

Restriction on employment of articulated clerks.
26 Geo. 5 and 1 Edw. 8
c.35.s.1.

8. (1) No solicitor who has not at some time been in continuous practice as a solicitor for a period of five years shall, without special leave in writing of the Society, take any articulated clerk.

(2) No solicitor shall take or retain any articulated clerk after he has ceased to practice as a solicitor in the Colony or while he is employed as a clerk to another solicitor.

(3) A solicitor shall not be deemed to have ceased to practise as a solicitor in the Colony for any period between the 25th December, 1941, and the 30th August, 1945: Provided that for the purpose of this Ordinance, no service under articles of clerkship shall between the said dates count towards any prescribed period of service under articles.

(4) Service by an articulated clerk to a solicitor who has taken him in contravention of the provisions of this section shall not be deemed to be good service by the clerk under his articles.

Notice of articles to Society and evidence of character, etc.
26 Geo. 5 and 1 Edw. 8
c.35.s.2.

9. (1) Not less than six weeks before any person becomes bound by articles of clerkship he shall give notice to the Society of his intention so to do, and shall furnish the Society with such evidence as to his character, and his fitness and suitability for service under articles, as the Chief Justice may by rules require.

(2) The Society, if they are satisfied with the evidence so furnished, shall issue to the person in question their written consent to his entry into articles.

(3) The registrar shall refuse to register any articles produced to him under section 4 unless the articles are accompanied by a consent issued under this section and dated not earlier than one month before the date of production of the articles.

(4) Service by a clerk under articles of which registration has been refused under this section shall not be deemed to be good service by the clerk under his articles.

Articled clerks to serve continuously and not engaged in other employment.
22 and 23 Geo. 5
c.37.s.19.

10. Subject to the provisions of this Part, every articulated clerk shall, during the whole term of his articles, be actually employed in the proper business, practice and employment of a solicitor by the solicitor to whom he is articulated.

Articled clerks not to take other employment.
22 & 23 Geo. 5
c.37.s.21.

11. No person bound by articles of clerkship to any solicitor as aforesaid shall, during the term of service mentioned in such articles, hold any office or engage in any employment whatsoever other than the employment of clerk to such solicitor and his partners if any, in the business, practice or employment of a solicitor.

Articled clerks not disqualified by disqualified solicitor.
22 and 23 Geo. 5
c.37.s.22.

12. No person shall be disqualified for admission as a solicitor, or be liable to be struck off the roll, by reason only of any solicitor whom he has served for any period having been after the termination of that period, removed from or struck off the roll.

13. In case any solicitor to whom any clerk is articulated becomes bankrupt before the expiration of the term, or executes a trust deed for the benefit of his creditors under any Ordinance relating to bankruptcy or is imprisoned for debt and remains in prison for the space of twenty-one days, it shall be lawful for the court, on the application of such clerk to order and direct the articles to be discharged or assigned to such person, on such terms and in such manner as the Court thinks fit.

Discharge or assignment of articles in case of bankruptcy.
6 and 7 Vict.
c.73.s.5.

14. If—

(a) during the term of any articles the clerk has been continuously absent from the solicitor's place of business for a period of three months or longer (except with the consent of the Committee or when the clerk shall proceed to England under the provisions of Clause 17); or

Power of Society to discharge articles in certain cases.
26 Geo. 5 and 1 Edw. 8
c.35.s.5.

(b) the Society are for any other reason of opinion that the articles ought to be discharged;

the Society may, on the application of the solicitor or the clerk discharge the articles upon such terms, including terms as to return of premium as they think fit, and determine what period, if any, of service by the clerk under the articles shall be deemed to be good service.

15. (1) Where before the expiration of the term for which a clerk is articulated the solicitor to whom he is articulated ceases to practise as a solicitor in the Colony, or dies, or his articles are cancelled by mutual consent or discharged by the court or the Society, the clerk may be bound by fresh articles to another practising solicitor for the residue of the said term and service under those articles in accordance with the provisions of this Part shall be good service.

Fresh articles in certain cases.
22 and 23 Geo. 5
c.37.s.25.

(2) The foregoing provisions of this Part with respect to the registration of articles shall apply to fresh articles entered into in accordance with the provisions of this section.

16. The term for which a person desirous of being admitted as a solicitor, not being a person exempted from service under articles by virtue of any provision of this Ordinance, is required to be bound by and serve under articles shall be determined in accordance with the provisions of the First Schedule to this Ordinance. Any part of such term may in lieu of being served with a solicitor actually practising in the Colony be served with a solicitor actually practising in Great Britain or Northern Ireland.

Term of articles.
22 and 23 Geo. 5
c.37.s.15.
First Schedule.

17. Any period not exceeding one year during which any such person has been absent from the Colony in England and for the purpose of travelling to and from England and of preparing for the final examination shall upon his satisfying the Society as to such preparations be counted in the said period.

One year's absence in England to count in articles.

18. (1) A person who has been bound by articles as aforesaid for the prescribed period, as modified by the provisions of section 17, may give notice to the registrar and the Society of his intention to sit for the final examination pursuant to the regulations contained in the Third Schedule hereto.

Notice to sit for final examination.
Regulations.
Third Schedule.

(2) The Chief Justice on the application of the Society may from time to time with the approval of the Legislative Council amend or vary such regulations.

(3) Any person who shall have duly passed the final examination prescribed by this section shall be qualified to apply for admission as a solicitor.

Fees for examination.

19. Any person applying to be examined or re-examined at an examination shall pay to the Society in respect of those examinations, such fees as may from time to time be prescribed by regulation.

Exemption of disbarred barrister from service under articles.
22 and 23
Geo. 5
c.37-s.34.

20. (1) Any barrister of not less than five years standing at the English bar who procures himself to be disbarred with a view to becoming a solicitor and obtains from two benchers of the Inn of Court to which he belongs or belonged, a certificate of his being a fit and proper person to practise as a solicitor shall be exempted from service under articles and from such part of the final examination as relates to articles and service thereunder.

(2) Any such person upon giving the prescribed notice and complying with the regulations in so far as they shall apply and passing the prescribed final examination shall be a person qualified for admission as a solicitor.

Notice of intention to apply for admission.

21. Every candidate who has qualified for admission as a solicitor under section 18 shall give two weeks' notice in writing to the registrar and to the Society of his intention to apply for admission: Provided always that the Chief Justice may, on any special grounds, make an order dispensing with all or any of the formalities prescribed by this section.

Further formalities on applying for admission.

22. Every such candidate who has qualified for admission and who has served part of the prescribed period as an articulated clerk to a solicitor practising in Great Britain or Northern Ireland, and the other part to a solicitor practising in this Colony shall, in addition to the formalities prescribed by sections 4 and 5 in respect of the articles therein mentioned, and before he can be admitted and enrolled, produce to the registrar and the Society the articles under which he has become bound to such solicitor practising in Great Britain or Northern Ireland and every assignment thereof, and shall make and swear, or duly cause to be made and sworn, such affidavits in relation thereto as are prescribed by section 4 in respect of the articles therein mentioned; and the provisions of section 5 shall likewise apply to articles whereby such candidate has been bound to serve any solicitor practising in Great Britain or Northern Ireland and to any assignment thereof: Provided always that the Chief Justice may, on special grounds and on such conditions as he may think proper, exempt any such person from complying with the formalities prescribed by this section, either absolutely or for any special period.

Evidence of service.
6 and 7 Vict.
c.73-s.14,
23 and 24
Vict.
c.127-s.10.

23. (1) Every such candidate except as provided by section 20 shall, before he can be admitted and enrolled, prove by an affidavit or affidavits of himself and of the solicitor or solicitors practising in Great Britain or Northern Ireland or in this Colony to whom he was bound, to be duly made and filed in the court, that he has actually and really served and been employed by such

practising solicitor or solicitors during the period required by section 16 as modified by section 17, and that he has not during such period held any office or been engaged in any employment whatsoever other than the employment of clerk to such solicitor or solicitors and his or their partner or their partner or partners, if any, in the business, practice or employment of a solicitor.

(2) The affidavit shall be in such form as may be approved by the Chief Justice.

ADMISSION AND ENROLMENT OF BARRISTERS AND SOLICITORS AND REGISTRATION OF NOTARIES PUBLIC.

24. No person shall practise in this Colony as a barrister or as a solicitor unless he has been approved, admitted and enrolled as such by the court, or as a notary public unless he has been registered as such under the provisions of this Ordinance.

Prohibition against practice unless admitted, enrolled or registered.

25. The court shall have power to approve, admit and enrol as a solicitor any person, being a British subject, who—

Power of the court to admit and enrol solicitors qualified under this Ordinance.

(a) has actually exclusively and *bona fide* served for the period required by sections 16 and 17 as a clerk under articles to any solicitor actually practising in the Colony or part of such period under articles to such solicitor and the other part under articles to any solicitor actually practising in Great Britain or Northern Ireland, or being a barrister has complied with the provisions of section 20, and has been sworn in the manner herein directed and has fulfilled all the conditions of this ordinance in relation to such admission;

(b) has obtained from the Society or some person authorized in writing by the Society a certificate that—

(i) he has passed the preliminary examination prescribed in this Part or its equivalent or has been exempted under sub-section (3) of section 3 or is a person to whom section 20 applies,

(ii) he has passed the final examination prescribed by this Ordinance, and

(iii) he is in other respects fit to be an officer of the court.

26. The court shall have power to approve, admit and enrol as barristers such persons as have been called to the Bar in England or Northern Ireland or have been admitted as advocates in Scotland and to approve admit and enrol as solicitors in the court such persons as have been admitted as attorneys, solicitors or proctors in Great Britain or Northern Ireland.

Power of the court to admit and enrol barristers and solicitors from England or Northern Ireland.

27. Every person who desires to be admitted under section 26 to practise in the court in any of the capacities therein mentioned—

Formalities for admission under section 26.

(a) if a barrister or advocate, shall deposit with the registrar his certificate of call to the bar, and shall file in the court an affidavit of identity in such form as may be approved by the Chief Justice;

(b) if an attorney, solicitor or proctor shall give two months' previous notice in writing to the Society of such his desire, and shall at the same time deposit with the registrar his certificate of admission, together with a certificate from the proper authority issuing such certificate of admission that such last mentioned certificate is still valid and in force, and a further certificate of fitness and character signed by two practising attorneys, solicitors or proctors of at least five years' standing in one of the courts in Great Britain or Northern Ireland and shall file in the court an affidavit of identity in such form as may be approved by the Chief Justice: Provided always that the Chief Justice may on special grounds and on such conditions as he may think proper, exempt any such person from complying with the formalities prescribed by this section, either absolutely or for any specified period. No such exemption shall be granted in the case of an attorney, solicitor or proctor unless notice of intention to apply therefor has been previously given by the applicant to the Society.

Society's
general right
of audience.

28. The Society shall have a general right of audience, by solicitor or counsel, on the hearing of any application for admission as a solicitor, or touching any matter affecting the qualification, service or examination of articulated clerks, or the removal from or restoration to the roll or suspension from practice of solicitors, or affecting the privileges, restrictions and offences in connection with the practice of a solicitor. In any such case, whether seeking audience or not, the Society shall be served with copies of all necessary documents filed with the registrar.

Oath of
allegiance on
admission.

Ordinance
No. 1 of
1869.

29. Every person who applies to be admitted and enrolled under section 25 or 26 as a solicitor shall, before admission and enrolment, subscribe the oath of allegiance in the form prescribed by the Promissory Oaths Ordinance, 1869, and also the oath following:

I, A.B., do swear (or solemnly, sincerely and truly declare and affirm) that I will truly and honestly demean myself in the practice of solicitor, according to the best of my knowledge and ability. So help me God (the last four words are to be omitted in the case of a declaration or affirmation).

The rolls.
22 and 23
Geo. 5
c.37.s.2.

30. (1) The registrar shall keep, in accordance with the provisions of this Ordinance and of any regulations made thereunder, lists (in this Ordinance referred to as "the roll") of all barristers and solicitors admitted under sections 25 and 26.

(2) The registrar shall have the custody of the roll and of all documents relating thereto, and shall allow any person to inspect the roll during office hours without payment.

(3) The registrar, upon production of an admission signed by the Chief Justice, and in the case of a solicitor on payment to the Law Society by such solicitor of a fee not exceeding two hundred dollars, shall enter on the roll the name of the person admitted.

31. The registrar shall keep a special book for the registration of notaries public, and every notary public who produces his notarial faculty and files in the court an affidavit of identity in such form as may be approved by the Chief Justice, shall, on payment of the prescribed fee, be entitled to be registered therein.

Registration
of notaries
public.

REMOVAL FROM THE ROLL OR REGISTER AND SUSPENSION FROM PRACTICE OF SOLICITORS, BARRISTERS AND OF NOTARIES PUBLIC.

32. Subject as hereinafter provided no solicitor shall be liable to have his name struck off the roll on account of any defect in his articles of clerkship, or in the registration thereof or in his service thereunder, or in his admission and enrolment, unless the application to strike his name off the roll is made within twelve months after the date of his enrolment: Provided that this section shall not apply in any case where fraud is proved to have been committed in connection with the articles, registration, service, admission or enrolment.

Limit of one
year to strike
off for
irregularity
in articles,
service, etc.
22 and 23
Geo. 5
c.37.s.12.

33. (1) The court shall have power on reasonable cause being shown to remove from or strike off the roll or to suspend from practice any admitted and enrolled solicitor, whereupon the registrar shall enter a note of the court's order on the roll in connection with the name of the solicitor, and where the order so directs shall remove or strike out the name.

Power of
court to
strike off or
suspend a
solicitor.

(2) The court may in its discretion before dealing with any application or motion under this section, or at any stage of the proceedings, refer the matter in question to the Committee, with such directions to investigate and enquire into the matter or to express any views or opinions in regard thereto as the court may think fit, and adjourn the proceedings until the Committee shall have duly reported to the court upon such matters as shall have been referred to it.

(3) The court may in respect of any matter in which the Society or the Committee have been concerned under section 36 or in any case where the Society has exercised its right of audience under any of the provisions of this Ordinance, award to the Society such costs and expenses as the Society may have incurred by the employment of counsel, solicitors or otherwise, as the court shall consider reasonable under the circumstances and may order such costs to be paid by any solicitor or person who has been the subject of any complaint enquiry or investigation or of any proceedings before the court.

34. The court shall have power on reasonable cause being shown to remove from or strike off the roll or to suspend from practice any enrolled barrister who has been guilty of such misconduct as to make him unfit to practise, whereupon the registrar shall enter a note of the court's order on the roll in connection with the name of the barrister, and where the order so directs, shall remove or strike off the name.

Power of
court to
strike off or
suspend
barrister.

Power of court to strike off or suspend notary public.

35. The court shall have power on reasonable cause being shown to remove from or strike off the register kept under section 31 or to suspend from practice any registered notary public, whereupon the registrar shall enter a note of the court's order on the register in connection with the name of the notary public and, where the order so directs, shall remove or strike off the name.

Power of Committee to enquire into conduct of solicitor.

36. (1) The Committee shall have power to enquire into and investigate the professional conduct of any solicitor—

(a) on receiving a complaint or allegation against a solicitor from any person;

(b) of its own motion;

(c) on having any matter referred to it by the court under the provisions of sub-section (2) of section 33.

Ordinance No. 13 of 1886.

(2) For the purpose of conducting any such enquiry or investigation the Committee shall have all the powers which are set out in section 3 of the Commissioners Powers Ordinance, 1886, as though the same had been specifically conferred upon them in the manner required by the provisions of that Ordinance.

(3) Where in the course of any enquiry or investigation under the provisions of paragraphs (a) and (b) of sub-section (1) of this section the Committee are of opinion that the facts and the available evidence in support of any complaint or allegation should be or become a matter for enquiry and determination by the court under sub-section (1) of section 33 or under any section of this Ordinance relating to an offence by any solicitor or an unqualified person the Committee may—

(a) institute and prosecute such proceedings before any court as may appear to be required in any matter or may appoint any person for such purpose, or

(b) advise or otherwise assist any person making any complaint or allegation against a solicitor in relation to any proceedings before any court:

Provided that nothing herein shall affect or derogate from the general rights of audience conferred on the Society by section 28.

(4) The Committee may delegate to a sub-Committee appointed for the purpose all the powers conferred on it by this section.

(5) The Society may subject to the approval of the Chief Justice, make rules, relating to or arising out of the conduct of any enquiry or investigation under this section.

(6) All proceedings by the Committee and any report made to the court under or in pursuance to this section shall be deemed to be privileged.

RESTORATION TO THE ROLL OR REGISTER.

37. (1) The Chief Justice may, if he thinks fit, at any time order the registrar to replace on the roll the name of a barrister or of a solicitor whose name has been removed from or struck off the roll.

Power of Chief Justice to replace name on roll. 22 and 23. Geo. 5. c.37. s.13.

(2) In the case of a solicitor whose name has been struck off the roll for such an offence as is mentioned in section 45, an order under this section shall for the purposes of sub-section (3) of section 30 be deemed to be an admission.

(3) The Chief Justice may, if he thinks fit, at any time order the registrar to replace on the register kept under section 31 the name of a notary public whose name has been removed or struck off therefrom.

PART II.

PRIVILEGES, RESTRICTIONS AND OFFENCES IN CONNECTION WITH PRACTICE.

38. Every person who—

(a) not being a qualified barrister, either directly or indirectly, practises or acts as a barrister;

(b) not being a qualified notary public either directly or indirectly practises or acts as a notary public;

Penalty for unlawfully practising as a barrister or notary public.

shall upon summary conviction be liable to a fine not exceeding two thousand dollars.

39. (1) No unqualified person shall act as solicitor, or as such sue out any writ or process, or commence, carry on or defend any action, suit or other proceeding, in the name of any other person or in his own name, in any court of civil or criminal jurisdiction or act as a solicitor in any cause or matter, civil or criminal, to be heard or determined before any court, magistrate or justices.

Unqualified person not to act as solicitor. 22 and 23. Geo. 5. c.37. s.45.

(2) If any person contravenes the provisions of this section he shall be guilty of a misdemeanour and of contempt of the court in which the action, suit, cause, matter or proceeding in relation to which he so acts is brought or taken and may be punished accordingly and shall be incapable of maintaining any action for any costs in respect of anything done by him in the course of so acting, and shall, in addition to any other penalty or forfeiture and any disability to which he may be subject, be liable for each such offence to a penalty of one thousand dollars to be recovered, with full costs of action, by action brought in the court, by the Society with the sanction of the Attorney General. Any penalty recovered under this section shall be deemed to be a penalty due to the Crown and shall be paid into the general revenue of the Colony.

40. Any unqualified person who wilfully pretends to be, or takes or uses any name, title, addition or description implying that he is qualified or recognized by law as qualified to act as a solicitor, shall be liable on summary conviction to a fine not exceeding five hundred dollars for each offence.

Penalty for pretending to be a solicitor. 22 and 23. Geo. 5. c.37. s.46.

Penalty on unqualified person preparing certain instruments. 22 and 23 Geo. 5 c.37, s.47.

Ordinance No. 41 of 1932.

41. (1) Any unqualified person, not being a qualified barrister or a qualified notary public who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, draws or prepares any instrument relating to movable or immovable estate, or any legal proceedings, shall be liable on summary conviction to a fine not exceeding two thousand dollars.

(2) Notwithstanding anything in the Magistrates Ordinance, 1932, proceedings in respect of any offence under this section may be brought at any time within two years next after the commission of the offence or within six months next after the first discovery thereof by the prosecutor, whichever period is the shorter.

(3) This section shall not extend to—

(a) any public officer drawing or preparing instruments in the course of his duty; or

(b) any person employed merely to engross or copy any instrument or proceeding.

(4) For the purposes of this section "instrument" does not include—

(a) a will or other testamentary instrument; or

(b) an agreement under hand only; or

(c) a letter of power of attorney; or

(d) a transfer of stock containing no trust or limitation thereof.

Penalty for unqualified person preparing memorials, etc., under Ord. 1 of 1844 or Ord. 34 of 1910. 22 and 23 Geo. 5 c.37, s.48.

42. Any person, not being a qualified barrister or a qualified notary public, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, draws or prepares any memorial or other document for the purposes of the Land Registration Ordinance, 1844 or the New Territories Regulation Ordinance, 1910, or makes any application or lodges any document for registration under either of those Ordinances at the Land Office or at any District Land Office, shall on summary conviction be liable to a fine not exceeding two thousand dollars: Provided that this section shall not extend to—

(a) any public officer drawing or preparing instruments and applications in the course of his duty; or

(b) any person employed merely to engross or copy any instrument or application.

Penalty for unqualified person preparing papers for probate etc. 22 and 23 Geo. 5, c.37, s.49.

43. Any unqualified person, not being a qualified barrister or a qualified notary public, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or as an agent of any other person, whether a person qualified as above mentioned or not, takes instructions for or draws or prepares any papers on which to found or oppose a grant of probate or of letters of administration shall, without prejudice to

any liability or disability to which he may be subject under any other section of this Ordinance or under any other Ordinance, be liable on summary conviction to a fine not exceeding two thousand dollars for each such offence: Provided that this section shall not extend to any public officer drawing or preparing any such papers in the course of his duty.

44. No costs in respect of anything done by any unqualified person who acts as a solicitor shall be recoverable in any action, suit or matter by any person whomsoever.

No costs for unqualified person. 22 and 23 Geo. 5, c.37, s.50.

45. (1) No solicitor shall wilfully and knowingly act as agent in any action or in any matter in bankruptcy for any unqualified person, or permit his name to be made use of in any such action or matter upon the account, or for the profit, of any unqualified person or send any process to any unqualified person, or do any other act enabling any unqualified person to appear, act or practise in any respect as a solicitor in any such action or matter.

Solicitor not to act as agent for unqualified person. 22 and 23 Geo. 5, c.37, s.51.

(2) Where it appears to the court, that a solicitor has acted in contravention of this section, his name shall be struck off the roll.

(3) Where the court orders the name of a solicitor to be struck off the roll in respect of an offence under this section, it may further order that the unqualified person who was enabled by the conduct of the offender to act or practise as a solicitor shall be imprisoned for any period not exceeding one year.

46. (1) If any act is done by a body corporate or by any director, officer or servant thereof, of such a nature or in such a manner as to be calculated to imply that the body corporate is qualified, or recognized by law as qualified, to act as a solicitor the body corporate shall be liable on summary conviction to a fine not exceeding five thousand dollars for each such offence, and in the case of an act done by a director, officer or servant of the corporation, he also shall be liable on summary conviction to a fine not exceeding two thousand dollars for each such offence.

Application of penal provisions to body corporate. 24 and 25 Geo. 5 c.45, s.1.

(2) For the removal of doubt it is hereby declared that in sections 38 and 39, 40, 41, 42, 43 and 44 and in sub-section (1) of section 45 references to unqualified persons and references to persons include references to bodies corporate.

47. (1) No solicitor shall, in connection with his practice as a solicitor, without the written permission of the Society which may be given for such period and subject to such conditions as the Society think fit, employ or remunerate any person who to his knowledge is disqualified from practising as a solicitor by reason of the fact that his name has been struck off the roll, otherwise than at his own request, or is suspended from practising as a solicitor.

Employment by solicitor of persons struck off or suspended. 22 and 23 Geo. 5, c.37, s.52.

(2) A solicitor aggrieved by the refusal of the Society to grant any such permission as aforesaid, or by any conditions attached by the Society to the grant thereof, may appeal to the Chief Justice, who may confirm the refusal or the conditions, as the case may be, or may, in lieu of the Society, grant such conditions as he thinks fit.

(3) If any solicitor acts in contravention of the provisions of this section or of the conditions subject to which any permission has been given thereunder, his name shall be struck off the roll or he shall be suspended from practice for such period as the court thinks fit.

Solicitors not to commence or defend actions while in prison. 22 and 23 Geo. 5 c.37, s.53.

48. (1) No solicitor whilst a prisoner in any prison shall as a solicitor, in his own name or in the name of any other solicitor, sue out any writ or process, or commence, prosecute or defend any action or any matter in bankruptcy.

(2) Any solicitor commencing, prosecuting or defending any such action or matter in contravention of this section shall be incapable of maintaining any action for the recovery of any costs in respect of any business done by him whilst so confined as aforesaid, and he and any solicitor permitting him to commence, prosecute or defend any such action or matter in his name, shall be guilty of contempt of the court in which such action or matter was commenced or prosecuted and may be punished accordingly.

Penalty on failure to disclose fact of having been struck off, etc. 22 and 23 Geo. 5 c.37, s.55.

49. (1) Any person who, whilst he is disqualified from practising as a solicitor by reason of the fact that he has been struck off the roll otherwise than at his own request or is suspended from practising as a solicitor, seeks or accepts employment by a solicitor in connection with that solicitor's practice without previously informing him that he is so disqualified as aforesaid, shall on summary conviction be liable for each offence to a fine not exceeding two thousand dollars.

Ordinance No. 41 of 1932.

(2) Notwithstanding anything in the Magistrates Ordinance, 1932, proceedings under this section may be commenced at any time before the expiration of six months after the first discovery of the offence by the prosecutor, but no such proceedings shall be commenced except by, or with the consent of, the Attorney General.

PART III.

REMUNERATION OF SOLICITORS.

Non-contentious Business.

Character of service considered in taxation of costs.

50. On any taxation of costs the taxing officer may, in determining the remuneration, if any, to be allowed to a solicitor for his services, have regard, subject to any general rules or orders, to the skill, labour and responsibility involved.

51. (1) A solicitor and his client may, either before or after or in the course of the transaction of any non-contentious business by the solicitor, make an agreement as to the remuneration of the solicitor in respect thereof.

Agreement for remuneration for non-contentious business. 22 and 23 Geo. 5 c.37, s.57.

(2) The agreement may provide for the remuneration of the solicitor by a gross sum, or by commission or percentage or by salary, or otherwise, and it may be made on the terms that the amount of the remuneration therein stipulated for either shall or shall not include all or any disbursements made by the solicitor in respect of searches, plans, travelling stamps, fees or other matters.

(3) The agreement shall be in writing and signed by the person to be bound thereby or his agent in that behalf.

(4) The agreement may be sued and recovered on or set aside in the like manner and on the like grounds as an agreement not relating to the remuneration of a solicitor:

Provided that if on any taxation of costs the agreement is relied on by the solicitor and objected to by the client as unfair or unreasonable, the taxing officer may inquire into the facts and certify them to the court and if on that certificate it appears just to the court that the agreement should be cancelled, or the amount payable thereunder reduced, the court may order the agreement to be cancelled, or the amount payable thereunder to be reduced, and may give such consequential directions as it thinks fit.

52. (1) If a mortgage is made to a solicitor, either alone or jointly with any other person he, or the firm of which he is a member, shall be entitled to recover from the mortgagor in respect of all business transacted and acts done by him or them in negotiating the loan, deducing and investigating the title to the property, and preparing and completing the mortgage, such usual costs as he or they would have been entitled to receive if the mortgage had been made to a person who was not a solicitor and that person had retained and employed him or them to transact the said business and do the said acts.

Remuneration of a solicitor who is a mortgagee. 22 and 23 Geo. 5 c.37, s.58.

(2) If, whether before or after the commencement of this Ordinance, a mortgage has been made to, or has become vested by transfer or transmission in, a solicitor, either alone or jointly with any other person, and if after the commencement of this Ordinance any business is transacted or acts done by that solicitor, or by the firm of which he is a member, in relation to that mortgage, or the security thereby created or the property comprised thereunder then he or they shall be entitled to recover from the person on whose behalf the business was transacted or the acts were done, and to charge against the security, such usual costs as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person who was not a solicitor and that person had retained and employed him or them to transact the said business and do the said acts.

(3) In this section "mortgage" includes any charge on any property for securing money or money's worth.

Contentious Business.

Power to make agreements—contentious business. 22 and 23 Geo. 5 c.37, s.59.

Miscellaneous provisions—contentious business. 22 and 23 Geo. 5 c.37, s.60.

53. A solicitor may make an agreement in writing with his client as to his remuneration in respect of any contentious business done, or to be done, by him providing that he shall be remunerated either by a gross sum or by salary or otherwise, and at either a greater or a less rate than that at which he would otherwise have been entitled to be remunerated.

54. (1) Such an agreement—

(a) shall not affect the amount of, or any rights or remedies for the recovery of, any costs payable by the client to, or to the client by, any person other than the solicitor, and that person may, unless he has otherwise agreed, require any such costs to be taxed according to the rules for the time being in force for the taxation thereof: Provided that the client shall not be entitled to recover from any other person under any order for the payment of any costs to which the agreement relates more than the amount payable by him to his solicitor in respect thereof under the agreement;

(b) shall be deemed to exclude any claim by the solicitor in respect of the business to which it relates other than—

(i) a claim for such costs as are expressly excepted therefrom; or

(ii) a claim for the agreed costs.

(2) A provision in such an agreement that the solicitor shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as a solicitor, shall be void.

(3) No action shall be brought upon any such agreement, but the court may, on the application of any person who is a party to, or the representative of a party to, the agreement, or who is, or who is alleged to be, liable to pay, or who is or claims to be entitled to be paid, the costs due or alleged to be due in respect of the business to which the agreement relates, enforce or set aside the agreement and determine every question as to the validity or effect thereof.

(4) On any such application the court,

(a) if it is of opinion that the agreement is in all respects fair and reasonable, may enforce it;

(b) if it is of opinion that the agreement is in any respect unfair or unreasonable may declare it void and may order it to be given up to be cancelled and may order the costs covered thereby to be taxed as if the agreement had never been made;

(c) in any case, may make such orders as to the costs of the application as it think fit.

(5) If the business covered by any such agreement is business done, or to be done, in any action, the amount payable under the agreement shall not be received by the solicitor until

the agreement has been examined and allowed by a taxing officer of the court, and if the taxing officer is of opinion that the agreement is unfair or unreasonable, he may require the opinion of the court to be taken thereon and the court may reduce the amount payable thereunder, or order the agreement to be cancelled and the costs covered thereby to be taxed as if the agreement had never been made.

(6) When the amount agreed for under any such agreement has been paid by or on behalf of the client or by any person entitled so to do, the person making the payment may at any time within twelve months after payment apply to the court and the court if it appears to it that the special circumstances of the case require the agreement to be reopened, may on such terms as may be just, reopen the agreement and may order the costs covered thereby to be taxed and the whole or any part of the amount received by the solicitor to be repaid by him.

(7) Where any such agreement is made by the client as the guardian or committee of, or as a trustee under a deed or will for, any person whose property will be chargeable with the whole or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before the taxing officer of the court, and that officer shall examine the agreement and may disallow any part thereof, or may require the opinion of the court to be taken thereon.

(8) Any such client as is mentioned in sub-section (7) who pays the whole or any part of the amount payable under the agreement without the agreement having been allowed by the taxing officer or by the court, shall be liable at any time to account to the person whose property is charged with the whole or any part of the amount so paid for the sum so charged and the solicitor who accepts the payment may be ordered by the court to refund the amount received by him.

(9) In this section and in section 55 "court" means—

(a) in relation to an agreement under which any business has been done in any court having jurisdiction to enforce and set aside agreements, any such court in which any of that business has been done;

(b) in relation to any agreement under which no business has been done in any such court, and under which more than one thousand dollars is payable, the court in its original jurisdiction;

(c) in relation to an agreement under which no business has been done in any such court, and under which not more than one thousand dollars is payable, the court in its summary jurisdiction.

55. (1) If, after some business has been done under an agreement made in pursuance of the provisions of section 53 but before the solicitor has wholly performed it, the solicitor dies or becomes incapable of acting, any party to, or the representative of any party to, the agreement, may apply to the court and the

Death, incapability, or change of solicitor, etc. 22 and 23 Geo. 5 c.37, s.61.

court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as it would have had if the solicitor had not died or become incapable of acting: Provided that the court may, notwithstanding that it is of opinion that the agreement is in all respects fair and reasonable, order the amount due in respect of the business done thereunder to be ascertained by taxation, and in that case—

(a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and

(b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been completely performed.

(2) The provisions of sub-section (1) shall apply in the event of the client changing his solicitor (as, notwithstanding the agreement, he shall be entitled to do) before the conclusion of the business to which the agreement relates in the same manner as they apply when the solicitor dies or is incapacitated, with this modification that if an order is made for the taxation of the amount due to the solicitor in respect of the business done under the agreement the court shall direct the taxing officer to have regard to the circumstances under which the change of solicitor has taken place, and the taxing officer, unless he is of opinion that there has been no default, negligence, improper delay or other conduct on the part of the solicitor affording to the client reasonable ground for changing his solicitor, shall not allow to the solicitor the full amount of the remuneration agreed to be paid to him.

56. Subject to the provisions of sections 54 and 55, the costs of a solicitor in any case where any agreement has been made in pursuance of the provisions of section 53 shall not be subject to taxation, nor to the subsequent provisions of this part with respect to the signing and delivery of a solicitor's bill.

57. (1) Nothing in sections 53, 54, 55 or 56 shall give validity to—

(a) any purchase by a solicitor of the interest, or any part of the interest, of his client in any action, suit or other contentious proceeding; or

(b) any agreement by which a solicitor retained or employed to prosecute any action, suit or other contentious proceeding stipulates for payment only in the event of success in that action, suit or proceeding; or

(c) any disposition, contract, settlement, conveyance, delivery, dealing or transfer which is under the law relating to bankruptcy invalid against a trustee or creditor in any bankruptcy or composition.

(2) A solicitor may, with respect to any contentious business to be done by him, take security from his client for his costs to be ascertained by taxation or otherwise,

Agreement
excludes
taxation.
22 and 23
Geo. 5
c.37, s.62.

Miscellaneous
provisions as
to remunera-
tion for
contentious
business.
22 and 23
Geo. 5
c.37, s.63.

(3) Subject to the provisions of any rules of court upon every taxation of costs with respect to any contentious business, the taxing officer may—

(a) allow interest at such rate and from such time as he thinks just on moneys disbursed by the solicitor for the client, and on moneys of the client in the hands of, and improperly retained by, the solicitor;

(b) in determining the remuneration of the solicitor have regard to the skill, labour and responsibility involved in the business done by him.

General Provisions as to Remuneration.

58. (1) The jurisdiction of the court to make orders for the delivery by a solicitor of a bill of costs and for the delivery up of, or otherwise in relation to, any deeds, documents or papers in his possession, custody or power, is hereby declared to extend to cases in which no business has been done by him in the court.

Power to
court to order
delivery of
bill and
deeds.
22 and 23
Geo. 5
c.37, s.64.

(2) In this section and in sections 59, 60 and 61, "solicitor" includes the executors, administrators and assignees of the solicitor in question.

59. (1) Subject to the provisions of this Ordinance, no action shall be brought to recover any costs due to a solicitor until one month after a bill thereof has been delivered in accordance with the requirements of this section: Provided that, if there is probable cause for believing that the party chargeable with the costs is about to quit the Colony, or become a bankrupt, or to compound with his creditors or to do any other act which would tend to prevent or delay the solicitor obtaining payment the court may, notwithstanding that one month has not expired from the delivery of the bill, order that the solicitor be at liberty to commence an action to recover his costs and may order those costs to be taxed.

Action to
recover costs.
22 and 23
Geo. 5
c.37, s.65.

(2) The said requirements are as follows:—

(a) the bill must be signed by the solicitor or, if the costs are due to a firm, one of the partners of that firm, either in his own name or in the name of the firm, or be enclosed in, or accompanied by, a letter which is so signed and refers to a bill, and

(b) the bill must be delivered to the party to be charged therewith, either personally or by being sent to him by post to, or left for him at, his place of business, dwelling house or last known place of abode;

and where a bill is proved to have been delivered in compliance with those requirements, it shall not be necessary in the first instance for the solicitor to prove the contents of the bill and it shall be presumed, until the contrary is shown, to be a bill *bona fide* complying with this Ordinance.

Taxation of
bills.
22 and 23
Geo. 5
c.37, s.65.

60. (1) On the application, made within one month of the delivery of a solicitor's bill, of the party chargeable therewith the court shall, without requiring any sum to be paid into court, order that the bill shall be taxed and that no action shall be commenced thereon until the taxation is completed.

(2) If no such application is made within the period mentioned in sub-section (1), then, on the application either of the solicitor or of the party chargeable with the bill, the court may, upon such terms, if any, as it thinks fit (not being terms as to the costs of the taxation) order—

(a) that the bill shall be taxed;

(b) that, until the taxation is completed, no action shall be commenced on the bill, and any action already commenced be stayed:

Provided that—

(i) if twelve months have expired from the delivery of the bill, or if the bill has been paid, or if a verdict has been obtained or a writ of enquiry executed in an action for the recovery of the costs covered thereby, no order shall be made on the application of the party chargeable with the bill except in special circumstances and, if an order is made, it may contain such terms as regards the costs of the taxation as the court may think fit;

(ii) in no event shall any such order be made after the expiration of twelve months from the payment of the bill.

(3) Every order for the taxation of a bill shall require the taxing officer to tax not only the bill but also the costs of taxation and to certify what is due to or by the solicitor in respect of the bill and in respect of the costs of the taxation.

(4) If after due notice of any taxation either party thereto fails to attend, the officer may proceed with the taxation *ex parte*.

(5) Unless—

(a) the order for taxation was made on the application of the solicitor and the party chargeable does not attend the taxation; or

(b) the order for taxation otherwise provides;

the costs of the taxation shall be paid according to the event of the taxation, that is to say, if one-sixth of the amount of the bill is taxed off, the solicitor shall pay the costs, but otherwise the party chargeable shall pay the costs:

Provided that the taxing officer may certify any special circumstances relating to the bill or the taxation thereof to the court, and the court may make thereon any such order as it thinks fit respecting the payment of the costs of the taxation.

61. (1) Where a person, other than the person who is the party chargeable with the bill for the purposes of section 60, has paid, or is or was liable to pay, the bill either to the solicitor or to the party chargeable with the bill, that person or his administrators, executors or assignees may apply to the court for an order for the taxation of the bill as if he were the party chargeable therewith, and the court may make thereon the same order, if any, as it might have made if the application had been made by that party: Provided that in cases where the court has no power to make an order except in special circumstances the court may, in considering whether there are special circumstances sufficient to justify it in making an order, take into account circumstances affecting the applicant, but which do not affect the party chargeable with the bill.

(2) If a trustee, executor or administrator has become liable to pay the bill of a solicitor, the court may, upon the application of any person interested in any property out of which the trustee executor or administrator has paid, or is entitled to pay, the bill, and upon such terms, if any, as it thinks fit, order the bill to be taxed and may order such payments in respect of the amount found due to or by the solicitor and in respect of the costs of the taxation to be made to or by the applicant, or to or by the solicitor, or to the executor, administrator or trustee as it thinks fit: Provided that in considering any such application the court shall have regard to—

(a) the provisions of section 60 as to applications by the party chargeable with taxation of a solicitor's bill so far as they are capable of being applied to an application made under this sub-section;

(b) the extent and nature of the interest of the applicant.

(3) If an applicant under sub-section (2) pays any moneys to the solicitor he shall have the same right to be paid that money by the trustee, executor or administrator chargeable with the bill as the solicitor had.

(4) The following provisions shall apply to applications made under this section:—

(a) except in special circumstances no order shall be made for the taxation of a bill which has already been taxed;

(b) the court may, if it orders taxation of the bill, order the solicitor to deliver to the applicant a copy of the bill upon payment of the costs of that copy.

62. (1) Every application for an order for the taxation of a solicitor's bill or for the delivery of such a bill and the delivering up of any deeds, documents and papers by a solicitor shall be made the matter of that solicitor.

Taxation on
application
of third
parties and
beneficiaries
under trustee,
etc.
22 and 23
Geo. 5
c.37, s.67.

General
provisions as
to taxation.
22 and 23
Geo. 5
c.37, s.68.

(2) The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the court, be final as to the amount of the costs covered thereby, and the court may make such order in relation thereto as it thinks fit, including in a case where the retainer is not disputed an order that judgment be entered for the sum certified to be due with costs.

Charging
orders.
22 and 23
Geo. 5
c.37, s.69.

63. Any court in which a solicitor has been employed to prosecute or defend any suit, matter or proceeding may at any time declare the solicitor entitled to a charge on the property recovered or preserved through his instrumentality for his taxed costs in reference to that suit, matter or proceeding and may make such orders for the taxation of the said costs and for raising money to pay, or for paying, the said costs out of the said property, as it thinks fit, and all conveyances and acts done to defeat, or operating to defeat, that charge, shall, except in the case of a conveyance to a *bona fide* purchaser for value without notice, be void as against the solicitor: Provided that no order shall be made if the right to cover the costs is barred by any statute of limitations.

Revival of
order for
payment of
costs.
33 and 34
Vict.
c.28, s.19.

64. Whenever any judgment or order has been made for payment of costs in any action and such action afterwards becomes abated, it shall be lawful for any person interested under such judgment or order to revive such action, and thereupon to prosecute and enforce such judgment or order, and so from time to time as often as any such abatement may happen.

PART IV.

MISCELLANEOUS AND GENERAL.

Regulations
by Chief
Justice.

65. The Chief Justice may, for the purposes of the execution of Part I, make general regulations with respect to the following matters or any of them, that is to say, the admission of a person as a solicitor, and the duties of the registrar with respect to the keeping of the roll.

Committee
may act for
Society.

66. All acts and rules authorized or required to be done or made by the Society under or in pursuance of this Ordinance, or any order or rules made in pursuance of this Ordinance may be done or made on behalf of the Society by the Committee or a sub-committee thereof duly appointed for the purpose.

Authentication
of Society's
rules and
documents.
22 and 23
Geo. 5
c.37, s.75.

67. All rules, certificates, notices and other documents made or issued by the Society for any purpose whatsoever may be signed on behalf of the Society by the secretary, or by such other officer of the Society as may be from time to time prescribed by the Committee.

Committee
may inspect
file in
bankruptcy.
22 and 23
Geo. 5
c.37, s.76.

68. The Committee shall be entitled, without payment of any fee, to inspect the file of proceedings in bankruptcy relating to any solicitor against whom proceedings in bankruptcy have been taken and to be supplied with office copies of the proceedings on payment of the usual charge for such copies.

69. Nothing in this Ordinance shall prejudice or affect any rights or privileges of any member of the Colonial Legal Service, or require any such member as aforesaid or any clerk or officer appointed to act for him to be admitted or enrolled in any case where it would not have been necessary for him to be admitted or enrolled if this Ordinance had not been passed.

Savings for
members of
Colonial Legal
Service, etc.
22 and 23
Geo. 5
c.37, s.77.

70. Nothing in this Ordinance shall affect any enactment empowering any person, not being a qualified solicitor, to conduct, defend or otherwise act in relation to any legal proceedings.

Savings for
persons
authorized to
conduct legal
proceedings.
22 and 23
Geo. 5
c.37, s.79.

71. Any person duly admitted as a solicitor shall be an officer of the Supreme Court, and shall be subject to the jurisdiction thereof in accordance with the provisions of the Supreme Court Ordinance, 1873.

Office of
Supreme
Court—
Jurisdiction
22 and 23
Geo. 5
c.37, s.80.
and Ordinance
No. 3 of
1873.

72. (1) The Legal Practitioners Ordinance, 1871, and any Ordinance amending the same are hereby repealed save to the extent specified in sub-section (1) of section 3.

Repeals.
Ordinance
No. 1 of
1871.

(2) Any admission, appointment, approval, enrolment, notice, certificate, instrument, order, rule, regulation, direction, appeal or proceeding under or for the purposes of any enactment repealed by this ordinance shall be treated as an admission, appointment, approval, enrolment, notice, certificate, instrument, order, rule, regulation, direction, appeal or proceeding under or for the purposes of the corresponding provision of this Ordinance.

Admissions,
orders, etc.
under repealed
Ordinance.

(3) Any document referring to any Ordinance or enactment repealed by this Ordinance shall be construed as referring to this Ordinance or the corresponding enactment in this Ordinance, and any register, roll or list kept under any ordinance or enactment so repealed shall be deemed part of the register, roll or list to be kept under the corresponding provisions of this Ordinance.

(4) Nothing in this section shall affect the general application of sections 12 and 14 of the Interpretation Ordinance, 1911, with regard to the effect of repeals.

Ordinance
No. 31 of
1911.

73. Any person who, after the date on which this Ordinance comes into force, intends to present himself for examination or to apply for admission, shall, notwithstanding that he shall before such date have served a part or the whole of the term he is or was bound under articles, comply with the relevant provisions of this Ordinance: Provided that where on the date of the coming into

Provisions
as to
examination,
admission,
etc., to apply
from date of
this Ordinance.

force of this Ordinance an articulated clerk shall have less than six months to serve of the prescribed period of service under articles, he shall, subject as follows, be entitled to elect to be examined for his final examination either in accordance with the regulations provided for by this Ordinance or under the regulations for the final examination made under the Legal Practitioners Ordinance, 1871. Such election shall be notified in writing by the articulated clerk to the registrar and to the Society not later than one month after the date of this Ordinance coming into force and in the event of his electing to be examined under the regulations made under the Legal Practitioners Ordinance, 1871, he shall be prepared to sit for such examination within six months from the date of the receipt by the Society of his election and in the event of his sitting for such examination and failing it shall not be competent for him to make any election thereafter.

Ordinance
No. 1 of
1871.

Fees.
Fourth
Schedule.

74. (1) The fees mentioned in the Fourth Schedule shall be payable to the registrar in respect of the matters therein mentioned.

Fifth
Schedule.

(2) The fees mentioned in the Fifth Schedule shall be payable to the Society in respect of the matters mentioned therein.

SCHEDULES.

FIRST SCHEDULE.

[section 16]

1. In the case of any person who, before entering into articles, has taken a degree, not being an honorary degree, in arts, law or science in any university specified in the Second Schedule the term shall be three years.

2. In the case of a person (other than a person who is qualified for exemption under sub-section (1) of section 20 of this Ordinance) who has been called to the Bar in England and has procured himself to be disbarred before entering into articles the term shall be three years.

3. In the case of a person who has been called to the Bar in England and who before being so called, was bound by articles for a term of five years and served thereunder three years and who has ceased to be a barrister before presenting himself for his final examination, the term of three years served under such articles as aforesaid shall without prejudice to the provisions of section 20 suffice if those articles were determined with the consent endorsed thereon of the solicitor with whom they were entered into.

4. In the case of any person who before entering into articles has been for 10 years a *bona fide* clerk to a solicitor or employed in any one or more of the judicial or legal departments of the Government of Hong Kong, and who in either case, produces to the society satisfactory evidence that he has served faithfully, honestly and diligently as such, the term shall be three years.

5. The Chief Justice may make regulations directing that in the case of any person who has passed any examination held in or by a University specified in the second Schedule to this Ordinance or any college or any educational institution specified in the regulations, the term shall be four years.

6. In the case of any other person, the term shall be five years.

SECOND SCHEDULE.

[section 3 (2)]

UNIVERSITIES RECOGNIZED FOR CERTAIN PURPOSES OF THIS ORDINANCE.

1. The universities specified in the Second Schedule to the Solicitors' Act, 1932, or added to the list under the provisions of that Schedule.

2. The University of Hongkong.

THIRD SCHEDULE. [section 18 (1)]

REGULATIONS AS TO EXAMINATION.

1. The final examination shall be set by examiners appointed by the Law Society in England and shall be based upon the subjects contained in the syllabus for the time being applicable to candidates for the solicitors' final examinations in England but modified in such manner as the Society may from time to time recommend.

2. A candidate for the final examination shall—

(i) give to the registrar and to the Society six months' notice in writing of his intention to sit for such examination stating whether he will present himself for examination in England or Hong Kong, and shall furnish to the registrar Affidavits by the candidate and by one or more persons having knowledge of the facts, setting forth particulars of his legal training and studies in Hong Kong or in England up to the date of the notice and of any arrangements for further training and study, if uncompleted, on the said date: Provided that the candidate shall furnish to the Society certified copies of such Affidavits and such additional evidence of his training and study up to the date of his examination as the Society may require;

(ii) pay to the Society in local currency fees equivalent to £15 Sterling.

3. The Society shall, upon being satisfied with the legal training which the candidate has received in Hong Kong or in England, arrange for the holding of the examination in the place specified and shall notify the candidate of the place and times as which he shall be required to attend.

4. If the Society is not satisfied with the legal training which the candidate has received in Hong Kong or in England, the examination shall be postponed until the candidate has fulfilled any conditions as to his further legal training or otherwise that the Society may impose and until the fulfilment of such conditions has been verified by Affidavit to the satisfaction of the Society.

5. The examiners shall in due course certify whether the candidate has passed or failed in the examination and any certificate issued by the examiners through the Law Society in England and forwarded to the Society shall be evidence of such passing or failure.

6. The Society shall upon receipt of the certificate referred to in regulation 5 issue a certified copy to the candidate.

7. Upon receipt of a certificate that the candidate has passed the final examination and subject to compliance with the other provisions of section 25 of this Ordinance, he shall be entitled to apply for admission under the said section.

8. If a candidate fails to satisfy the examiners he shall be entitled to give notice of his desire to be re-examined: Provided that such re-examination shall not be held until at least six months after receipt by the Society of the certificate of failure in the earlier examination.

9. These regulations shall save as regards regulation 8 apply to any re-examination.

FOURTH SCHEDULE. [section 74 (1)]

TABLE OF FEES PAYABLE TO THE REGISTRAR.

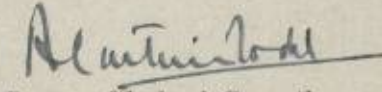
1. On the filing of an affidavit	\$ 2.00
2. On the enrolment and registration of articles or of any assignment of articles	20.00
3. On the entry of such articles or assignment in the book to be open to public inspection	10.00
4. On the registration of a notary public under section 31	5.00
5. On the admission of any person to practise as a solicitor whether on his own account or as clerk to another solicitor or firm of solicitors	300.00

FIFTH SCHEDULE. [section 74 (2)]

TABLE OF FEES PAYABLE TO THE SOCIETY.

1. On admission	\$200.00
2. On receiving any notice given under this Ordinance	10.00
3. On any certificate or consent required under this Ordinance	50.00
4. On application to sit for the final examination	£15

Passed the Legislative Council of Hong Kong, this 14th day of July, 1948.


Deputy Clerk of Councils.

HONG KONG

No. 38 OF 1948.



I assent.

[Signature]
Governor.

15th July, 1948.

An Ordinance to extend the period during which legal proceedings may be instituted and rights may be exercised.

[15th July, 1948.]

BE it 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 Enforcement of Short title. Rights (Extension of Time) Ordinance, 1948.

2. In this Ordinance—

Interpretation.

“debt” means any form of claim for payment of or obligation to pay money;

“disability period” means the period from the 8th of December, 1941, to the commencement of this Ordinance;

“legal proceedings” means any proceedings which might have been instituted at any time during the disability period before a competent court, tribunal or arbitrator and any defence counterclaim, set-off, rebuttal reply or objection which might have been made or relied upon before any such court, tribunal or arbitrator;

“period of limitation” means any period (whether prescribed by any enactment, instrument or otherwise and whether of definite or indefinite duration) which, by reason of the lapse thereof and by reason of the rules of law and principles of equity applicable to the Colony has, or would but for this Ordinance have, the effect of extinguishing any title estate interest or right or barring or prohibiting any right or the exercise thereof or any remedy for the enforcement or exercise of any right;

“person” includes an association of persons;



"right" means any right remedy power option privilege or facility.

3. Save to the extent hereinafter appearing the failure of a person during the disability period to institute or take any step in legal proceedings to enforce a debt or to avail himself, whether by legal proceedings or otherwise, of any right shall have no effect for the purpose of any period of limitation or for the purpose of any equitable doctrine of laches or acquiescence and, save to the extent hereinafter appearing, the rules of law and principles of equity shall in such matters as aforesaid be applied as if no period of time had elapsed between the 7th of December, 1941 and the commencement of this Ordinance.

4. In the case of any debt to which by article 6 of the Moratorium Proclamation the moratorium was declared not to apply section 3 shall have effect as if the disability period did not include any period subsequent to the 1st of May, 1946 and as if the words "and the 1st of May, 1946" were therein substituted for the words "and the commencement of this Ordinance".

5. Notwithstanding the above provisions in any case in which the court is satisfied that a person was at any material time after the 31st of August, 1945 able by himself or an agent effectively to exercise any right, not being a right—

(a) ancillary to or for better securing a right to recover or enforce any debt to which the Moratorium Proclamation applied; or

(b) a right conferred confirmed declared or amplified by the Land Transactions (Enemy Occupation) Ordinance, 1948;

then the court may, in its discretion, take into consideration for the purpose of any equitable doctrine of laches or acquiescence the failure to exercise such a right, not being a failure attributable to a reasonable expectation that provision affecting such a right would be made by some enactment applicable to the Colony.

6. This Ordinance shall bind the Crown.

Passed the Legislative Council of Hong Kong, this 14th day of July, 1948.

Alastair Todd
Deputy Clerk of Councils.

Exclusion of disability period from period of limitation or for purposes of laches or acquiescence.

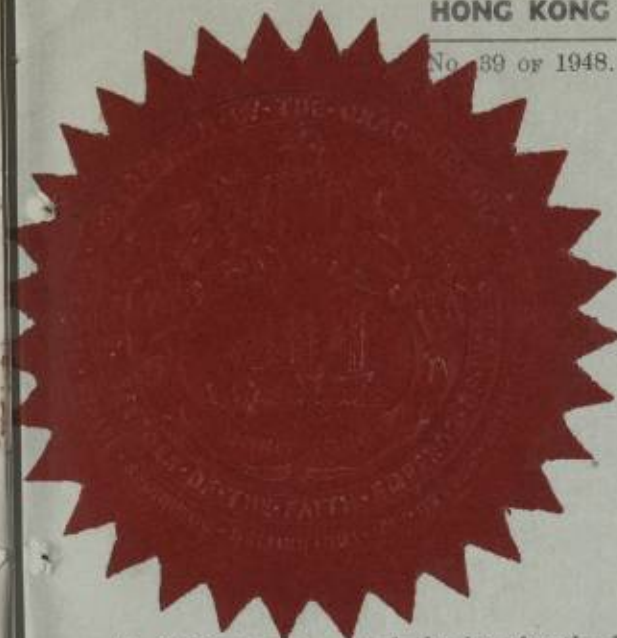
Disability period to end on 1st May, 1946 in the case of debts exempted from Moratorium Proclamation. Proclamation No. 6 of the B.M.A. B.M.A. Gazette of the 12th October, 1945.

Ability to exercise a right effectively may further reduce disability period to a date between 31st August, 1945 and the commencement of this Ordinance. Proclamation No. 6 of the B.M.A.

Crown to be bound by this Ordinance.

HONG KONG

No. 39 of 1948.



I assent.

John M. Macdonald
Governor.

29th July, 1948.

An Ordinance to amend the law for the Prevention of Corruption.

[30th July, 1948.]

BE it 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 Prevention of Corruption Short title Ordinance, 1948.

2. In this Ordinance—

“advantage” includes any office or dignity, and any forbearance to demand any money or money's worth or valuable thing, and includes any aid, vote, consent, or influence, or pretended aid, vote, consent or influence, and also includes any promise or procurement of or agreement or endeavour to procure, or the holding out of any expectation of any gift, loan, fee, reward, or advantage, as before defined;

Interpreta-
tion.
52 & 53 Vict.
c.69, s.7.

“agent” includes a public servant and any person employed by or acting for another;

“consideration” includes valuable consideration of any kind;

“person” includes a body of persons, corporate or unincorporate;

“principal” includes an employer;

“public body” includes any executive, legislative, municipal or urban council, any Government department or undertaking, any local or public authority or undertaking, any board, commission committee or other body whether paid or unpaid appointed by the Governor or Government of Hong Kong or which has power to act under or for the purposes of any enactment in force in the Colony;

"public office" means any office or employment permanent or temporary and whether paid or unpaid of a person as a member, officer, or servant of such public body;

"public servant" means in addition to the meaning assigned to it by the Interpretation Ordinance, 1911, any employee or member of a public body as defined in this Ordinance, whether temporary or permanent and whether paid or unpaid.

Ordinance
No. 31 of
1911, s. 39,
s.s. (10).

Corruption
in office an
offence.
s. 2 & 53 Vict.
c. 69, s. 1.

3. (1) Every person who shall by himself or by or in conjunction with any other person, corruptly solicit or receive, or agree to receive for himself, or for any other person, any gift, loan, fee, reward, or advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer, or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the said public body is concerned, shall be guilty of an offence.

(2) Every person who shall by himself or by or in conjunction with any other person corruptly give, promise, or offer any gift, loan, fee, reward, or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer, or servant of any public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body as aforesaid is concerned, shall be guilty of an offence.

Corrupt
transactions
with agents an
offence.
6 Ed. 7 c. 34.

4. If—

(i) any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having after the passing of this Ordinance done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs of business; or

(ii) any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having after the passing of this Ordinance done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

(iii) any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal;

he shall be guilty of an offence.

5. (1) Any person who commits an offence against section 3 of this Ordinance shall— Penalty for offences.

(a) be liable on summary conviction to imprisonment for a term not exceeding two years and to fine not exceeding five thousand dollars;

(b) be liable on conviction on indictment to imprisonment for a term not exceeding five years and to a fine not exceeding ten thousand dollars;

(c) in addition be liable to be ordered to pay to such body, and in such manner as the magistrate or the court directs, the amount or value of any gift, loan, fee, or reward received by him or any part thereof;

(d) be liable to be adjudged incapable of being elected or appointed to any public office for seven years from the date of his conviction, and to forfeit any such office held by him at the time of his conviction;

(e) in the event of a second conviction for a like offence he shall, in addition to the foregoing penalties, be liable to be adjudged to be forever incapable of holding any public office, and to be incapable for seven years of being registered as an elector of members of any public body, and any enactment from time to time in force in the Colony for preventing the voting and registration of persons declared by reason of corrupt practices to be incapable of voting shall apply to a person adjudged in pursuance of this section to be incapable of voting; and

(f) if such person is an officer or servant in the employ of any public body upon such conviction he shall, at the discretion of the magistrate or the court, be liable to forfeit his right and claim to any compensation or pension to which he would otherwise have been entitled.

(2) Any person committing an offence against section 4 of this Ordinance shall be liable—

(a) on summary conviction to imprisonment for a term not exceeding two years and to a fine not exceeding one thousand dollars;

(b) on conviction on indictment to imprisonment not exceeding five years and to a fine not exceeding ten thousand dollars;

(c) if such person is a public servant he shall at the discretion of the magistrate or the court be liable to be adjudged incapable of being elected or appointed to any public office for seven years from the date of his conviction, and to forfeit any such office held by him at the time of his conviction; and

(d) in addition to be ordered to pay to his principal and in such manner as the magistrate or the court may direct, any gift or consideration or any part thereof.

Increase of maximum penalty in certain cases.
6 & 7 Geo. V. c.64, s.1.

6. A person convicted on indictment of an offence under section 3 or section 4 shall, where the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with His Majesty or any Government Department or any public body or a sub-contract to execute any work comprised in such a contract, be liable to imprisonment for a term not exceeding seven nor less than three years: Provided that nothing in this section shall prevent the infliction in addition to imprisonment of such punishment other than imprisonment as may be inflicted under sub-section (1) or sub-section (2) of section 5.

Savings.

7. A person shall not be exempt from punishment under this Ordinance by reason of the invalidity of the appointment or election of a person to a public office.

Restriction on prosecution.
6 Ed. 7 c.34, s.2.

8. A prosecution for an offence under this Ordinance shall not be instituted except by or with the consent of the Attorney General or Solicitor General.

Evidence of accomplice.

9. Notwithstanding any rule of practice or procedure to the contrary in the event of a person being charged with an offence against section 3 or section 4, a judge shall not be required to direct the jury that it is dangerous to convict on the evidence of an accomplice without corroboration in a material particular implicating the accused, but in every such case the jury shall be directed to convict if they are satisfied beyond reasonable doubt that the evidence of such accomplice is worthy of belief.

Special powers of investigation.

10. (1) Notwithstanding anything in any other law contained, the Attorney General if satisfied that there are reasonable grounds for suspecting that an offence against this Ordinance has been committed by any person may in writing specially authorise a police officer not below the rank of Assistant Superintendent of Police to investigate any bank account, share account or purchase account of such person and such authority shall be sufficient warrant for the production of such accounts and documents as may be required for scrutiny by the officer so authorised.

(2) Any person who fails to disclose such information to a police officer so authorised shall be guilty of an offence against this Ordinance and shall be liable on summary conviction to imprisonment for a term not exceeding one year and to a fine not exceeding two thousand dollars.

Presumption of corruption in certain cases.
6 & 7 Geo. V. c.64, s.2.

11. Where in any proceedings against a person for an offence under this Ordinance, it is proved that any money, gift, or other consideration has been paid or given to or received by a person in the employment whether permanent or temporary and whether paid or unpaid of His Majesty or any Government Department or a public body by or from a person, or agent of a person, holding or seeking to obtain a contract from His Majesty or from the Government of Hong Kong or from any Government Department or public body, the money, gift, or consideration shall be deemed to have been paid

or given and received corruptly as such inducement or reward as is mentioned in section 3 or section 4 unless the contrary is proved.

12. It is hereby declared that in any trial or inquiry by a magistrate or a court in respect of an offence against this Ordinance of evidence, it may be proved and taken into consideration by such magistrate or court that an accused person—

(a) is in possession or has disposed of pecuniary resources or property disproportionate to his known sources of income for which he cannot satisfactorily account; or

(b) has at or about the time of an alleged offence obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account.

13. Sections 2, 3 and 4 of the Misdemeanors Punishment Ordinance, 1898, are hereby repealed.

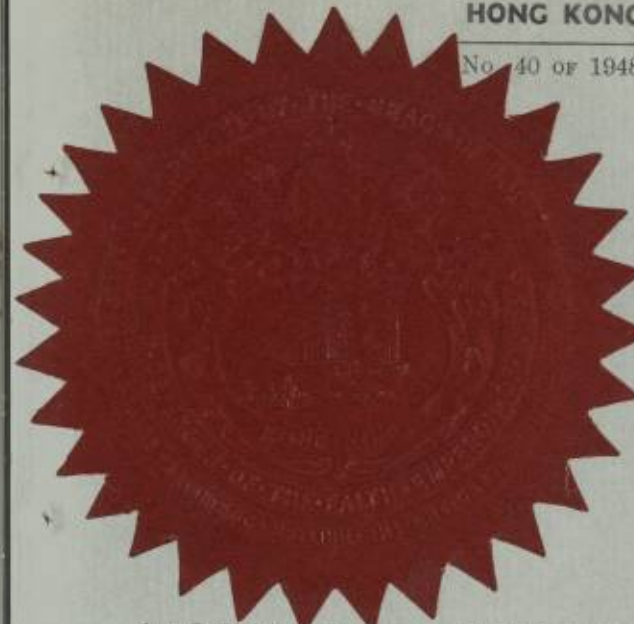
Repeal of sections 2, 3 and 4 of Ordinance No. 1 of 1898.

Passed the Legislative Council of Hong Kong, this 28th day of July, 1948.

Arthur Lock
Deputy Clerk of Councils.

HONG KONG

No. 40 of 1948.



I assent.

[Signature]
Governor.

29th July, 1948.

An Ordinance to amend the Land Registration Ordinance, 1844.

[30th July, 1948.]

BE it 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 Land Registration (Fees Amendment) Ordinance, 1948, and shall be read as one with the Land Registration Ordinance, 1844, hereinafter referred to as the principal Ordinance.

Short title.
Ordinance
No. 1 of
1844.

2. The Table of Fees in the Second Schedule to the principal Ordinance shall be repealed and replaced by the following—

Repeal and
replacement
of the Table
of Fees in
the Second
Schedule to
the principal
Ordinance.

TABLE OF FEES PAYABLE TO THE LAND OFFICER (S.26).

1. Registration of every deed, assignment, mortgage or other instrument in writing, where the amount or value of the consideration money or value, or value of the property—

Does not exceed	\$ 1,000		\$ 1
Exceeds	\$ 1,000		\$ 5
„	\$ 5,000		\$15
„	\$ 20,000		\$30
„	\$100,000		\$60

2. Registration of every will, probate, letters of administration, judgment, decree, prohibitory order, or other order of court, or receiving any verified certificate \$ 5

3. Registration of a lis pendens \$10

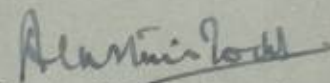
4. Entering a discharge of a lis pendens \$10



5. Certificate of such entry of discharge \$10
6. Receiving for safe custody any deed, will or other instrument \$15
7. A search, for each lot, or (memorials only) per volume of 100 memorials \$ 2
8. Certificate of receipt of any document or certifying a copy thereof, and for every other certificate \$15
9. Supplying a copy of any will, deed, memorial or other instrument per folio of 72 words \$ 1.50
10. Registration of a memorial of a writ of foreign attachment \$10
11. Filing a certificate that a writ of foreign attachment is dissolved, or that the judgment in the action is satisfied \$10
12. For the signature of the Governor to any Crown lease or other document issued through the Land Office, including affixing the public seal of the Colony where such seal is necessary \$20
13. Plans attached to a Crown lease and counterpart, or other document, or copies thereof, per plan ... \$25
14. Legal charges for and incidental to the preparation and issuing of a Crown lease and counterpart* \$75
15. For the survey when a Crown lease is re-issued for the whole or any portion of a lot formerly held under demise by Crown lease \$50

* *Note*:—When the holder of a lot or portion or section thereof is required to take up a further Crown lease after the first lease to him, solely because of more than one house being erected thereon, he may be released from this payment by the Land Officer.

Passed the Legislative Council of Hong Kong, this 28th day of July, 1948.


Deputy Clerk of Councils.

THE POLICE FORCE ORDINANCE, 1948.

ARRANGEMENT OF SECTIONS.

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2. Application.
3. Interpretation.
4. Administration of police force by Commissioner.
5. Commissioner or deputy commissioner may exercise powers of a police officer.
6. Powers and duties to be exercised subject to regulations and orders.
7. All police officers liable for service at any place in the Colony.
8. Duties of police force.

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9. Constitution of police force.
10. Payment of police force.
11. Appointment, etc., of gazetted police officers.
12. Appointment of inspectors and non-commissioned officers.
13. Appointment of police constables.
14. Interdiction.
15. Warrant card.
16. Exemption in respect of civil process.
17. Village representative to have police powers and duties in certain cases.
18. Police officer to be deemed on duty.
19. Clothing.
20. Engagement of inspectors, non-commissioned officers and constables.
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- 26. Resignation during term of engagement.
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- 28. Delivery of Government property on leaving the force.
- 29. Desertion.

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- 43. Police regulations.
- 44. Revocation of pension.
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- 51. Person arrested to be discharged on recognizance or brought before a magistrate.
- 52. Power of arrest.
- 53. Search, arrest and detention.
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- 55. Power to detain person, etc., removing furniture in night-time.
- 56. Detention and sale of vehicle, etc., of person apprehended.
- 57. Power of arrest in case of certain offences against sanitation.
- 58. Finger prints, photographs, etc.
- 59. Protection of police officer acting in execution of warrant.
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- 63. Repeal.

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HONG KONG

No. 41 OF 1948.



I assent.

Governor.

12th August, 1948.

An Ordinance to amend and consolidate the law relating to the Police Force.

[13th August, 1948.]

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

PART I.

PRELIMINARY.

1. This Ordinance may be cited as the Police Force Ordinance, 1948, and shall come into operation on such date as the Governor shall appoint by Proclamation. Short title. Commencement.

2. All the provisions of this Ordinance shall apply to all persons who, at the commencement of this Ordinance, are serving in the police force established under any Ordinance repealed by this Ordinance and service under any such repealed Ordinance shall for the purpose of pay allowances, gratuities and pensions, be deemed to be service under this Ordinance. Application

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

“Commissioner” means the Commissioner of Police of the Colony;

“commanding officer” or “officer commanding” means a deputy commissioner, an assistant commissioner, the superintendents in charge of the detective and special branches of the Criminal Investigation Department of the police force, the commandant of the Police Training School and any officer lawfully acting in any of these appointments;

“gazetted police officer” includes officers of all ranks from and including the Commissioner down to and including police cadet;

“inspector” means an inspector of police of whatever grade or rank;

“non-commissioned officer” means a police officer below the rank of inspector down to and including corporal and also includes detectives of corresponding ranks;

“police constable” or “constable” means a police officer under the rank of corporal and also includes detective police constable or detective constable;

“police officer” includes any member of the police force;

“police regulations” means regulations made in exercise of the powers conferred by section 43 of this Ordinance and any regulations continued or continuing in force upon the enactment of this Ordinance;

“Police Welfare Fund” means the fund established under section 37 of this Ordinance;

“special constable” means any person recruited under section 24.

4. The Commissioner, subject to the orders and control of the Governor, shall be charged with the supreme direction and administration of the police force.

5. The Commissioner or a deputy commissioner may exercise and perform any of the powers conferred or duties imposed by law on a police officer.

Administration of police force by Commissioner.

Commissioner or deputy commissioner may exercise powers of a police officer.

6. All powers granted to and duties imposed by law on any police officer shall be exercised or performed in accordance with police regulations and police orders made under this Ordinance.

Powers and duties to be exercised subject to regulations and orders.

7. All police officers shall be bound to serve at any place in the Colony or on board any vessel in the service of the Government of the Colony.

Police officers liable for service at any place in the Colony.

8. The duties of the police force shall be to take lawful measures for—

Duties of police force.

(a) preserving the public peace;

(b) preventing and detecting crimes and offences;

(c) preventing injury to life and property;

(d) apprehending all persons whom it is lawful to apprehend and for whose apprehension sufficient grounds exist;

(e) regulating processions and assemblies in public places or places of public resort;

(f) controlling traffic upon public thoroughfares and removing obstructions therefrom;

(g) preserving order in public places and places of public resort, at public meetings and in assemblies for public amusements, for which purpose any police officer on duty shall have free admission to all such places and meetings and assemblies while open to any of the public;

(h) assisting in carrying out any revenue, excise, sanitary, conservancy, quarantine, immigration and alien registration laws;

(i) assisting in preserving order in the waters of the Colony and in enforcing port and maritime regulation therein;

(j) executing summonses, subpoenas, warrants, commitments and other process issued by the courts;

(k) exhibiting informations and conducting prosecutions;

(l) protecting unclaimed and lost property and finding the owners thereof;

(m) taking charge of and impounding stray animals;

- (n) assisting in the protection of life and property at fires;
- (o) protecting public property from loss or injury;
- (p) attending the criminal courts and, if specially ordered, the civil courts and keeping order therein;
- (q) escorting and guarding prisoners;
- (r) executing such other duties as may by law be imposed on a police officer.

PART II.

CONSTITUTION OF POLICE FORCE.

Constitution of police force.

9. The police force of the Colony shall consist of such gazetted police officers, inspectors, non-commissioned officers and constables as shall by annual vote or otherwise be from time to time provided for by the Governor and the Legislative Council.

Payment of police force.

10. Provisions for the payment and maintenance of the police force under this Ordinance shall be by charges on the general revenues of the Colony, to such amounts and in such proportion as may from time to time by annual vote or otherwise be voted by the Legislative Council.

Appointment, etc., of gazetted police officers.

11. A gazetted police officer shall be appointed, interdicted, suspended or dismissed according to the terms of the Regulations for His Majesty's Colonial Service and the General Orders of the Hong Kong Government for the time being in force but subject nevertheless to any special conditions of his appointment.

Appointment of inspectors and non-commissioned officers.

12. (1) An inspector may be appointed and promoted by the Commissioner and may be dismissed by the Governor.

(2) A non-commissioned officer may be appointed, advanced in salary, promoted, reverted or dismissed by the Commissioner and may be appointed or advanced in salary by a commanding officer.

Appointment of police constables.

13. A police constable may be appointed, advanced in salary, promoted or dismissed by the Commissioner, and may be appointed or advanced in salary by a commanding officer.

Interdiction.

14. If in any case the Commissioner considers that the public interest requires that any inspector, non-commissioned officer or constable should cease to exercise the powers and functions of his office instantly, he may interdict such officer

from the exercise of such powers and functions provided that disciplinary or criminal proceedings are being instituted or are about to be instituted against such officer. An officer who has been interdicted under this section shall be allowed to receive such proportion of his pay, not being less than one-half, as the Commissioner shall, in every such case, direct. If the proceedings against any such officer do not result in his dismissal or other punishment he shall be entitled to the full amount of the pay which he would have received if he had not been interdicted.

15. A warrant card shall be issued to every police officer, and shall be evidence of his appointment under this Ordinance. Warrant card.

16. (1) Subject to the provisions of sub-section (2) of this section— Exemption in respect of civil process.

(a) the pay and allowances of a non-commissioned officer or constable shall not be assignable or transferable or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever;

(b) no non-commissioned officer or constable shall be liable to be imprisoned under an order of any court by reason of non-payment of any debt which he may have incurred or for which he may become liable.

(2) The provisions of sub-section (1) of this section shall not apply to—

(a) a debt due to His Majesty or to the Hong Kong Government;

(b) a fine imposed by law;

(c) an order for the payment of alimony or maintenance made by any court.

(3) The pay and allowances of a non-commissioned officer or constable shall not pass to the official receiver or a trustee on the bankruptcy of such non-commissioned officer or constable nor shall they form part of his estate for the purpose of bankruptcy.

17. The Governor may, by notification in the *Gazette*, impose upon any village representative, deputy village representative or assistant village representative the duties of a police officer and may invest any such person with the powers conferred by law upon a police officer not above the rank of sergeant. Every such person so invested will take the same oath or make the same declaration as a police officer. Village representative to have police powers and duties in certain cases.

Police officer to be deemed on duty.

18. Every police officer shall for the purposes of this Ordinance be deemed to be always on duty when required to act as such and shall perform the duties and exercise the powers granted to him under this Ordinance or any other law at any and every place in the Colony where he may be doing duty.

Clothing.

19. Every police officer shall be provided with such articles of uniform and equipment as may be necessary for the effectual discharge of his duties. Such articles shall be kept and used according to police orders.

Engagement of inspectors, non-commissioned officers and constables.

20. An inspector, non-commissioned officer or constable shall engage to serve in the police force for such periods and on such conditions as may be prescribed in the police regulations.

Engagements to be in writing.

21. (1) Every such engagement shall be in writing signed by the person engaged and in such form as may from time to time be directed by the Secretary of State or the Colonial Secretary and shall—

(a) if made in the Colony be signed by a commanding officer or any other officer authorised thereto under the police regulations; or

(b) if made outside the Colony by some person authorised thereto in that behalf by the Governor.

(2) Notwithstanding anything in any other law contained, any male person not below the age of 18 years shall be deemed competent to enter into an engagement under this Ordinance.

Continuance of service.

22. (1) Every non-commissioned officer or constable who shall continue in the police force after the completion of the period of service for which he originally engaged shall be deemed to be under engagement to serve from month to month; every such engagement after the first month's service being held to commence on the first, and to be determinable on the last day of each successive month.

(2) No such officer shall resign from the police force unless he shall have given not less than one calendar month's notice in writing to the Commissioner or the gazetted police officer under whom he is serving, as the case may be.

23. It shall be lawful for the Governor in Council to require any non-commissioned officer or constable to retire from the police force who—

Compulsory retirement for inefficiency or age.

(a) appears to the Governor to be unable to discharge efficiently the duties of his office; or

(b) has attained the age of 45 years.

24. (1) The Commissioner may without written engagement employ persons to serve temporarily as special constables.

Special constables.

(2) A special constable shall be deemed to be under engagement to serve from month to month, every such engagement being held to commence on the first and to be determinable on the last day of each successive month.

(3) A special constable may be discharged at any time after one month's notice in writing or may resign upon giving to the Commissioner one month's notice in writing.

(4) A special constable shall have and may exercise all the powers and privileges of a constable belonging to the police force and shall be liable to all the provisions of discipline prescribed for a constable while so serving.

25. (1) The Commissioner may, at any time, terminate the engagement of an inspector during his first agreement by giving him three months' notice in writing or on paying him one month's salary in lieu of notice.

Discharge of inspector, non-commissioned officer and constable.

(2) A commanding officer may discharge from the police force upon one month's notice in writing any non-commissioned officer or constable who has not completed 10 years' service.

26. (1) An inspector shall be entitled to claim his discharge at any time during his first engagement on giving three months' notice in writing to the Commissioner of his wish to resign from the force or upon payment of one month's salary in lieu of notice.

Resignation during term of engagement.

(2) A non-commissioned officer or constable shall be entitled to claim his discharge at any time during his first engagement on giving one month's notice in writing to the gazetted police officer under whom he is serving of his intention to resign the police force.

Declaration
of office.

27. Every police officer shall, before entering on the duties of his office, take before a magistrate or justice of the peace an oath or declaration of office in the form specified in the Schedule to this Ordinance.

Schedule.

Delivery of
Government
property
on leaving
the force.

28. (1) Every police officer who by resignation, dismissal, discharge or otherwise leaves the police force, shall before leaving deliver up each and every article of uniform, clothing, arms, accoutrement and other Government property which may be in his possession.

(2) Any person neglecting so to deliver up such property shall be liable on summary conviction before a magistrate to a fine not exceeding one hundred dollars or imprisonment for a term not exceeding three months, and in addition thereto shall be liable to pay the value of the property not delivered up which value shall be ascertained by such magistrate in a summary way and shall be recoverable as a fine.

Desertion.

29. Any police officer who deserts shall be liable on summary conviction to imprisonment for a term not exceeding twelve months and all arrears of pay due to him shall be forfeited.

PART III.

DISCIPLINE AND DUTIES.

Police
officers
to obey
lawful
orders.

30. Every police officer shall obey all lawful orders of his superior officers whether given verbally or in writing and shall obey and conform to police regulations and orders made under this Ordinance.

Punishment
of non-
commis-
sioned
officers and
constables.

31. (1) Any non-commissioned officer or constable who shall be guilty of any of the following offences—

- (a) absence from duty without leave or good cause;
- (b) sleeping on duty;
- (c) conduct to the prejudice of good order and discipline;
- (d) cowardice in the performance of duty;
- (e) disobedience of police regulations, or any police orders, whether written or verbal;

(f) being unfit for duty through intoxication,

(g) insubordination;

(h) neglect of duty or orders;

(i) malingering;

(j) in the course of his duty making a statement which is false in a material particular;

(k) excess of duty resulting in loss and injury to any other person;

(l) wilful destruction or negligent loss of or injury to government property;

(m) conduct calculated to bring the public service into disrepute,

shall be liable on conviction before a commanding officer or any other officer authorised under the police regulations to any of the following punishments:—

(i) reduction in rank or class

(ii) forfeiture of not more than one month's pay (except in the case of absence without good cause, when forfeiture of pay shall extend to the period of absence in addition to any other punishment inflicted).

In lieu of or in addition to either of the aforesaid punishments, any such non-commissioned officer may be dismissed from the police force by the Commissioner and in such case shall be reduced to the ranks before dismissal or he may be ordered to resign forthwith in which case he shall not receive salary in lieu of notice.

(2) A constable who shall be guilty of any of the offences specified in sub-section (1) of this section, shall be liable, in lieu of or in addition to any of the punishments specified therein to imprisonment in any building set aside as a guard room or cell for any term not exceeding seven days with rations of bread (or rice) and water or to not more than two of the following punishments:—

(i) confinement to barracks not exceeding 14 days;

- (ii) compulsory performance of extra duties or drills;
- (iii) such fatigue duties as may be prescribed in the police general orders;
- (iv) temporary deprivation of specified privileges;
- (v) forfeiture of good conduct allowance.

(3) Any non-commissioned officer or constable may appeal against any punishment inflicted under this section to the Commissioner within thirty days from the promulgation of the punishment in routine orders. In every case where an appeal has been lodged the sentence shall be suspended pending the determination of the appeal.

(4) If it shall appear to the commanding officer enquiring into any such offence that the offence is of such an aggravated character as to require a more severe punishment than that specified in sub-sections (1) and (2) of this section, the person accused may be charged before a magistrate and shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

(5) Any non-commissioned officer or constable convicted before a magistrate under this section may, as a result of such conviction, be reduced in rank or dismissed from the police force by a commanding officer.

Punishment
of
inspector.

32. (1) The Commissioner may punish any inspector for any of the offences specified in sub-section (I) of section 31 by reprimand, severe reprimand, with or without deferment or stoppage of increment or forfeiture of not more than one month's pay.

(2) Any such inspector aggrieved by such punishment may within thirty days from the promulgation of the punishment in headquarter orders appeal to the Governor.

(3) If it shall appear to the Commissioner that the offence is of such an aggravated character as to require more severe punishment than that specified in sub-section (1) of this section the inspector accused may be charged before a magistrate and shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(4) Any inspector convicted before a magistrate under this section may, as a result of such conviction, be reduced in rank or dismissed from the police force by the Commissioner unless the conviction is reversed on appeal.

33. Any police officer who threatens or insults another officer of senior or equal rank when such other officer is on duty or when such threat or insult relates to or is consequent on the discharge of duty by the officer so threatened or insulted, shall be liable on conviction before a magistrate to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding one year.

Threaten-
ing or
insulting
another
officer of
senior or
equal rank.

34. (1) Any non-commissioned officer or constable convicted under the provisions of section 29, sub-section (4) of section 31 or section 33 or convicted under the provisions of any other law of an offence punishable with imprisonment may, unless the conviction is reversed on appeal, be reduced in rank or dismissed from the police force and in case of dismissal any arrears of pay due to him may be forfeited by order of the Commissioner.

Reduction
or dismissal
after con-
viction.

(2) Any non-commissioned officer dismissed from the police force in accordance with the provisions of sub-section (1) of this section shall be reduced to the ranks before dismissal.

35. (1) Nothing in this Ordinance shall be construed to exempt any police officer from being proceeded against by the ordinary course of law when accused of any offence punishable under any other ordinance or law.

Police
officer not
exempted
from
ordinary
process
of law.

(2) No police officer who has been acquitted by a magistrate or the Court of any crime or offence shall be tried departmentally on the same charge.

(3) Any sentence of imprisonment passed upon any constable for any offence under this Ordinance may be carried out in a police cell or in a place set aside as a prison under section 2 of the Prisons Ordinance, 1932. A sentence passed upon any person subject to this Ordinance shall be in no respect affected by such person ceasing to be subject to this Ordinance by discharge or otherwise.

Ordinance
No. 38 of
1932.

(4) Every officer in charge of a prison shall receive into his custody and carry out any sentence of imprisonment passed upon any constable for any offence under this Ordinance upon an order in writing being delivered to him under the hand of a magistrate or a gazetted police officer,

which order shall specify the offence and period of imprisonment.

(5) Every person whilst undergoing any such sentence of imprisonment shall be deemed to be and be dealt with as a criminal prisoner.

(6) (a) No pay or allowance shall be payable to any police officer following the date of the conviction of such officer by a magistrate or the Court for any crime or offence unless the approval of the Commissioner of such payment shall be given.

(b) No pay or allowance shall accrue to any police officer in respect of any period during which he is undergoing any sentence of confinement to cells.

36. Nothing in this Ordinance contained shall be construed to limit the right of the Crown or the Government to dismiss or terminate the appointment of any police officer and without compensation.

Saving of the prerogative rights of the Crown, etc.

PART IV.

WELFARE FUND.

37. (1) There shall be established a fund to be known as the "Police Welfare Fund".

(2) The fund shall consist of—

(a) all sums forfeited by or fines inflicted on police officers other than sums forfeited by or fines inflicted by a magistrate or competent court under the powers conferred by this Ordinance;

(b) all sums paid for hire of police officers;

(c) all illegal gratifications offered to police officers and confiscated by an order of court.

(d) any donations and voluntary contributions;

(e) such sums as may be voted annually by the Legislative Council.

(3) The fund shall be controlled by the Commissioner subject to police regulations and applied to the purpose of—

(a) recompensing inspectors, non-commissioned officers and constables for extra services rendered by them;

Welfare Fund.

(b) procuring for inspectors, non-commissioned officers and constables who are serving or who have been retired on pension or gratuity, comforts, convenience or other advantages not chargeable to the public revenue; and

(c) granting loans to police officers who are serving or who have been retired on pension or gratuity on rates and terms in accordance with police regulations.

PART V.

UNCLAIMED PROPERTY AND INTESTATE ESTATES.

38. (1) Particulars of any property which comes into the custody or possession of the police other than in connection with any criminal charge or under section 40 of this Ordinance shall be forwarded to the Commissioner.

Disposal of property deposited at police stations.

(2) If any person shall establish his title to such property to the satisfaction of the Commissioner within three months after the property comes into the custody or possession of the police, the same shall be delivered to him on payment of all expenses reasonably incurred and of such sum, not exceeding one-fifth of the value of the property, as may be awarded by the Commissioner by way of reward to the finder (if any) of the property.

(3) If the title to any such property is not so established within the said period of three months, the property may be returned to the finder (if any) not being a member of the police force on payment by him of such expenses.

(4) If any finder or person establishing title as aforesaid fails or refuses immediately to pay the said expenses or sum awarded, the property may be sold and the proceeds of sale after deduction of all expenses reasonably incurred shall be paid to such finder or person establishing title; in the case of payment to a person establishing title there shall also be deducted such sum as may be awarded by the Commissioner as a reward to the finder (if any) of the property.

(5) If title to the property is not established and either the finder cannot be traced or the property came into the custody or possession of the police otherwise than through a finder, the property may be sold and after deduction of all expenses reasonably incurred the proceeds of sale shall be paid into the Treasury.

Disposal of unclaimed property of persons in custody on remand.
Ordinance No. 38 of 1932.

Power to administer certain property of deceased persons.

39. Any property of a person held in custody on remand which comes into the custody or possession of the police in accordance with the requirements of this Ordinance or of the Prisons Ordinance, 1932, or of any regulations or orders made thereunder which remains unclaimed by any such person for a period of one month from the discharge of such person from custody may be sold and after deduction of expenses reasonably incurred the proceeds of sale shall be paid into the Treasury.

40. (1) Whenever any person dies leaving goods and chattels in the Colony under five hundred dollars in value, which goods and chattels are, in the absence of any person entitled thereto, taken charge of by the police for the purpose of safe custody, the Commissioner may, if he thinks fit, order the said goods and chattels to be delivered, without grant of probate or letters of administration taken out, to any person claiming to be entitled to the whole or any part thereof, if he shall be satisfied as to the title of the claimant and the value of the goods and chattels by the oath or affirmation of the claimant, or by such other evidence as he may require.

(2) In the event of any such goods and chattels being of a perishable nature or likely to be deteriorated in value by being kept the Commissioner may order the sale thereof and the proceeds of such sale shall be dealt with in the manner specified in sub-section (1) of this section.

(3) The Commissioner may, at his discretion, before making any order under the preceding sub-sections, take such security as he may think proper for the due administration and distribution of such goods and chattels. Nothing in this section contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

(4) Any goods and chattels taken charge of under this section and not claimed within the period of one month, may be sold and the proceeds of sale shall be paid into the Treasury: Provided always that if at any time thereafter the owner of such goods and chattels shall appear and claim the same, restitution shall be made, on the claim being established to the satisfaction of the Governor, out of the Treasury.

Disposal of valueless unclaimed goods or chattels.

41. If goods and chattels of the nature specified in sections 38, 39 and 40 are of no appreciable value or of value so small in the opinion of the Commissioner as to render impracticable the sale of such property, the Commissioner may

order such property to be destroyed or otherwise disposed of as he thinks fit.

PART VI.

PROCEDURE.

42. In all matters in which by this Ordinance or by police regulations made thereunder jurisdiction is given to certain police officers to inflict punishments, the powers of a magistrate may be exercised by such officers in so far as is necessary to enable them to exercise such jurisdiction.

Powers of magistrates to be exercised by certain police officers.

43. (1) The Governor in Council may make such regulations to be called "Police Regulations" as he may think expedient not inconsistent with the provisions of this Ordinance. Such regulations in addition to the powers hereinbefore conferred may provide for—

Police regulations.

- (a) conditions of service including pensions and gratuities;
- (b) organisation and distribution;
- (c) appointments, pay, resignations, discharges, dismissals, reductions and reversions;
- (d) discipline and punishments;
- (e) leave of absence and fares and passages on such leave;
- (f) description of uniforms, arms and accoutrements to be provided;
- (g) administration of the Police Welfare Fund;
- (h) such other matters as may be necessary and expedient for preventing abuse or neglect of duty, and for rendering the police force efficient in the discharge of its duties, and for carrying out the objects of this Ordinance.

(2) Whenever the Governor in Council is satisfied that it is equitable that any regulation made under this section should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person that regulation may be given retrospective effect for that purpose: Provided that no such regulation shall have retrospective effect unless it has received the prior approval of the Legislative Council signified by resolution.

(3) Every regulation made under this section shall be published in the *Gazette*.

Revocation
of pension.

44. If within three years after the granting of a pension under regulations in force under this Ordinance it is proved to the satisfaction of the Governor in Council that the person to whom such pension has been granted has been guilty of any corrupt practice in the execution of his office either by receiving bribes or by inducing or compelling payment directly or indirectly of any valuable consideration to himself or to any other person by way of bribe or by otherwise acting corruptly in the execution of or under colour of his office as a member of the police force, the Governor in Council may revoke and annul the grant of such pension or make such reduction therein as to the Governor in Council may appear fit.

Police
General
Orders.

45. The Commissioner may from time to time make orders to be called "Police General Orders" as he may think expedient not inconsistent with the provisions of this Ordinance and of police regulations. Such Orders in addition to the powers hereinbefore conferred may provide for—

- (a) discipline, training and the regulation and carrying out of punishment;
- (b) classifications and promotions;
- (c) instructions and examinations;
- (d) inspections, drill, exercises and parades;
- (e) police services and duties of every description and the manner in which they shall be carried out;
- (f) the institution and maintenance of police messes, canteens, reading rooms and the welfare of the police force;
- (g) departmental finance;
- (h) buildings, grounds, stores, furniture and equipment;
- (i) transfers of police officers and constables, the places at which they shall reside and the particular services to be performed by them;
- (j) the collection and communication of intelligence and information;
- (k) the manner and form of reports, correspondence and other records;
- (l) the performance of any act which may be necessary for the proper carrying out of the provisions of this or any other Ordinance or any rules or regulations made thereunder or for the efficient discharge of any duty imposed by law on the police force;

(m) such other matters as may be necessary and expedient for preventing abuse or neglect of duty, for rendering the police force efficient in the discharge of its duties, and for carrying out the objects of this Ordinance.

46. The Commissioner may issue orders of a routine nature to be called "Headquarter Orders" for the control, direction and information of the police force provided that such orders are not inconsistent with the provisions of this Ordinance or police regulations or police general orders.

Head-
quarter
Orders.

47. Commanding officers may issue orders to be called "Routine Orders" for the control, direction and information of the police beneath their respective commands: Provided that such orders are not inconsistent with the provisions of this Ordinance or police regulations, police general orders or headquarter orders. They may also issue "standing orders" for special tasks of a regular nature: Provided that such orders are not inconsistent with the provisions of this Ordinance, police regulations, police general orders, headquarter orders and routine orders.

Routine
orders
and
standing
orders.

48. The Commissioner may delegate any of his powers under sections 38, 39, 40 or 41 to any member of the police force by office and such delegations will be published in police general orders.

Delegation
of certain
powers by
Commis-
sioner.

PART VII.

MISCELLANEOUS PROVISIONS.

49. (1) It shall be lawful for any police officer to apprehend any person who may be charged with or whom he may reasonably suspect of being guilty of any offence without any warrant for that purpose and whether he has seen such offence committed or not and also any person whom he may reasonably suspect of being liable to deportation from the Colony.

Arrest,
detention
and bail of
suspected
persons
and
seizure of
suspected
property.

(2) If any such person forcibly resists the endeavour to arrest him or attempts to evade the arrest, such officer or other person may use all means necessary to effect the arrest.

(3) If any such officer has reason to believe that any person to be arrested has entered into or is in any place the person residing in or in charge of such place shall on demand of any such officer allow him free ingress thereto and afford all reasonable facilities for search therein.

(4) If ingress to such place cannot be obtained under sub-section (3) of this section it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity of escape from a police officer, to enter such place and search therein and in order to effect an entrance into such place to break open any outer or inner door or window of any place whether that of the person to be arrested or of any other person if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

(5) Any police officer or other person authorised to make an arrest may break open any place in order to liberate himself or any other person who having lawfully entered for the purpose of making an arrest is detained therein.

(6) Where any person is apprehended by a police officer it shall be lawful for such officer to search for and take possession of any newspaper book or other document or any portion or extract therefrom and any other article or chattel which may be found on his person or in or about the place at which he has been apprehended and which the said officer may reasonably suspect of throwing light on the character or activities of such person or his associates: Provided that nothing in this sub-section shall be construed in diminution of the powers of search conferred by any particular warrant.

(7) Whenever it appears to a magistrate upon the oath of any person that there is reasonable cause to suspect that there is in any building vessel (not being a ship of war or a ship having the status of a ship of war) or place any newspaper book or other document, or any portion or extract therefrom, or any other article or chattel which may throw light on the character or activities of any person liable to apprehension under this section or on the character or activities of the associates of any such person, such magistrate may by warrant directed to any police officer empower him with such assistants as may be necessary by day or by night—

(a) to enter and if necessary to break into or forcibly enter such building vessel or place and to search for and take possession of any such newspaper book or other document or portion of or extract therefrom or any such other article or chattel which may be found therein, and

(b) to arrest any person who may appear to have such newspaper book or other document or portion thereof or extract therefrom or other article or chattel in his possession or under his control.

50. Every person taken into custody by a police officer with or without a warrant, except a person detained for the mere purpose of taking his name and residence, shall be forthwith delivered into the custody of the officer in charge of a police station or a police officer authorised in that behalf by the Commissioner.

Person arrested to be delivered to custody of police officer in charge of police station.

51. (1) Whenever any person apprehended with or without a warrant is brought to the officer in charge of any police station or a police officer authorised in that behalf by the Commissioner, it shall be lawful for such officer to inquire into the case and unless the offence appears to such officer to be of a serious nature or unless such person appears to such officer to be a person who ought to be detained, to discharge the person upon his entering into a recognizance, with or without sureties, for a reasonable amount, to appear before a magistrate or to surrender for service of a warrant of arrest and detention or for discharge at the time and place named in the recognizance; but where such person is detained in custody he shall be brought before a magistrate as soon as practicable, unless within forty-eight hours of his apprehension a warrant for his arrest and detention under any law relating to deportation is applied for, in which case he may be detained for a period not exceeding seventy-two hours from the time of such apprehension. Every recognizance so taken shall be of equal obligation on the parties entering into the same and shall be liable to the same proceedings for the estreating thereof as if the same had been taken before a magistrate.

Person arrested to be discharged on recognizance or brought before a magistrate.

(2) The respective names residences and occupations of the person so apprehended and of his surety or sureties, if any, entering into such recognizance, together with the condition thereof and the sums respectively acknowledged, shall be entered in a book to be kept for that purpose which shall be laid before the magistrate before whom the person apprehended is to appear or in the case of a person bound by recognizance to surrender for service of a warrant of arrest and detention or for discharge, before any magistrate; and if such person does not appear or has not appeared when called upon at the time and place mentioned in the recognizance, the magistrate

shall forthwith estreat the recognizance: Provided that if the person apprehended appears and makes application for a postponement of the hearing of the charge against him, the magistrate may enlarge the recognizance to such further time as he may think proper, and when the matter has been heard and determined such recognizance shall be discharged without fee or reward.

(3) If, upon a person being taken into custody as aforesaid, it appears to the officer in charge of the police station or a police officer authorised in that behalf by the Commissioner that the inquiry into the case cannot be completed forthwith, he may discharge the said person on his entering into a recognizance, with or without sureties, for a reasonable amount to appear at such police station and at such time as is named in the recognizance, unless he previously receives a notice in writing from the officer in charge of the police station or a police officer authorised in that behalf by the Commissioner that his attendance is not required; and any such recognizance may be enforced as if it were a recognizance for the appearance of the said person before a magistrate.

(4) Whenever any person apprehended with or without warrant is a member of His Majesty's Forces it shall be lawful for the officer in charge of a police station if he deems fit to hand over such person to the custody of the appropriate authority of His Majesty's Forces for detention by such authority; but where such person is so detained in custody he shall be produced before the officer in charge of a police station when required and, if charged, before a magistrate as soon as practicable and in any case not later than forty eight hours from the time of apprehension.

Power of arrest.

52. Any warrant lawfully issued for any purpose may be executed by any police officer at any time notwithstanding that the warrant is not in his possession at the time, but the warrant shall, on the demand of the person affected, be shown to him as soon as practicable after its execution.

Search arrest and detention.

53. It shall be lawful for any police officer to stop and search and if necessary to arrest and detain for further inquiries any person whom he may find in any street or other public place, or on board any vessel, or in any conveyance, at any hour of the day or night, who acts in a suspicious manner or whom he may suspect of having committed or of being about to commit or of intending to commit, any offence.

54. It shall be lawful for any police officer to stop, search and detain any vessel boat vehicle horse or other animal or thing in or upon which there is reason to suspect that anything stolen or unlawfully obtained may be found and also any person who may be reasonably suspected of having or conveying in any manner anything stolen or unlawfully obtained; and any person to whom any property is offered to be sold or delivered, if he has reasonable cause to suspect that any such offence has been committed with respect to such property, or that the same or any part thereof has been stolen or otherwise unlawfully obtained, is hereby authorised and if it is in his power, is required to apprehend and detain such offender and as soon as may be to deliver him into the custody of a police officer together with such property to be dealt with according to law.

Power to stop, search and detain vessels, etc., or person suspected of conveying stolen property.

55. It shall be lawful for a police officer to stop and detain until due inquiry can be made, any person whom, and any vehicle horse or other animal or thing which he finds employed in removing the furniture of any house or lodging between 8 p.m. and 6 a.m., or whenever such officer has good grounds for believing that such removal is made for the purpose of evading the payment of rent.

Power to detain person, etc., removing furniture in night-time.

56. (1) When any person having charge of any vehicle boat horse or any other animal or thing is taken into the custody of a police officer under this Ordinance, it shall be lawful for any such officer to take charge of such horse vehicle or boat or such other animal or thing and to deposit the same in some place of safe custody as a security for payment of any penalty to which the person having had charge thereof may become liable and of any expenses necessarily incurred for taking charge of and keeping the same.

Detention and sale of vehicle etc. of person apprehended.

(2) It shall be lawful for the magistrate before whom the case is heard to order such vehicle boat horse or such other animal or thing to be sold for the purpose of satisfying such penalty and reasonable expenses, in default of payment thereof, in like manner as if the same had been subject to be distrained and had been distrained for the payment thereof.

57. Notwithstanding any provision of any enactment relating to public health or sanitation which limits the power to institute summary proceedings in certain cases, it shall be lawful for any police officer to institute summary proceedings before a magistrate against any person contravening any such

Power of arrest in case of certain offences against sanitation.

provision of any such enactment as regulates the sale of food-stuffs elsewhere than in public markets: Provided that nothing in this section shall be deemed to authorise the arrest of any offender unless the contravention is committed in a highway or other public place.

Finger
prints,
photo-
graphs, etc.

58. It shall be lawful for any police officer to take the photograph finger prints weight and measurements—

(a) of any person who has been arrested under the powers conferred by this or any other law, and

(b) of any person who has been convicted of any offence:

Provided that if any such person who has not previously been convicted of any offence shall have been photographed and measured, be discharged by a magistrate or acquitted upon his trial, all photographs (both negatives and copies) finger print impressions and records of weight or measurement so taken shall be forthwith destroyed or handed over to such person.

Protection
of police
officer
acting in
execution of
warrant.

59. In case any action is brought against any police officer for any act done in obedience to the warrant of any magistrate, such officer shall not be responsible for any irregularity in the issuing of the warrant or for any want of jurisdiction in the magistrate issuing the same and he may plead the general issue and give such warrant in evidence; and on production of the warrant and proof that the signature thereto is the handwriting of a person reputed to be a magistrate and that the act was done in obedience to the warrant, the jury or court shall find a verdict or give judgment for the defendant who shall also recover double his costs of suit.

Penalty on
victualer,
etc.,
harbouring
police
officer
while on
duty.

60. Every keeper of any place for the entertainment of the public whether spirituous liquors are sold thereon or not, who knowingly harbours or entertains any police officer on duty, or permits him to remain in such place while on duty, shall upon summary conviction be liable to a fine not exceeding two hundred and fifty dollars.

Penalty on
person
assaulting,
etc., police
officer in
execution
of duty, or
misleading
officer
by false
information.

61. Every person who assaults or resists any police officer acting in the execution of his duty, or aids or incites any person so to assault or resists, or refuses to assist any such officer in the execution of his duty when called upon to do so, or who, by the giving of false information with intent to defeat or delay the ends of justice, wilfully misleads or attempts to mislead any such officer, shall upon summary conviction be liable to a fine

not exceeding two hundred and fifty dollars and to imprisonment for any term not exceeding six months.

62. (1) On the application of any person the Commissioner may, if he thinks fit, detail any police officer or police officers to do special police duty in upon or about any premises or business or vessel specified by the applicant.

Special
duty and
expenses
thereof.

(2) The applicant shall pay to the Commissioner for the services of any such officer or officers so detailed such fees as the Commissioner may think fit.

(3) All fees so received by the Commissioner shall be paid by him into the Treasury forthwith to the credit of the Police Welfare Fund and be accounted for monthly; and every sum of money due for such services shall be deemed a debt due to the Crown and shall be recoverable by the Financial Secretary in like manner as other Crown debts in respect of fees and otherwise under the Crown Remedies Ordinance, 1875.

Ordinance
No. 6 of
1875.

PART VIII.

REPEAL.

63. The Police Force Ordinance, 1932, the Police Force Amendment Ordinance, 1934, the Police Force Amendment Ordinance, 1936, and sections 2, 3 and 4 of the Police Force and Peace Preservation Amendment Ordinance, 1938, are hereby repealed.

Repeal.
Ordinances
Nos.
37 of 1932,
36 of 1934,
2 of 1936,
27 of 1938.

SCHEDULE.

(Section 27).

Schedule.

OATH OF OFFICE.

1,
swear by Almighty God that I will obey, uphold and maintain the laws of the Colony of Hong Kong and that I will at all times execute the powers and duties of my office honestly faithfully and diligently without fear of or favour to any person and with malice or ill will toward none.

AND I do further swear that I will at all times obey without question the lawful orders of those set in authority over me.

Sworn before me this day of 19.....

.....
Magistrate/Justice of the Peace.

DECLARATION OF OFFICE.

I,
do solemnly and sincerely declare that I will obey, uphold and maintain the laws of the Colony of Hong Kong and that I will at all times execute the powers and duties of my office honestly, faithfully and diligently without fear of or favour to any person and with malice or ill-will toward none.

AND I further declare that I will at all times obey without question the lawful orders of those set in authority over me.

Declared before me this day of 19.....

.....
Magistrate/Justice of the Peace.

Passed the Legislative Council of Hong Kong, this
11th day of August, 1948.

Alastair Todd
Deputy Clerk of Councils.

HONG KONG

No. 42 OF 1948.



I assent.

Alastair Todd
Governor.

12th August, 1948.

An Ordinance to amend the Separation and Maintenance Orders Ordinance, 1935.

[13th August, 1948.]

BE it 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 Separation and Maintenance Orders (Amendment) Ordinance, 1948, and shall be read as one with the Separation and Maintenance Orders Ordinance, 1935, hereinafter referred to as the principal Ordinance.

Short title.
Ordinance
No. 49 of
1935.

2. Section 5 of the principal Ordinance is hereby amended—

Amendment
of section 5
of the
principal
Ordinance.

(a) by the substitution of the words "two hundred and fifty" for the word "fifty" in the third line of paragraph (c) thereof; and

(b) by the substitution of the word "thirty" for the word "ten" in the third line of paragraph (d) thereof.

Passed the Legislative Council of Hong Kong, this 11th day of August, 1948.

Alastair Todd
Deputy Clerk of Councils.



HONG KONG

No. 43 OF 1948.

I assent.

W. H. Alexander
Governor.

26th August, 1948.

An Ordinance to regulate and control prospecting and mining for radio-active minerals and the export thereof and for purposes connected therewith.

[27th August, 1948.]

BE it 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 Radio-Active Minerals Ordinance, 1948. Short title.

2. In this Ordinance—

Interpre-
tation.

“ To attempt to export ” means to do any act preparatory to or for the purpose of exportation, not being an act connected with an application for a permit to export;

“ Export ” means to take or cause to be taken out of the Colony by land, air or water, and includes the export of anything taken or sent from any country and brought into the Colony by land, air or water (whether or not landed or transhipped in the Colony) for the sole purpose of being carried to another country either by the same or another conveyance;

“ licence ” means a licence issued under the provisions of section 3 of this Ordinance;

“ mine ” with its grammatical variations and cognate expressions, includes all operations for the intentional winning or obtaining of any radio-active mineral;

“ permit ” means a permit issued under the provisions of section 5 of this Ordinance;

“ prospect ” with its grammatical variations and cognate expressions, means to search for any radio-active mineral and

includes such working as is reasonably necessary to enable the prospector to test the radio-active mineral-bearing qualities of the area concerned;

"radio-active mineral" means any substance specified in the Schedule to this Ordinance.

Prospecting and mining restricted. Ordinance No. 7 of 1906.

3. (1) Notwithstanding anything in the Prospecting and Mining Ordinance, 1906, contained no person shall within the Colony prospect for or mine, or attempt to prospect for or mine, any radio-active mineral except under and in accordance with a licence granted by the Governor.

(2) If any such mineral is discovered in the course of prospecting under a licence granted in accordance with section 2 of the Prospecting and Mining Ordinance, 1906, the holder of such licence shall immediately notify the Colonial Secretary of such discovery.

(3) If any such mineral is discovered in the course of mining under a licence granted in accordance with section 3 of the Prospecting and Mining Ordinance, 1906, no such mineral shall be removed without the consent of the Governor.

Holder of licence to report his operations.

4. Every holder of a licence shall within the first week of every month furnish the Colonial Secretary with a true report in writing of the prospecting and mining operations conducted by him in the immediately preceding month with respect to radio-active minerals.

Export restricted.

5. No person shall export, or attempt to export, from the Colony any radio-active mineral except under and in accordance with a permit granted by the Superintendent of Imports and Exports in that behalf.

Grant of licence or permit discretionary.

6. The grant of a licence or a permit shall be in the absolute discretion of the person authorised to issue such a licence or permit who shall be under no obligation to assign any reason for refusing the grant thereof.

Form of licence.

7. Every licence shall be subject to the payment of such fee as the Governor may determine and shall be in such form and for such period and shall contain such terms and conditions as the issuing authority may think fit to impose.

Offences.

8. (1) Every person who—

(a) prospects for or mines, or attempts to prospect for or mine, any radio-active mineral within the Colony without a licence; or

(b) being the holder of a licence, prospects for or mines, or attempts to prospect for or mine, any radio-active mineral within the Colony otherwise than in accordance with any term or condition of his licence; or

(c) being the holder of a licence issued in accordance with the provisions of the Prospecting and Mining Ordinance, 1906, fails to comply with the requirements of sub-sections (2) and (3) of section 3 of this Ordinance; or

Ordinance No. 7 of 1906.

(d) being the holder of a licence, fails to comply with the requirements of section 4 of this Ordinance; or

(e) exports, or attempts to export, from the Colony any radio-active mineral without a permit; or

(f) being the holder of a permit, exports, or attempts to export, from the Colony any radio-active mineral otherwise than in accordance with any term or condition of his permit; or

(g) obtains, or attempts to obtain, a licence or permit by means of any false statement or representation;

shall, upon summary conviction, be liable to imprisonment for a period not exceeding one year or to a fine of five thousand dollars or to both such imprisonment and fine.

(2) The Court before which any person is convicted of an offence under sub-section (1) of this section shall order the forfeiture to His Majesty of any radio-active mineral or prospecting or mining apparatus derived from, or employed in the commission of, any act in respect of which such person was convicted.

9. (1) Any police officer of or above the rank of Sub-Inspector or any other officer or class of officers authorised in writing by the Governor in that behalf, may, for the purposes of enforcing the provisions of this Ordinance, without warrant or other legal process—

Powers of examination.

(a) enter and search any place where he has reasonable grounds for suspecting that an offence under this Ordinance has been, or is about to be, committed;

(b) search any person whom he has reasonable grounds for suspecting to have committed, or to be about to commit, an offence under this Ordinance;

(c) arrest any person whom he has reasonable grounds for suspecting to have committed, or to be about to commit, an offence under this Ordinance;

(d) seize any radio-active mineral or prospecting or mining apparatus connected therewith which he has reasonable grounds to suspect to be, or to be about to be, derived from, or employed in, the commission of any offence under this Ordinance.

(2) Where any person is arrested, or any radio-active minerals or prospecting or mining apparatus is seized, under the provisions of sub-section (1) of this section, such person, mineral and apparatus shall, as soon as practicable, be brought before a magistrate.

(3) Every person who obstructs, or attempts to obstruct, whether actively or passively, any officer in the execution, or purported execution, of his duties under this section, shall be liable, upon summary conviction, to imprisonment for a period not exceeding six months or to a fine of two thousand dollars or to both such imprisonment and fine.

Power of
Governor
in Council
to vary
Schedule.

10. The Governor in Council may from time to time by order alter, vary or in any manner amend the Schedule to this Ordinance.

Saving.

11. Nothing in this Ordinance shall be deemed to exempt any person from compliance with the provisions or requirements of the Prospecting and Mining Ordinance, 1906, or the Importation and Exportation Ordinance, 1915, or any other enactment.

Ordinance
No. 7 of
1906.
Ordinance
No. 32 of
1915.

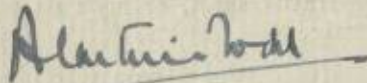
Regulations.

12. The Governor in Council may make such regulations for giving better effect to the provisions of this Ordinance as he may deem to be necessary or expedient.

SCHEDULE.

- (1) Minerals of the pitchblende group, including pitchblende, uraninite, ulrichite, broggerite, cleveite, and related mineral species.
- (2) Torbernite and autunite.
- (3) Secondary uranium minerals other than torbernite and autunite, including rutherfordine, uranite, uranophane, gummite, thorogummite, uranocircite, kasolite, becquerelite, and other silicates, hydrates, carbonates, phosphates or arsenates of uranium.
- (4) Carnotite and tyuyamunite.
- (5) Uranium-bearing niobate-titanate-tantalate ores, including euxenite, polycrase, blomstrandine, priorite, samarskite, fergusonite, betafite, plumboniobite, and related mineral species containing over one per cent. uranium oxide.
- (6) Monazite, thorite, thorianite and radio-active zircon.

Passed the Legislative Council of Hong Kong, this 25th day of August, 1948.

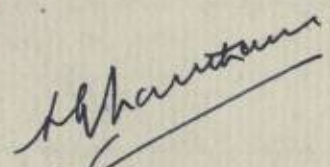

Deputy Clerk of Councils.

HONG KONG

No. 44 OF 1948.



I assent.


Governor.

26th August, 1948.

An Ordinance to relieve tenants from payment of rent in respect of the period of Japanese occupation and to adjust the rights of landlords and tenants.

[27th August, 1948.]

BE it 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 Rent (War Period) Short title. Relief Ordinance, 1948.

2. In this Ordinance—

The expressions "landlord" and "tenant" shall include their executors, administrators and assigns;

Interpreta-
tion.

"premises" means the premises subject to a tenancy whether such tenancy was for domestic, office, professional, business, trade or other purposes and includes a pier or wharf;

"tenant" includes the Crown, a sub-tenant and a statutory tenant but does not include any person holding directly from the Crown;

"war period" means the period commencing with the 8th of December, 1941, and ending with the 16th September, 1945.

3. Save as hereinafter expressly provided—

(a) all claims for payment of rent payable for any premises in respect of any period comprised in the war period shall be deemed to have been waived;

Rent during
the war period
irrecoverable,
save as
hereinafter
provided.



(b) no Court shall entertain any such claim whether the same be advanced by way of claim, counterclaim or set-off or howsoever the same may be advanced.

4. (1) It is hereby declared that section 3 shall not apply—

Provision for payment of rent in certain cases.

(a) to any rent actually paid to or received by a landlord or his agent;

(b) to any rent or other consideration paid or due in pursuance of any agreement arrived at between landlord and tenant by way of settlement of claims by the landlord for the rent of any premises in respect of the war period or part thereof.

(2) Section 3 shall not apply to any tenancy in respect of which the tenant, after the commencement of this Ordinance, makes a claim against the landlord for breach of the covenants on the landlord's part, express or implied, occurring during the war period: Provided that section 3 shall nevertheless apply if in the case of a breach occurring during the war period but continuing thereafter the claim is limited to breaches continuing subsequent to the war period.

5. Where, by virtue of the law which would be applicable if this Ordinance had not been passed, a landlord would have been entitled to claim rent against a tenant, and property belonging to the tenant remained on the premises and was subsequently restored to the tenant by or on behalf of the landlord, there shall be payable to the landlord, by the tenant, such a sum as will fairly compensate the landlord for suffering such property to remain on the premises and for his care thereof and for any expenses incurred in preserving the same.

Compensation to landlord in cases where tenant's property was stored on the premises and ultimately restored.

6. The compensation referred to in the preceding section shall, in default of agreement, be ascertained by submission to the arbitration of two arbitrators, one to be appointed by either party, and sections numbered 539 to 550 inclusive of the Code of Civil Procedure shall apply to any such submission in like manner as if this section were a written agreement by the parties to submit their differences to arbitration.

Submission of claim, in default of agreement, to arbitration.

Ordinance No. 3 of 1901.

7. The Crown shall be entitled to the benefit of this Ordinance.

Crown entitled to the benefit of this Ordinance.

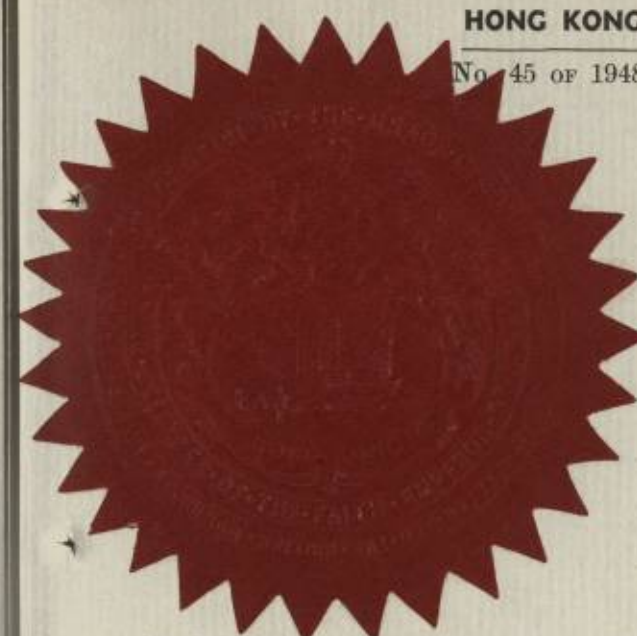
Passed the Legislative Council of Hong Kong, this 25th day of August, 1948.

Arthur W. L. L.

Deputy Clerk of Councils.

HONG KONG

No. 45 of 1948.



I assent.

[Signature]
Governor.

26th August, 1948.

An Ordinance to amend the Public Health (Sanitation) Ordinance, 1935.

[27th August, 1948.]

BE it 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 Health (Sanitation) Amendment Ordinance, 1948, and shall be read as one with the Public Health (Sanitation) Ordinance, 1935, hereinafter referred to as the principal Ordinance.

Short title.
Ordinance
No. 15 of
1935.

2. The following sub-sections are hereby substituted for sub-sections (3), (5), (8) and (9) respectively of section 75 of the principal Ordinance:

Repeal and
replacement
of sub-
sections (3),
(5), (8) and
(9) of
section 75
of the
principal
Ordinance.

"Authority
for issuing
permits.

(3) Such permit may be granted in respect of any authorised cemetery or urn cemetery or any place other than an authorised cemetery or urn cemetery by the Council under the hand of the Secretary.

Council may
grant per-
mits in
other cases.

(5) Notwithstanding provisions of sub-section (2) it shall be lawful for the Council under the hand of the Secretary to grant a permit, for the removal of any body or the remains of any body from any place other than an authorised cemetery, to any person who in the opinion of the Council has a sufficient interest in the disposal of the body or remains in question.



Power of
Chairman
of the
Urban
Council to
order
removal of
any body
or remains.

(8) It shall be lawful for the Chairman, Urban Council, whenever he shall deem it expedient, to remove any body or the remains of any body from any grave or urn in an authorised cemetery or urn cemetery and by order under his hand to direct such removal to be made in such manner as he shall think fit: Provided that no such order shall be made directing any such removal from an authorised cemetery or urn cemetery until six months' notice of the intention to make it shall have been given by notification in the Gazette.

Power of
Governor in
Council to
order remo-
val of any
body or
remains.

(9) Whenever the Governor in Council is satisfied that it is expedient so to do he may by order direct the removal of any body or the remains of any body from any grave or urn in an authorised cemetery or urn cemetery in such manner as he shall think fit: Provided that no such order shall be made until one month's notice of the intention to make it shall have been given by notification in the Gazette."

3. The notification given by Gazette Notification No. 700 in respect of bodies and remains of bodies in Kennedy Town Cemetery shall be deemed to have been lawfully given under the sub-section by this Ordinance substituted for sub-section (9) of section 75 of the principal Ordinance.

Notification
of intention
to make
an order
in respect of
bodies and
remains in
Kennedy
Town
Cemetery to
be deemed to
comply with
this section.

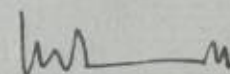
Passed the Legislative Council of Hong Kong, this 25th day of August, 1948.

Alan Turing
Deputy Clerk of Councils.

HONG KONG

No. 46 OF 1948.

I assent.



Officer Administering the
Government.

9th September, 1948.

An Ordinance to amend the Stamp Ordinance, 1921.

[10th September, 1948.]

Be it 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 Stamp (Amendment) Ordinance, 1948, and shall be read as one with the Stamp Ordinance, 1921, hereinafter referred to as the principal Ordinance.

Short title.
Ordinance
No. 8 of
1921.

2. Section 4 of the principal Ordinance is hereby amended by the insertion of the following paragraph immediately after paragraph (a) thereof:—

Amendment
of section 4
of the
principal
Ordinance.

“(aa) for providing that this Ordinance shall apply to the New Territories with such adaptations as he shall think fit or that instruments or classes of instruments affecting land in the New Territories or affecting land therein of a particular character or executed for a particular purpose shall bear less stamp duty or a lesser rate of stamp duty than any duty or rate of stamp duty imposed by or under this Ordinance or that any such instrument or class of instrument as aforesaid shall be exempt from stamp duty;”.

3. The following section shall be substituted for section 5A of the principal Ordinance:—

Repeal and
replacement of
section 5A
of the
principal
Ordinance.

“Excess stamp duty. 5A. (1) In addition to any stamp duty payable by reason of the last preceding section there shall be payable also by way of excess stamp duty on any new conveyance a stamp duty of \$3 for every \$100 or part thereof of the amount or value of the consideration for

such new conveyance: Provided that such excess stamp duty shall not become payable in respect of the value of the consideration of property comprised in a conveyance which has already borne the excess stamp duty imposed by this sub-section or in respect of the value of the consideration of property comprised in a conveyance which has borne the excess stamp duty made payable by the Stamp (Amendment) Ordinance, 1946.

Ordinance
No. 22 of
1946.

(2) In this section—

“conveyance on sale” shall not include a conveyance on sale registered in the Japanese House Registration Office as defined by the Stamp (Occupation Transactions) Proclamation, 1946, nor shall it include an assignment or reassignment exempt from *ad valorem* duty by virtue of Article 3 of the aforesaid Proclamation;

“new conveyance” means a conveyance on sale executed after the commencement of this Ordinance;

“property” means any estate or interest in land.

(3) Where a new conveyance purports to convey for one consideration property previously comprised in a conveyance which has borne excess stamp duty and property not so comprised the collector shall apportion such consideration between such properties according to what he considers to be the true value thereof and shall assess excess stamp duty accordingly.”

4. (1) The second column of the Schedule to the principal Ordinance is hereby amended—

(a) by the substitution opposite heading number 15 of the symbol and figure “\$2” for the symbol and figure “\$1”; and

(b) by the substitution opposite heading number 44 of the symbol and figure “\$2” for the symbol and figure “\$1”.

(2) For the purpose of removing doubts it is hereby declared that all duties which by reason of any provision in the principal Ordinance (including the Schedule thereto) are ascertainable by direct or indirect reference to the duty payable on a conveyance on sale shall be ascertainable by reference to the increased duty resulting from the substitution effected by paragraph (a) of sub-section (1) of this section.

5. The following amendments are made in the last line of such parts of the first column of the Schedule to the principal Ordinance as apply to the heading numbers hereinafter specified:—

(a) Heading number 3—the words, symbols and figure “Shares: (1) Contract note, etc.” are substituted for the words “Share contract”;

Increase in
duty on con-
veyance on
sale and
correspond-
ing increase
in duties
ascertainable
by reference
to it.

Amendments
to first
column of
Schedule
to the
principal
Ordinance.

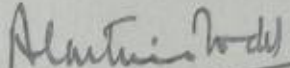
(b) Headings number 12 and number 14—the brackets and figure “(1)” are substituted for the brackets and figure “(4)” after the word “shares”.

6. (1) Notwithstanding anything herein contained where a new conveyance is executed pursuant to a duly stamped agreement entered into before the 25th August, 1948, such conveyance shall be deemed to be lawfully stamped if it is stamped or presented for adjudication seven days after execution and is stamped either in accordance with the law in force before the commencement of this Ordinance or with the law in force immediately after such commencement.

Saving and
transitional
provisions.

(2) Without prejudice to the provisions of sub-section (1) hereof all instruments presented for stamping after the commencement of this Ordinance whether presented out of time or not, shall be liable and be deemed always to have been liable to pay such stamp duties as are in force immediately after the commencement of this Ordinance in lieu of the duties in force immediately prior to the commencement of this Ordinance.

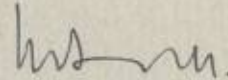
Passed the Legislative Council of Hong Kong, this 8th day of September, 1948.


Deputy Clerk of Councils.

HONG KONG

No. 47 of 1948.

I assent.


Officer Administering the
Government.

9th September, 1948.

An Ordinance to provide for the remission of taxes, duties and fees to which trade commissioners and assistant trade commissioners may be subjected when payment of such moneys is inconsistent with the privileges of that office.

[10th September, 1948.]

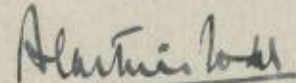
Be it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof:

1. This Ordinance may be cited as the Trade Commissioners' Privileges Ordinance, 1948. Short title.

2. "Trade commissioner" means a person recognised by the Governor as being employed in this Colony by any self-governing dominion or any state or province of a self-governing dominion or any self-governing Colony as a trade commissioner or an assistant trade commissioner. Interpretation.

3. The Governor may direct that any tax, duty or fee payable by a trade commissioner under the law of this Colony as from time to time amended may be remitted when in the opinion of the Governor such tax, duty or fee is payable by a person to whom and in respect of a matter from which exemption should be granted by reason of the treatment accorded by the Government represented by such trade commissioner to persons representing His Majesty's United Kingdom Government in a similar capacity. Remission of taxes, duties and fees.

Passed the Legislative Council of Hong Kong, this 8th day of September, 1948.


Deputy Clerk of Councils.



HONG KONG

No. 48 of 1948.



I assent.

*Officer Administering the
Government.*

22nd September, 1948.

An Ordinance to amend the Railways Ordinance, 1909.

[24th September, 1948.]

BE it 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 Railways (Amendment) Ordinance, 1948, and shall be read as one with the Railways Ordinance, 1909, hereinafter referred to as the principal Ordinance.

Short title.
Ordinance
No 48 of
1948.

2. Sub-section (2) of section 32 of the principal Ordinance is hereby amended by the addition of the following paragraph after paragraph (b):—

Amendment
of sub-section
(2) of section
32 of the
principal
Ordinance.

“(bb) prescribing the conditions under which tickets shall be issued, including conditions for the examination and search for the purpose of enforcing any enactment in force in the Colony or for customs purposes of the person, baggage or goods of passengers travelling on the Railway to or from a place in the Colony from or to a destination in China”.

3. Section 35 of the principal Ordinance is hereby amended:—

Amendment
of section 35
of the
principal
Ordinance.

(a) by substituting the words “a fine not exceeding the basic monthly salary paid to such person” for the words “a penalty not exceeding twenty-five dollars” in the fifth and sixth lines of sub-section (2); and

(b) by the substitution of the following sub-section for sub-section (6)—

“(6) This section shall not apply to any railway official in receipt of a basic salary the minimum figure on the scale of which is, in the case of a male four hundred dollars per month or more and, in the case of a female three hundred and twenty dollars per month or more.”

Amendment of section 45A of the principal Ordinance.

4. Section 45A of the principal Ordinance is hereby amended by the addition of the following sub-section:—

“(3) Where goods have been declared to be forfeited under the provisions of the foregoing sub-section upon information supplied by a person other than a public servant it shall be lawful for the administrator, subject to any general or special instructions of the Governor in Council, to authorise the payment to such person of an amount, not exceeding one-quarter of the proceeds of sale realised or to be realised upon the sale of such goods, which he considers will constitute an appropriate reward. In the event of such person being a person employed by the Chinese Maritime Customs any reward payable under this sub-section shall in lieu of being paid to such person be paid to such official of the Chinese Maritime Customs as may, in the opinion of the administrator, be authorised to receive it.”

Amendment of sub-section (2) of section 55 of the principal Ordinance.

5. Sub-section (2) of section 55 of the principal Ordinance is hereby amended by substituting the words “twenty-five dollars” for the words “five dollars” appearing in the third line thereof.

Increase of penalties in certain sections of the principal Ordinance.

6. The respective sections appearing in the first column of the Schedule are hereby amended by substituting therein the penalties appearing in the second column for the penalties appearing in the third column of the Schedule.

SCHEDULE.

Section	New Penalty	Old Penalty
30	a fine not exceeding two hundred and fifty dollars.	a fine not exceeding fifty dollars.
38(1)	a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months.	a fine not exceeding two hundred and fifty dollars.
39	a fine not exceeding two hundred and fifty dollars.	a fine not exceeding fifty dollars.
40	a fine not exceeding two hundred and fifty dollars.	a fine not exceeding fifty dollars.
41(1)	a fine not exceeding fifty dollars.	a fine not exceeding ten dollars.

Section	New Penalty	Old Penalty
42	a fine not exceeding two hundred and fifty dollars.	a fine not exceeding fifty dollars.
44	a fine not exceeding two hundred and fifty dollars.	a fine not exceeding fifty dollars.
47	a fine not exceeding one hundred dollars for every ton of goods and not exceeding fifty dollars for any quantity less than a ton.	a fine not exceeding twenty dollars for every ton of goods and not exceeding ten dollars for any quantity less than a ton.
48(2)	a fine not exceeding five hundred dollars.	a fine not exceeding one hundred dollars.
49	a fine not exceeding one thousand dollars.	a fine not exceeding two hundred and fifty dollars.
50	a fine not exceeding two hundred and fifty dollars.	a fine not exceeding fifty dollars.
50	a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months.	a fine not exceeding two hundred and fifty dollars.
51	a fine not exceeding two hundred and fifty dollars.	a fine not exceeding fifty dollars.
52	a fine not exceeding two hundred and fifty dollars.	a fine not exceeding fifty dollars.
53	a fine not exceeding five hundred dollars or imprisonment for a term not exceeding three months.	a fine not exceeding one hundred dollars.
54	a fine not exceeding two hundred and fifty dollars or imprisonment for a term not exceeding three months.	a fine not exceeding fifty dollars or imprisonment for any term not exceeding three months.
55(1)	a fine not exceeding twenty-five dollars for each such animal.	a fine not exceeding five dollars for each such animal (i.e. animal trespassing or straying).
56	a fine not exceeding one thousand dollars or imprisonment for a term not exceeding one year.	a fine not exceeding two hundred and fifty dollars or imprisonment for any term not exceeding one year.
57	a fine not exceeding two hundred and fifty dollars.	a fine not exceeding fifty dollars.
58	a fine not exceeding two hundred and fifty dollars.	a fine not exceeding fifty dollars.