Hong Kong Association of Banks.

(2) The Association shall have perpetual succession and shall be capable of suing and being sued and of doing and suffering all such other acts or things as bodies corporate may lawfully do and suffer.

(3) The Association shall have a common seal which shall not be affixed except pursuant to a resolution of the Committee (or of a sealing subcommittee appointed by the Committee for that purpose) and in the presence of two members of the Committee and of the Secretary, or some other person appointed in his place by the Committee, each of whom shall sign his name.

(4) Any document purporting to be a document duly executed under the seal of the Association authenticated in accordance with subsection (3) shall be received in evidence and shall, until the contrary is proved, be deemed to be a document so executed.

4. The objects of the Association shall be—

- (a) to further the interests of licensed banks;
- (b) to make rules from time to time for the conduct of the business of banking;
- (c) to consider, investigate and inquire into all matters and questions connected with or relating to the business of banking;
- (d) to promote, consider, support, oppose, make representations as to and generally deal with any law affecting or likely to affect the business of banking;
- (e) to collect, circulate and disseminate information relating to the business of banking or otherwise likely to be of interest to members and others;
- (f) to represent its members at and appear before any public body, committee or inquiry or before any court or tribunal;
- (g) to act as an advisory body to its members and to co-operate and maintain relations with other bodies and organizations in all matters touching or concerning the business of banking;

(h) to provide a meeting place or places for its members and to adopt such means of publicizing or making known its activities and information and opinions on matters touching or concerning the business of banking as may be thought fit;

(i) to provide or procure, by means of a management agreement or otherwise, facilities for the clearing of cheques and other instruments, and for the processing of banking transactions presented by members;

(j) to establish, subsidize, support, co-operate with or otherwise assist any person engaged in any artistic, cultural, benevolent, charitable, welfare or similar activity and to contribute money for and to take part in any such activities as the Committee may think fit;

(k) to do or cause to be done all such other acts and things as may conduce to the progress, prosperity and advancement of the general body of members.

5. The Association shall have power to do all such things as are necessary for, or incidental to or conducive to, the carrying out of the objects of the Association and may in particular, but without prejudice to the generality of the foregoing—

Powers of the Association.

(a) acquire, take on lease, purchase, hold and enjoy any property, and sell, let or otherwise dispose of the same;

(b) enter into any contract;

(c) invest funds in securities, place funds on deposit and otherwise deal with its funds in such manner as it may think fit, and realize the same at such times as it may consider necessary;

(d) borrow or otherwise raise money on such security as may be necessary, and for that purpose charge all or any part of the property of the Association;

(e) act as trustee in relation to pension and retirement schemes for its employees and funds for scholarships and prizes;

(f) institute, conduct, defend, compound or abandon any legal proceedings by or against it or otherwise concerning its affairs;

(g) refer any claim or demand by or against it to arbitration;

(h) make and give receipts, releases and other discharges for money payable to and for claims and demands of the Association;

(i) publish periodicals, booklets or other written material and produce or sponsor the production of documentary films or audio-visual material, and distribute the same by sale, loan, hire or otherwise, with or without charge, as it shall think fit;

(j) accept gifts, donations or testamentary dispositions upon such conditions as it shall determine.

6. (1) The Association may, under its common seal, make such by-laws not inconsistent with this Ordinance as are necessary for, or incidental to or conducive to, the carrying out of the objects of the Association and may in particular, but without prejudice to the generality of the foregoing, make by-laws for—

By-laws.

(a) meetings of the Association and the procedure at and the conduct of such meetings;

(b) meetings of the Committee and its subcommittees and the procedure at and conduct of such meetings;

(Cap. 155.)

Incorporation of Association.

Objects of the Association

- (c) the procedure for election of members of the Committee as provided in section 8(1)(b);
- (d) the procedure for election of members of the Consultative Council as provided in section 9(1)(b);
- (e) entrance fees and subscriptions for membership of the Association;
- (f) control of funds of the Association;
- (g) the keeping of proper accounts of the Association and records in relation thereto and the preparation of annual accounts;
- (h) the appointment of auditors and the audit of the accounts of the Association;
- (i) the enforcement of the provisions of section 21(4) or of any by-laws made hereunder.
- (2) (a) A by-law under subsection (1) may be made only by an affirmative vote of not less than two-thirds of the members present and voting at a meeting of the Association convened for that purpose and notified in accordance with paragraph (b).
- (b) Notice of such meeting and of the resolutions to be proposed thereat shall be delivered, or sent by registered post or recorded delivery, to every member at its registered office or principal place of business in Hong Kong not less than 21 days before the date fixed for the meeting, but the non-receipt of such a notice by any member shall not invalidate the proceedings thereat.
- (3) By-laws made under subsection (1)—
- (a) shall be subject to, and shall not derogate from, any other law;
- (b) shall be subject to the approval of the Governor in Council.

### PART III

#### MEMBERSHIP OF THE ASSOCIATION, COMMITTEE AND CONSULTATIVE COUNCIL

Membership of Association.

7. (1) Every licensed bank which is so required by a condition attached to its licence shall become a member of the Association and shall, subject to this section, remain a member of the Association unless expelled under section 21(1)(d); and membership of the Association shall be restricted to licensed banks.

(2) A member which ceases to be a licensed bank shall *ipso facto* cease to be a member of the Association.

(3) A member shall not be expelled from membership of the Association without the prior approval of the Governor in Council.

Committee.

8. (1) There shall be a Committee of the Association which shall comprise—

- (a) 3 continuing members which shall be—
- (i) the Bank of China;
- (ii) The Chartered Bank;
- (iii) The Hongkong and Shanghai Banking Corporation;

(b) 9 elected members which shall be elected in accordance with the by-laws of the Association and which shall be, and be elected,—

(i) as to 4 members, by those members whose place of incorporation is Hong Kong or which are licensed under section 42 of the Banking Ordinance;

(ii) as to 5 members, by those members whose place of incorporation is outside Hong Kong.

(Cap. 155.)

(2) The 3 continuing members referred to in subsection (1)(a) shall, subject to subsection (3), hold office in perpetuity.

(3) Any member of the Committee which ceases for any reason to be a member of the Association shall *ipso facto* cease to be a member of the Committee.

(4) There shall be a Chairman and Vice-Chairman of the Committee and these offices shall be held alternately by The Chartered Bank and The Hongkong and Shanghai Banking Corporation.

(5) The periods of office for the Chairman and the Vice-Chairman shall in each case be two years:

Provided that The Chartered Bank shall hold office as Chairman and The Hongkong and Shanghai Banking Corporation shall hold office as Vice-Chairman until 31 December 1980 and with effect from 1 January 1981 The Hongkong and Shanghai Banking Corporation and The Chartered Bank shall hold office as Chairman and Vice-Chairman respectively.

9. (1) There shall be a Consultative Council of the Association which shall comprise—

Consultative Council.

(a) the 3 continuing members; and

(b) the number of elected members provided for in the Schedule which members shall be elected in accordance with the by-laws of the Association and which shall be, and be elected by, members incorporated or, in the case of unincorporated members, having their principal place of business, in various regions of the world as provided in the Schedule.

Schedule.

(2) The Chairman and the Vice-Chairman for the time being of the Committee pursuant to section 8(4) and (5) shall *ex officio* be the Chairman and the Vice-Chairman respectively of the Consultative Council.

(3) The Governor in Council may, by order published in the *Gazette*, amend the Schedule.

Schedule.

(4) Where the Schedule is amended pursuant to subsection (3) any variation in the number of elected members required, or the regions from which such members are to be elected, shall take effect from the date of the next following meeting to elect members of the Consultative Council.

Schedule.

10. (1) Every member of the Association shall designate in writing in a manner acceptable to the Committee a full time employee of that member holding a managerial post who shall as representative of that member—

Designated representatives of members.

(a) attend and vote at meetings;

(b) hold office;

(c) execute documents,

and otherwise act for and on behalf of the member for the purposes of this Ordinance and by-laws made hereunder.

(2) If the designated representative is for any reason unable to attend any meeting or otherwise act the member may designate in like manner an alternate representative who shall have the powers and functions of the designated representative.

(3) Every designation may be withdrawn and replaced by a new designation in writing at any time.

#### PART IV

##### GENERAL

Functions of the Committee.

11. (1) The management of the Association shall be vested in the Committee and all the powers of the Association shall be vested in and exercisable by the Committee except so far as this Ordinance or any by-laws made hereunder otherwise authorize.

(2) The Committee may appoint subcommittees for the better discharge of its functions under this Ordinance and may delegate to any subcommittee any of its powers and functions:

Provided that the Committee shall not delegate to any subcommittee the power to impose penalties for breach of any rule made by the Committee pursuant to section 12.

(3) The Committee may in its discretion co-opt any member of the Association to be a member of any subcommittee other than the Disciplinary Committee.

Rules as to conduct of business of banking.

12. (1) The Committee may, after such consultation with the Financial Secretary as he shall consider appropriate, from time to time make such rules relating to the conduct of the business of banking as do not derogate from any law and may in particular, but without prejudice to the generality of the foregoing, make rules—

- (a) as to the maximum rates of interest, return, discount or other benefit which may be paid or granted by members, or by any specified category of members, in respect of—
  - (i) specified Hong Kong dollar deposits of their customers;
  - (ii) specified instruments;
- (b) as to the conduct of foreign exchange business and the minimum commissions and charges to be applied therefor;
- (c) as to the conduct of securities and safe custody business and the minimum commissions and charges to be applied therefor;
- (d) as to the minimum charges to be applied by members for the issuance of guarantees or other documents;
- (e) as to any other charges relating to the provision of any banking service, not being charges by way of interest or return payable on loans or advances granted by members;
- (f) prohibiting members from transacting any specified type of business or using any particular type of instrument.

(2) Rules made by the Committee pursuant to subsection (1)—

- (a) may be amended by the Committee at any time;
- (b) shall be binding on each member upon being served on the member as provided in subsection (3);

(c) shall not be subsidiary legislation, rules, regulations or by-laws within the meaning of those words in the Interpretation and General Clauses Ordinance including sections 20 and 34 thereof. (Cap. 1.)

(3) Rules made under subsection (1) or amended under subsection (2) shall be delivered, or sent by registered post or recorded delivery, to every member at its registered office or principal place of business in Hong Kong and service shall be deemed to have been effected upon delivery or 48 hours after the time of posting as the case may be.

13. (1) The Committee shall appoint a Secretary and may appoint other officers, servants and agents at such remuneration and upon such terms and conditions of appointment as it thinks fit. Appointment of staff.

(2) The Committee may grant, or make provision for the grant of pensions, gratuities and retirement or other benefits to employees of the Association.

14. The function of the Consultative Council shall be to advise the Committee on any matter relating to the business of banking which— Function of the Consultative Council.

- (a) is referred to it by the Committee;
- (b) it chooses to consider;
- (c) it is requested, by a notice in writing signed by not less than 50 members, to consider with a view to advising the Committee.

15. (1) Meetings of the Consultative Council shall be held at such times and places as the Consultative Council or the Chairman thereof may from time to time appoint. Meetings of the Consultative Council.

(2) The following procedural provisions shall apply to every meeting of the Consultative Council—

- (a) 15 members shall form a quorum;
- (b) the Chairman, or in his absence the Vice-Chairman, shall preside or if both are absent the members shall appoint one of their number to preside.

(3) Subject to subsection (2), the Consultative Council shall regulate its own procedure relating to its meeting and the conduct thereof.

(4) The Governor in Council may, by order published in the *Gazette*, amend the number provided for in subsection (2)(a).

#### PART V

##### DISCIPLINARY PROCEEDINGS

16. The Committee shall—

- (a) appoint from amongst its members a Disciplinary Committee of 4 members comprising the following—
  - (i) two continuing members;
  - (ii) one member whose place of incorporation is Hong Kong or which is licensed under section 42 of the Banking Ordinance;
  - (iii) one member whose place of incorporation is outside Hong Kong; and
- (b) designate one of the members of the Disciplinary Committee to be chairman thereof. (Cap. 155.)

Disciplinary Committee.

Disciplinary provisions.

17. (1) A complaint that a member has acted in breach of any rule relating to the conduct of the business of banking made under section 12(1) shall be made in writing to the Chairman of the Committee who shall submit the complaint to the Committee which may, in its discretion, refer the complaint to the Disciplinary Committee.

(2) The Committee may act on its own information in referring a complaint to the Disciplinary Committee.

(3) The Disciplinary Committee shall notify the member in respect of which a complaint is made of the nature of the complaint and of the date, time and place fixed for a hearing of the complaint.

(4) The member in respect of which a complaint is made shall be entitled to appear at the hearing and present its case.

Powers of Disciplinary Committee with regard to obtaining evidence.

18. (1) For the purposes of the hearing of a complaint the Disciplinary Committee shall have the following powers—

- (a) to take evidence on oath;
- (b) to summon any employee of any member to attend the hearing to give evidence or produce any document or other thing in his possession and to examine him as a witness;
- (c) to award to a witness such expenses as, in the opinion of the Disciplinary Committee, he has incurred by reason of his attendance.

(2) A summons to a witness shall be signed by the Chairman of the Disciplinary Committee.

Legal representation.

19. At the hearing of a complaint—

- (a) a member selected for the purpose by the Disciplinary Committee or a solicitor or counsel on its behalf shall present the case against the member in respect of which the complaint is made;
- (b) the member in respect of which the complaint is made shall be entitled to be represented by a solicitor or counsel.

Powers of Disciplinary Committee.

20. If, after due inquiry, the Disciplinary Committee is satisfied that a complaint under section 17 is proved, the Disciplinary Committee may recommend to the Committee that it should impose or procure to be imposed on the member in respect of which a complaint is made any of the penalties referred to in section 21:

Provided that no such recommendation shall be made by the Disciplinary Committee unless the decision to make the recommendation is by an affirmative vote of not less than three quarters of the members of the Disciplinary Committee present and voting at the inquiry at which such recommendation is made.

Disciplinary powers of the Committee.

21. (1) The Committee may, following a recommendation by the Disciplinary Committee, in its discretion impose or procure to be imposed on a member any of the following penalties for breach of any rule made pursuant to section 12(1)—

- (a) a reprimand;
- (b) after consultation with the Financial Secretary, the suspension of membership for any period not exceeding 3 months;
- (c) after consultation with the Financial Secretary, the suspension of facilities for the clearing of cheques and other instruments of a member for any period not exceeding 3 months;
- (d) with the approval of the Governor in Council, the expulsion of a member from membership of the Association:

Provided that any decision to impose or procure the imposition of any penalty shall be made by an affirmative vote of not less than three quarters of the members of the Committee present and voting at the meeting at which such decision is taken.

(2) No appeal shall lie against the decision of the Committee to impose or procure to be imposed any penalty pursuant to subsection (1).

(3) Where a penalty is imposed pursuant to subsection (1), the Committee—

- (a) may cause notice of the imposition of such penalty to be published in the *Gazette*;
- (b) shall give written notice to the Financial Secretary of such action and the reasons therefor.

(4) Where the Committee, after consultation with the Financial Secretary, suspends or procures the suspension of clearing facilities pursuant to subsection (1)(c) then whilst such suspension is in force no member shall act as sub-clearer for the member whose clearing facilities have been so suspended.

## PART VI

## TRANSITIONAL

22. (1) All property of whatever kind and whether movable or immovable vested in or belonging to the Exchange Banks' Association immediately before the commencement of this Ordinance is as from such commencement transferred to and vested in the same interest in the Association without any further assurance and the Association shall have all powers necessary to take possession of, recover and obtain the benefit of such property.

Transfer of assets and liabilities.

(2) All rights, obligations and liabilities of the Exchange Banks' Association immediately before the commencement of this Ordinance are as from such commencement the rights, obligations and liabilities of the Association and the Association shall have all necessary powers to exercise or discharge the same.

23. (1) Every licensed bank which immediately before the commencement of this Ordinance holds office as a member of the general committee of the Exchange Banks' Association shall, as from the commencement of this Ordinance, be a member of the Committee of the Association for the purposes of this Ordinance until the conclusion of the first annual general meeting of members which shall be convened as soon as practicable after the coming into force of by-laws made under section 6(1) relating to the convening of meetings of the Association.

Other transitional provisions.

(2) Where anything has been commenced by or under the authority of the Exchange Banks' Association before the commencement of this Ordinance such thing may be carried on and completed by, or under the authority of, the Association.

24. In any enactment containing reference to the Exchange Banks' Association or the Hong Kong Exchange Banks' Association or words to the like effect, there shall be substituted for such reference a reference to The Hong Kong Association of Banks.

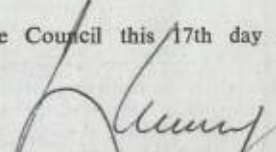
Consequential amendment of other enactments.

## SCHEDULE

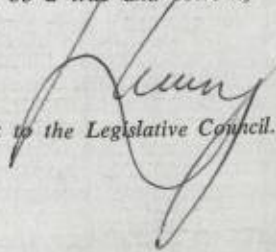
[s. 9.]

<i>Place of incorporation or principal place of business of member</i>	<i>Number of members of the Consultative Council to be elected by members incorporated in or, in the case of unincorporated members, having their principal place of business in that region</i>
Belgium	}
Italy	
Netherlands, the	
Switzerland	
Canada	1
China, The People's Republic of	2
France	1
Germany, The Federal Republic of	1
Hong Kong	5
Indonesia	}
Malaysia	
Philippines, the	
Thailand	
Japan	1
Singapore	1
United Kingdom	2
United States of America	3
Other countries	1
<b>Total number of elected members</b>	<b>20</b>

Passed by the Hong Kong Legislative Council this 17th day of December 1980.

  
Clerk to the Legislative Council.

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

PUBLIC RECORDS OFFICE  
HONG KONG

H.K.R.S. No. 28

D. & S. No. 16/28