

including the amount or any compensation reasonably paid under this Ordinance.

(2) In any proceedings by the Government to recover any costs referred to in subsection (1), a certificate purporting to be signed by the Director of Accounting Services shall, unless the contrary is proved, be proof of the amount of the costs incurred.

(3) In this section "owner", in relation to a registered ship, means the person or persons registered as its owner, except that in relation to a ship owned by a State which is operated by a person registered as the ship's operator, it means the person registered as its operator.

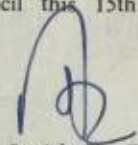
Offences.

11. Any person who without reasonable excuse—

(a) obstructs a competent authority, or a public officer acting in exercise of his powers under this Ordinance, or any public officer or other person accompanying or assisting any such public officer; or

(b) fails to comply with any direction given under section 6(1), commits an offence and is liable to a fine of \$20,000 and to imprisonment for one year.

Passed by the Hong Kong Legislative Council this 15th day of June, 1977.

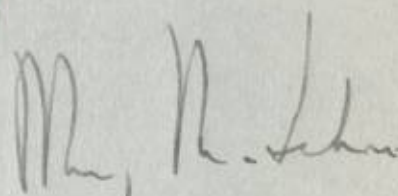

Clerk to the Legislative Council.

HONG KONG

No. 45 OF 1977



I assent.


Governor.

16th June, 1977.

An Ordinance to amend the Road Traffic Ordinance.

[]

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

1. (1) This Ordinance may be cited as the Road Traffic (Amendment) (No. 2) Ordinance 1977. Short title and commencement

(2) The Governor may by notice published in the *Gazette* appoint the day on which this Ordinance, or any part or provision of this Ordinance, shall come into operation and may at different times, appoint different days for different parts or provisions.

2. Section 2(2) of the principal Ordinance is amended in paragraph (d) by inserting after "reward" the following—
"save with the permission in writing of the Commissioner". Amendment of section 2. (Cap. 220.)

3. Section 3(1) of the principal Ordinance is amended by inserting after paragraph (g) the following new paragraph—
"(ga) the granting and cancellation by the Commissioner of permits authorizing the use of private cars for the carriage of passengers for hire or reward;" Amendment of section 3.

Addition of new section 4A.

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

"Registration of public cars as taxis.

4A. (1) Subject to subsection (2), the Commissioner shall, on application by the registered owner, reregister as a taxi a motor vehicle which immediately prior thereto was registered as a public car.

(2) A premium of \$75,000 shall be payable in respect of the registration of such motor vehicle as a taxi, and the Commissioner shall not register such vehicle as a taxi unless a first instalment of \$50,000 has been paid.

(3) The second instalment of \$25,000 shall be payable not later than 12 months after the registration of such vehicle as a taxi, and until instalment is paid the Commissioner shall refuse to issue a further vehicle licence in respect of that vehicle as a taxi.

(4) The premium payable under this section shall be in addition to the registration and licence fee payable under the regulations and may not be refunded.

(5) With effect from the expiry of the vehicle licence in force at the commencement of this section in respect of a motor vehicle registered as a public car, the registration of that vehicle as a public car shall cease to have effect."

Repeal and replacement of Part IVA.

5. Part IVA of the principal Ordinance is repealed and replaced by the following—

"PART IVA

TRANSPORT TRIBUNAL

Transport Tribunals' panel.

26A. (1) There shall be a panel from which members of Transport Tribunals, other than public officers, may be appointed under this Ordinance.

(2) The panel shall consist of such persons, not being public officers, as the Chief Secretary may appoint.

(3) The appointment of any person as a member of the panel shall have effect for not more than 3 years and a member of the panel shall be eligible for re-appointment.

(4) A member of the panel may resign at any time by notice in writing to the Chief Secretary.

Powers of Transport Tribunal.

26B. (1) The chairman of a Transport Tribunal may by notice in writing summon any person to appear before the Tribunal to produce any document or to give evidence.

(Cap. 8.)

(2) A Transport Tribunal may receive such evidence as it thinks fit, and neither the provisions of the Evidence Ordinance nor any other rule of law relating to the admissibility of evidence shall apply in the proceedings before the Tribunal.

(3) Any question arising in proceedings before a Transport Tribunal, not being a question relating to the practice and procedure of the Tribunal, shall, in the event of a difference between the members, be decided by the majority.

(4) Any person who being summoned to appear before a Transport Tribunal, refuses or fails without reasonable

excuse to appear or to answer any question put to him by or with the consent of the Tribunal commits an offence and is liable on conviction to a fine of \$500 and to imprisonment for 3 months:

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

(5) Any person who behaves in an insulting manner or uses any threatening or insulting expression to or in the presence of a Transport Tribunal commits an offence and is liable on summary conviction to a fine of \$500 and to imprisonment for 3 months.

Practice and procedure of Transport Tribunal.

26C. (1) Save in so far as provision is made therefor in this Ordinance, the practice and procedure in and in connexion with any hearing before a Transport Tribunal shall be such as the chairman of the Tribunal may determine.

(2) In proceedings before a Transport Tribunal, any person may appear in person or be represented by counsel, solicitor or agent."

6. The principal Ordinance is amended by adding after Part IVA the following new Part—

Addition of new Part IVB.

"PART IVB

SUSPENSION OF LICENCES OF MOTOR VEHICLES

Interpretation in this Part.

26D. In this Part, unless the context otherwise requires—

"Commissioner" means the Commissioner for Transport and any Assistant Commissioner for Transport;

First Schedule. (Cap. 240.)

"fixed penalty" means, in relation to an offence specified in the First Schedule, the fixed penalty specified for that offence in the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance;

"panel" means the panel appointed under section 26A;

"registered owner" means the person in whose name a motor vehicle is registered.

Appointment of Transport Tribunals.

26E. (1) The Chief Secretary may appoint such Transport Tribunals as may from time to time be necessary for the purposes of this Part.

(2) Each such Transport Tribunal shall consist of the Commissioner as chairman and two members of the panel.

Notice of intention to suspend on the conviction of a driver, First Schedule.

26F. (1) Where the driver of a motor vehicle has been convicted of an offence specified in the First Schedule, or the fixed penalty for such an offence has been paid, the Commissioner shall, within 14 days after the date of the conviction or payment of the fixed penalty, cause a notice to be served on the registered owner of the motor vehicle.

(2) A notice under this section shall—

(a) specify—

(i) the offence of which the driver of the motor vehicle was convicted or for which the fixed penalty

has been paid and the date of conviction or payment of the fixed penalty;

- (ii) the date on which the offence took place;
 - (iii) the time when and place where the offence occurred;
 - (iv) the registration mark of the motor vehicle; and
 - (v) the name of the driver;
- (b) notify the registered owner that a Transport Tribunal may under section 26I suspend the licence of the motor vehicle for the period specified in column 3 or 4 of the First Schedule; and
- (c) notify the registered owner that he may, within 14 days after the date of service of the notice,—
- (i) make representations in writing to the Commissioner showing cause why a Transport Tribunal should not suspend the licence of the motor vehicle; or
 - (ii) apply in writing to the Commissioner for a hearing before a Transport Tribunal to show cause why the Tribunal should not suspend the licence of the motor vehicle.

(3) If the driver of the motor vehicle appeals against his conviction, the notice served under subsection (1) shall be of no effect, and, if the appeal is abandoned or the conviction is not quashed on the appeal, a further notice in accordance with this section shall be served on the registered owner of the motor vehicle within 14 days after the appeal was abandoned or finally determined.

26G. (1) As soon as practicable after he receives an application from the registered owner of a motor vehicle for a hearing before a Transport Tribunal, the Commissioner shall cause a notice to be served on the owner specifying the place where, time when and date on which he may appear before a Transport Tribunal to show cause why the Tribunal should not suspend the licence of the motor vehicle.

(2) The Commissioner shall, so far as practicable, ensure that the date of the hearing before the Transport Tribunal is not less than 10 days nor more than 30 days after the date of the notice served on the registered owner under subsection (1).

(3) A Transport Tribunal may postpone a hearing if it thinks fit and where a hearing is postponed, the Commissioner shall cause a notice to be served on the registered owner specifying the date to which the hearing has been postponed.

(4) If the registered owner of a motor vehicle does not appear before the Transport Tribunal on the date of the hearing notified to him in a notice under subsection (1) or (3), his application for a hearing shall be deemed to have been withdrawn.

26H. (1) After considering—

- (a) any evidence received by it at a hearing, whether tendered on behalf of the registered owner of the

Hearing to show cause why vehicle licence should not be suspended.

Decision of Tribunal.

motor vehicle or otherwise, and any representations made by or on behalf of the registered owner at the hearing; or

- (b) representations in writing made by or on behalf of the registered owner of the motor vehicle,

the Transport Tribunal shall determine whether or not the registered owner has shown cause why the Tribunal should not suspend the licence of the motor vehicle.

(2) The decision of the Transport Tribunal under subsection (1) shall be final.

(3) If the Transport Tribunal decides that the registered owner has shown cause why the Tribunal should not suspend the licence of the motor vehicle the Commissioner shall notify the registered owner accordingly.

26I. (1) If no written representations are made by or on behalf of the registered owner of a motor vehicle, and no application is made for a hearing before a Transport Tribunal within the time notified in a notice under section 26F(2) a Transport Tribunal shall suspend the licence of the motor vehicle for the appropriate period specified in column 3 or 4 of the First Schedule.

(2) If a Transport Tribunal decides that the registered owner of a motor vehicle has not shown cause why the licence of the motor vehicle should not be suspended the Tribunal shall suspend the licence of the motor vehicle for the appropriate period specified in column 3 or 4 of the First Schedule.

(3) Where a Transport Tribunal suspends the licence of a motor vehicle under subsection (1) or (2), the Commissioner shall cause a notice to be served on the registered owner.

(4) A notice under subsection (3) shall—

- (a) specify—
 - (i) the registration mark of the motor vehicle the licence of which is suspended; and
 - (ii) the period during which the licence of the motor vehicle shall be suspended and the date of commencement of the suspension; and
- (b) direct the registered owner to deliver the motor vehicle into the custody of the Commissioner on the day and at the time and place specified in the notice.

(5) The Commissioner shall keep a record of all decisions made by the Transport Tribunal.

26J. (1) If, without reasonable excuse, a motor vehicle is not delivered into the custody of the Commissioner in accordance with a notice served under section 26I, the registered owner shall be liable to pay to the Government a penalty of \$200 for each day or part thereof while the suspension of the licence of the motor vehicle continues in force during which the motor vehicle is not in the custody of the Commissioner or the Commissioner of Police under section 26K.

Suspension of vehicle licence and delivery of vehicle into custody of Commissioner.

First Schedule.

First Schedule.

Penalty payable if vehicle not delivered into custody.

(2) Any penalty due under subsection (1) may be recovered from the registered owner by civil proceedings as a debt due to the Crown.

Seizure and removal of vehicle.

26K. (1) If a motor vehicle has not been delivered into the custody of the Commissioner at the expiration of 7 days after the date specified in a notice served under section 26I, any police officer may seize the motor vehicle.

(2) Subject to subsection (3), a police officer who has seized a motor vehicle under subsection (1) shall deliver it forthwith into the custody of the Commissioner at the place specified in the notice under section 26L.

(3) If at the time when a motor vehicle is seized it is not practicable for a police officer to deliver it directly to the place specified in the notice under section 26L, he may take the motor vehicle to a police station, and thereafter a police officer shall deliver it to such place as soon as practicable and in any event not later than 7 days after the seizure.

(4) For the purpose of seizing a motor vehicle under this section, a police officer may—

- (a) order any person who is in or on the motor vehicle to alight from it;
- (b) order any person who appears to him to be in possession of any keys to the motor vehicle to give them to him or to any other person; and
- (c) enter and search any premises or place if he knows or has reason to suspect that the motor vehicle is in or on such premises or place.

(5) A police officer may use such force as is reasonably necessary for the purpose of entering or searching any premises or place under subsection (4)(c) or of seizing or removing any motor vehicle from such premises or place under this section.

Forfeiture and disposal of vehicle.

26L. (1) If a motor vehicle is—

- (a) delivered into the custody of the Commissioner in accordance with a notice served under section 26I; or
- (b) seized and delivered into his custody under section 26K,

the Commissioner shall, within 10 days of its delivery into his custody, serve on the registered owner a notice in writing in accordance with subsection (2).

(2) A notice under subsection (1) shall—

- (a) specify—
 - (i) the date of delivery into the custody of the Commissioner; and
 - (ii) the place at which the motor vehicle is being held; and
- (b) notify the registered owner that at the expiry of the period of suspension the Commissioner will return the motor vehicle to the registered owner if, not later than 30 days after the expiry of the period of suspension, the registered owner—

(i) claims the motor vehicle; and

(ii) pays to the Commissioner any penalty payable under section 26J and, if the vehicle was seized by a police officer under section 26K, a fee of \$80; and

(c) notify the registered owner of the effect of subsection (4).

(3) If the registered owner claims the motor vehicle within 30 days after the expiry of the period of suspension of the licence, the Commissioner shall, on payment of any penalty payable under section 26J and the sum of \$80 if the vehicle was seized by a police officer under section 26K, return the motor vehicle to the registered owner.

(4) If the registered owner does not make a claim for the return within 30 days after the expiry of the period of suspension, the motor vehicle shall thereupon be forfeited to the Crown and may be sold or otherwise disposed of in such manner as the Commissioner thinks fit.

Record and certificate of alleged offences.
First Schedule.

26M. (1) The Commissioner shall keep a record of the registration mark of every motor vehicle in connexion with which any person is alleged to have committed an offence specified in the First Schedule.

(2) The Commissioner shall, on application made to him in such manner as he may determine, issue a certificate stating whether or not at the time of the issue of the certificate any person is, according to the record maintained under subsection (1), alleged to have committed an offence specified in the First Schedule in connexion with the motor vehicle bearing the registration mark specified in the application.

(3) A certificate issued under subsection (2) shall be valid for 72 hours from the time of issue.

Commissioner of Police to supply information for the record.
First Schedule.

26N. For the purposes of section 26M the Commissioner of Police shall notify the Commissioner of every alleged offence specified in the First Schedule.

Removal of registration mark from the record.
First Schedule.

26O. Where a person who is alleged to have committed an offence specified in the First Schedule in connexion with a motor vehicle the registration mark of which has been recorded under section 26M—

- (a) is not prosecuted for that offence;
- (b) is found not guilty of that offence;
- (c) has his conviction for that offence quashed on appeal,

the Commissioner shall forthwith remove from the record the registration mark of the motor vehicle concerned.

Application of sections 26F to 26L.

26P. (1) Sections 26F to 26L shall not apply or shall cease to apply where a motor vehicle is sold or otherwise disposed of and the new registered owner is, at the time of delivery of notice of transfer of ownership in accordance with the regulations, in possession of a valid certificate issued by the Commissioner under section 26M to the effect that

at the time of issue, no person was alleged to have committed an offence specified in the First Schedule in respect of that motor vehicle.

(2) Subject to subsection (1), sections 26F to 26L shall apply notwithstanding that a transfer of the ownership of a motor vehicle has been registered by the Commissioner after the driver of the motor vehicle has committed an offence specified in the First Schedule in connexion with that vehicle.

26Q. Any notice required under this Part to be served on the registered owner of a motor vehicle may be served on him in person or by forwarding it by registered post or recorded mail to him at the address shown in the register of motor vehicles maintained by the Commissioner under the regulations.

26R. The Governor in Council may by order published in the *Gazette* amend the First Schedule."

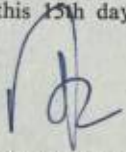
7. The principal Ordinance is amended by deleting the First Schedule and substituting the following—

"FIRST SCHEDULE [ss. 26D, 26F, 26I, 26M, 26N, 26O, 26P & 26R.]

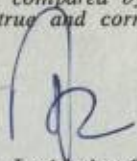
OFFENCES AND PERIODS FOR WHICH THE LICENCE
OF A MOTOR VEHICLE MAY BE SUSPENDED

Item	Offence	Period of suspension	
		First offence	Any subsequent offence in respect of the same motor vehicle
1.	Contravention of regulation 29(2), (2A), (3) or (4) of the Road Traffic (Registration and Licensing of Vehicles) Regulations read with regulation 44 of those Regulations.	3 months	6 months

Passed by the Hong Kong Legislative Council this 15th day of June, 1977.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



I assent.

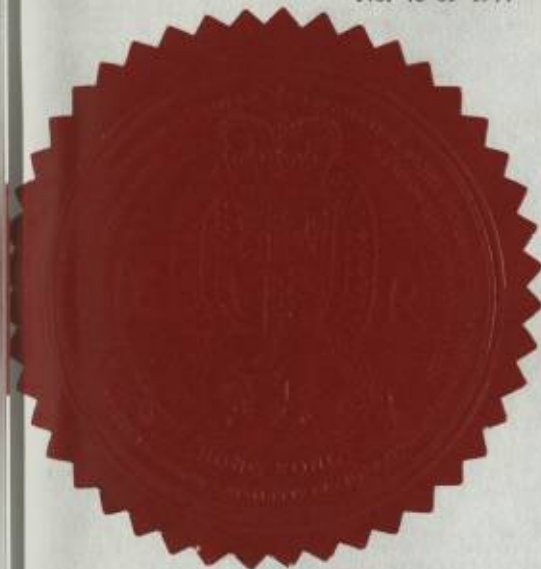
May R. Leach
Governor.

16th June, 1977.

An Ordinance to amend the Preventive Service Ordinance and to make consequential amendments to other Ordinances.

HONG KONG

No. 46 OF 1977



I assent.

Governor.

16th June, 1977.

An Ordinance to amend the Preventive Service Ordinance and to make consequential amendments to other Ordinances.

[1st August, 1977]

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 Preventive Service (Amendment) Ordinance 1977 and shall come into operation on 1st August 1977. Short title and commencement.
2. The long title to the principal Ordinance is amended by deleting "Preventive" and substituting the following—
"Customs and Excise". Amendment of long title.
(Cap. 342.)
3. Sections 1, 3, 4(2), 5, 6, 18, 20(1), 20(2) and 22 of the principal Ordinance are amended by deleting "Preventive" wherever it appears and substituting in each place the following—
"Customs and Excise". Amendment of sections 1, 3, 4, 5, 6, 18, 20 and 22.
4. Section 2 of the principal Ordinance is amended by—
(a) deleting the definition of "Colonial Regulations" and inserting in the place where it appeared the following new definitions—
" "Commissioner", "Deputy Commissioner" and "Assistant Commissioner" mean respectively the Commissioner, the Deputy Commissioner and the Assistant Commissioner of the Customs and Excise Service; Amendment of section 2.

"Customs and Excise Service" means the service established by section 3;

"disciplinary offence" means a disciplinary offence prescribed by rules made under section 16;"

- (b) deleting the definition of "Preventive Service" and substituting the following—

First
Schedule.

"senior officer" means a member holding any office specified in Part I or II of the First Schedule;

First
Schedule.

"subordinate officer" means a member holding any office specified in Part III or IV of the First Schedule."

Amendment of
section 4.

5. Section 4 of the principal Ordinance is amended by deleting subsection (1) and substituting the following—

"(1) The Director of Commerce and Industry shall be the Commissioner of the Customs and Excise Service; and a Deputy Director of Commerce and Industry designated by the Governor shall be the Deputy Commissioner of the Customs and Excise Service, and an Assistant Director of Commerce and Industry designated by the Governor shall be the Assistant Commissioner of the Customs and Excise Service."

Repeal and
replacement
of sections
7 and 8.

6. Sections 7 and 8 of the principal Ordinance are repealed and replaced by the following—

"Powers of
delegation.

7. (1) Save where the contrary intention appears from the context of this or any other Ordinance and subject to any special instructions of the Commissioner, the Deputy Commissioner and the Assistant Commissioner may exercise and perform any of the powers, functions and duties which are conferred or imposed upon the Commissioner by this or any other Ordinance except any power to dismiss a subordinate officer which may be conferred on the Commissioner by or under this Ordinance.

(2) Save where the contrary intention appears from the context of this or any other Ordinance, the Commissioner may authorize any senior officer by name, office or appointment, to exercise and perform any of the powers, functions and duties which are conferred or imposed upon the Commissioner by this or any other Ordinance except any power to dismiss a subordinate officer which may be conferred on the Commissioner by or under this Ordinance.

Warrant
cards.

8. (1) The Commissioner shall issue to every other member a warrant card bearing the name and photograph of the member to whom it is issued and a statement signed by the Commissioner certifying that such person is a member of the Customs and Excise Service, which certificate shall be conclusive evidence of the person's membership.

(2) Every member to whom a warrant card has been issued shall, when on duty—

- (a) carry it on his person; and
(b) if reasonably practicable, produce it for inspection by any person who questions his authority to exercise or perform any power, function or duty conferred or imposed upon the member by this or any other Ordinance."

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

Repeal and
replacement
of Part III.

"PART III

DISCIPLINE

Offences
against
discipline
generally.

10. Any member who commits a disciplinary offence shall be liable to be dismissed or otherwise dealt with as provided by or under this Ordinance.

Senior
officers.

11. Whenever it is alleged that a senior officer has committed a disciplinary offence or whenever an investigation is being undertaken into any conduct which may amount to the commission of a disciplinary offence by a senior officer—

- (a) the provisions of Colonial Regulations and Hong Kong Regulations which relate to interdiction and the payment of emoluments thereafter shall apply;
(b) the matter shall be investigated and the officer concerned dealt with in the appropriate manner provided for in those regulations for allegations of misconduct made against a public officer.

Subordinate
officers.

12. (1) Whenever a subordinate officer is charged with a disciplinary offence—

- (a) the Commissioner may interdict him from duty;
(b) the matter shall be investigated and the officer concerned dealt with in the appropriate manner prescribed by rules made under section 16.

(2) Whenever an investigation is being undertaken into any conduct which may amount to the commission of a disciplinary offence by a subordinate officer and the Commissioner considers that it is contrary to the public interest for the officer to continue to exercise the powers and functions of his office, the Commissioner may interdict him from duty but the officer shall be entitled, until such time as he is charged with a disciplinary offence to the full amount of the emoluments which he would have received if he had not been interdicted.

(3) An officer interdicted under subsection (1), and an officer interdicted under subsection (2) who is charged with a disciplinary offence, shall receive such proportion of the emoluments of his office, not being less than one-half, as the Commissioner may direct.

(4) If the proceedings against such officer do not result in the imposition of any punishment, he shall be entitled to the full amount of the emoluments which he would have received if he had not been interdicted.

(5) If a punishment other than dismissal is imposed the officer may be paid such proportion of the emoluments withheld as a result of his interdiction as the Governor may direct, where the punishment is imposed by the Governor or, as the Commissioner may direct, in every other case.

(6) An officer interdicted under subsection (1) or (2) may not, without the permission of the Commissioner, leave Hong Kong while under interdiction.

Interdiction
in the case
of criminal
proceedings.

13. (1) If criminal proceedings have been, or are likely to be, instituted against any member or an investigation is being undertaken into any conduct which may amount to the commission of a criminal offence by a member, he may be interdicted from duty and paid emoluments as follows—

- (a) if a senior officer, in accordance with Colonial Regulations and Hong Kong Regulations;
- (b) if a subordinate officer, in accordance with section 12 which shall apply, with all necessary modifications, to an interdiction under this paragraph.

(2) A subordinate officer who is found guilty of or pleads guilty to any criminal offence which in the opinion of the Commissioner is serious enough to warrant his dismissal shall not, as from the time when he is found or pleads guilty as aforesaid, be paid any emoluments of his office pending the consideration of the case in accordance with rules made under section 16.

Punishment
of officer
guilty of
criminal
offence.

14. (1) If in criminal proceedings before any court a member is found guilty of or pleads guilty to any criminal offence and any appeal or other application for review of those proceedings is dismissed or abandoned or withdrawn, the member concerned may be punished—

- (a) if a senior officer, in accordance with Colonial Regulations and Hong Kong Regulations;
- (b) if a subordinate officer, in the appropriate manner prescribed by rules made under section 16.

(2) In section 13 and in subsection (1) of this section, "criminal proceedings" and "criminal offence" include, respectively—

- (a) criminal proceedings in, and
- (b) a criminal offence against the law of, any place outside Hong Kong.

Saving in
respect of
Colonial
Regulations
and Hong Kong
Regulations.

15. Nothing in this Part shall be construed to preclude—

- (a) the summary dismissal of any member in accordance with Colonial Regulations and Hong Kong Regulations;
- (b) the termination of the employment in accordance with Colonial Regulations of any member on the grounds that, having regard to the conditions of the public service, the usefulness of the member thereto and all other circumstances of the case, such termination is desirable in the public interest.

Disciplinary
rules.

16. (1) The Governor may make rules for all or any of the following matters—

- (a) the acts and omissions which shall be disciplinary offences on the part of any member;

(b) the procedure to be followed where—

(i) a disciplinary offence is alleged to have been committed by any subordinate officer;

(ii) a subordinate officer is found guilty of or pleads guilty to a criminal offence as defined in section 14(2);

(c) the punishment of a subordinate officer for any disciplinary offence or where he is found guilty of or pleads guilty to a criminal offence as defined in section 14(2);

(d) the rights of appeal of a subordinate officer—
(i) found guilty of a disciplinary offence; or
(ii) punished,

under rules made under this section and the review by the Commissioner of findings made and punishments awarded.

(2) Rules made under paragraph (d) of subsection (1) may authorize the Governor to delegate to the Secretary for the Civil Service, or to a public officer not below the rank of Secretary, the determination of an appeal referred to in that paragraph."

8. The principal Ordinance is amended by inserting, after Part III, the following new Parts—

Insertion of
new Parts IIIA
and IIIB.

"PART IIIA

GENERAL POWERS AND DUTIES OF MEMBERS

When members
to be deemed
on duty.

17. A member who is off duty shall be deemed to be on duty whenever he encounters circumstances which would require him, if actually on duty, to act in enforcing any of the Ordinances specified in the Second Schedule.

Second
Schedule.

General
powers of
arrest and
search.
Second
Schedule.

17A. (1) A member may, without warrant, stop and search and arrest any person whom he may reasonably suspect of having committed an offence against an Ordinance specified in the Second Schedule.

(2) If any person resists, or attempts to evade, search or arrest by a member, whether effected under this Ordinance or any other power, the member may use such force as is reasonably necessary to effect the search or arrest.

(3) Where a member has arrested any person the member may search for and take possession of any thing found on his person or in or about the place at which the person has been arrested and which the member may reasonably suspect is related to or connected with the offence for which the person has been arrested or may throw light on the character or activities of that person or any associate of his.

(4) A person may be searched only by a member who is of the same sex.

Power to enter and search for suspects.

17B. (1) If a member reasonably believes that—

- (a) a person whom he intends to arrest has entered into or is in any premises; and
- (b) in order to effect the arrest it is necessary to enter and search those premises,

he may request any person having apparent control of such premises or residing therein to allow him and any person acting in his aid free entry thereto and to take all reasonable measures to facilitate the search.

(2) If—

- (a) paragraphs (a) and (b) of subsection (1) apply; and
- (b) entry to the premises cannot be obtained under subsection (1); and
- (c) the offence for which the member intends to effect the arrest is an arrestable offence and a person having apparent control of the premises or residing therein has been so informed if it is possible and practicable in the circumstances to do so,

the member and any person acting in his aid may enter the premises and search for the suspect.

(3) Any person having apparent control of premises referred to in subsection (1) or residing therein shall, upon request by a member and being informed that the offence for which the member intends to effect the arrest is an arrestable offence, allow the member and any person acting in his aid free entry thereto and take all reasonable steps to facilitate the search.

(4) A member, and any person acting in his aid, may break open any outer or inner door or window of premises if it is necessary to do so in order to enter or leave any premises which he is authorized to enter by virtue of this section or any other enabling power.

(5) In this section—

“arrestable offence” means an offence for which the sentence is fixed by law or for which a person may under or by virtue of any law be sentenced to imprisonment for a term exceeding 12 months, and an attempt to commit any such offence;

“premises” means any place on land, and any vehicle, vessel, train, tram or aircraft.

Action after arrest.

(Cap. 232.)

17C. (1) Subject to subsection (2), a member who arrests any person, whether under this Ordinance or any other enabling power, may take him to an office of the Customs and Excise Service for further inquiries and, subject thereto, shall take him to a police station to be dealt with in accordance with the Police Force Ordinance.

(2) No person shall be detained for more than 48 hours from the time he is arrested without being charged and brought before a magistrate.

Saving of other powers.

17D. The powers conferred upon a member by this Part are additional to those conferred on him by any other law.

PART IIIB OFFENCES AND PENALTIES

Making of false reports etc. to member.

17E. Any person who makes or gives or causes to be made or given to a member in the performance of his duty any report, accusation, statement or information which he knows to be false or misleading commits an offence.

Assault etc. on a member.

17F. Any person who wilfully assaults, resists or obstructs any member acting in the execution of his duty commits an offence.

Unauthorized wearing of uniform.

17G. Any person who, not being a member of the Customs and Excise Service, knowingly wears the uniform of that Service or any dress having the appearance or bearing any of the distinctive marks of such uniform, without the permission of the Commissioner, commits an offence.

Government property on ceasing to be a member. Delivery of

17H. Any person who, on ceasing to be a member of the Customs and Excise Service, refuses or neglects forthwith to deliver up to a member authorized to receive them his warrant card, uniform, arms and other accoutrements or Government property which may be in his possession commits an offence.

Penalties.

17I. Any person who commits an offence under section 17E, 17F, 17G or 17H is liable to a fine of \$5,000 and imprisonment for 6 months.”.

9. Section 18 of the principal Ordinance is amended by substituting a semicolon for the full stop at the end thereof and adding the following new paragraphs—

Amendment of section 18.

(Cap. 201, sub. leg.)

“(c) gifts directed by the Secretary for the Civil Service or the Commissioner pursuant to regulation 9(3)(d) of the Acceptance of Advantages Regulations to become part of the Customs and Excise Service Welfare Fund;

(d) all fines imposed upon members for disciplinary offences.”.

10. Section 19 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 19.

“Control of Fund.

19. The Customs and Excise Service Welfare Fund shall be controlled by the Commissioner, subject to regulations made under section 22, and applied—

(a) for the purpose of procuring comforts, convenience and other benefits, which are not chargeable to public revenue, for, and

(b) in granting loans to,

members or former members who have retired on pension, gratuity or other allowance or, where any member or any such former member has died, any person who was wholly or partially dependent on him at the time of his death.”.

11. Section 21 of the principal Ordinance is repealed and replaced by the following—

Amendment of section 21.

“Protection of members and persons aiding them.

21. (1) A member shall not be liable for damages for, or in consequence of, any act done or omitted by him while he is exercising in good faith and in the course of his duty any power conferred upon him by law.

(2) Any person may act in aid of a member who appears to be lawfully engaged in the performance of his duty upon being requested by the member so to do and without being bound to enquire whether or not the member is acting lawfully or within the scope of his duty.

(3) A person acting in good faith in aid of a member under subsection (2) shall not be liable for damages for or in consequence of any act which such first-mentioned person does or omits while so doing.

(4) Nothing in subsection (1) shall affect any civil liability of the Crown for the wrongful acts of its servants."

12. Section 23 of the principal Ordinance is repealed.

13. Section 24 of the principal Ordinance is amended by deleting "Schedule" and substituting the following—
"or Second Schedule".

14. The principal Ordinance is amended by deleting the First Schedule and substituting the following—

"FIRST SCHEDULE [ss. 2, 5 & 24.]

OFFICES IN THE CUSTOMS AND EXCISE SERVICE

PART I

Commissioner.
Deputy Commissioner.
Assistant Commissioner.

PART II

Senior Superintendent.
Superintendent.
Assistant Superintendent.

PART III

Senior Revenue Inspector.
Revenue Inspector.

PART IV

Principal Revenue Officer Class I.
Principal Revenue Officer Class II.
Senior Revenue Officer.
Revenue Officer.
Assistant Revenue Officer."

15. The principal Ordinance is amended by deleting the Third and Fourth Schedules.

16. Section 102(1) and (2) of the Criminal Procedure Ordinance are amended by deleting the words "or the police" in each place where they occur and substituting the following—

" , the police or the Customs and Excise Service".

Repeal of section 23.

Amendment of section 24.

Deletion and replacement of First Schedule.

Deletion of Third and Fourth Schedules.

Amendment of section 102 of the Criminal Procedure Ordinance. (Cap. 221.)

17. The Ordinances specified in the Schedule are amended in the manner specified therein.

Amendment to specified Ordinances, Schedule.

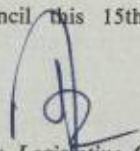
18. Every reference in an Ordinance or in any document to the Preventive Service or to the Preventive Service Ordinance or to the Preventive Service (Welfare Fund) Regulations or to a member of or office in the Preventive Service shall, unless the context otherwise requires, be read respectively as a reference to the Customs and Excise Service or the Customs and Excise Service Ordinance or the Customs and Excise Service (Welfare Fund) Regulations or a member of or office in the Customs and Excise Service.

Amendment of references to Preventive Service in Ordinances and documents.

SCHEDULE [s. 17.]

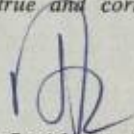
Ordinance	Amendment	
Specification of Public Offices made on 10th September 1971 pursuant to section 43 of the Interpretation and General Clauses Ordinance	The specification is revoked.	(Cap. 1, sub. leg.) L.N. 110/71.
Import and Export Ordinance	1. Sections 12(1), 12(2) and 15(1)(a) are amended by deleting "Sub-Inspector" and substituting the following— "Inspector". 2. Sections 22(1)(b) and 22(3) are amended by deleting "Chief Revenue Inspector" and substituting the following— "Assistant Superintendent".	(Cap. 60.)
Dutiable Commodities Ordinance	Section 33(1) is amended by deleting "sub-inspector" and substituting the following— "inspector".	(Cap. 109.)
Marine Hawkers Ordinance	Sections 6(1) and 6(2) are amended by deleting "revenue officer" and substituting the following— "member of the Customs and Excise Service".	(Cap. 160.)
Marine Hawkers Regulations	Regulation 11 is amended by deleting "revenue officer" and substituting the following— "member of the Customs and Excise Service".	(Cap. 160, sub. leg.)
Preventive Service (Welfare Fund) Regulations	1. Regulations 1 and 2(1) are amended by deleting "Preventive" in each place where it appears and substituting the following— "Customs and Excise". 2. Regulation 7 is amended by deleting "to a member or to a former member who has been retired".	(Cap. 342, sub. leg.)

Passed by the Hong Kong Legislative Council this 15th day of June, 1977.

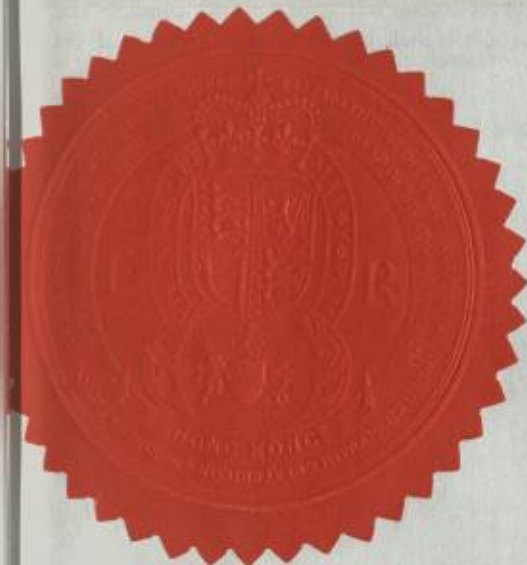


Clerk to the Legislative Council.

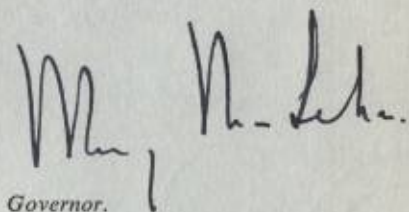
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.



Clerk to the Legislative Council.



I assent.




Governor.

29th June, 1977.

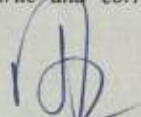
An Ordinance to amend the Immigration Ordinance.

HONG KONG

No. 47 OF 1977

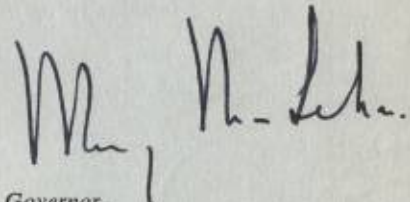

Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



I assent.


Governor.

29th June, 1977.

An Ordinance to amend the Immigration Ordinance.

[30th June, 1977]

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 Immigration (Amendment) Ordinance 1977. Short title.

2. The principal Ordinance is amended by adding after section 63 the following new section— Addition of new section 63A. (Cap. 115.)

"Evidence by certificate.

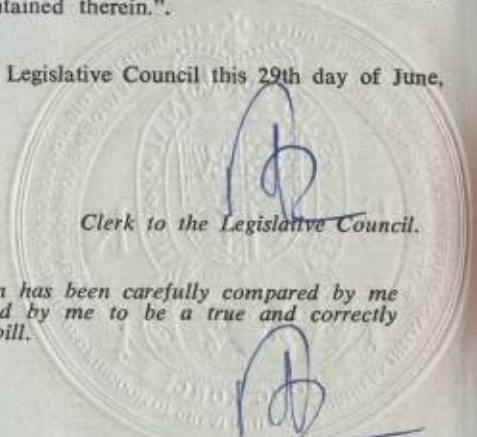
63A. Where in any proceedings a person is charged with aiding, abetting, counselling or procuring, or with conspiracy to aid, abet, counsel or procure, the commission by another of an offence under section 38(1), a certificate purporting to be signed by the Director and certifying that that other person—

- (a) has not the right to land in Hong Kong under section 8(1),
- (b) is not a person who, by virtue of section 9(1) or 10(1), may land in Hong Kong without the permission of an immigration officer, and
- (c) has not been given permission to land in Hong Kong under section 11,

shall be admitted in evidence on its production without further proof and—

- (i) until the contrary is proved it shall be presumed that the certificate was signed by the Director; and
- (ii) the certificate shall be *prima facie* evidence of the facts contained therein."

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.



[Signature]
Clerk to the Legislative Council.

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

[Signature]
Clerk to the Legislative Council.



I assent.

[Signature]
Governor.

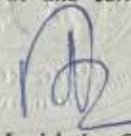
29th June, 1977.

...and the certificate was signed by the Director; and
(ii) the certificate shall be *prima facie* evidence of the facts contained therein."

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.


Clerk to the Legislative Council.

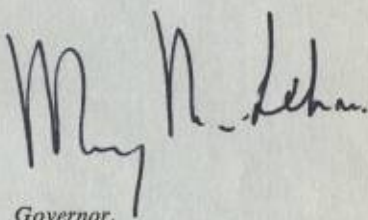
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.


Clerk to the Legislative Council.

HONG KONG

No. 48 OF 1977

I assent.


Governor.

29th June, 1977.

An Ordinance to amend the Adoption Ordinance.

[]

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

1. This Ordinance may be cited as the Adoption (Amendment) Ordinance 1977 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*. Short title and commencement.

2. Section 5 of the principal Ordinance is amended—

(a) in subsection (3) by deleting "Subject to the provisions of section 11, an" and substituting the following—

"An";

(b) in subsection (5) by deleting "Subject to the provisions of sections 6 and 11" and substituting the following—

"Subject to section 6"; and

(c) by inserting after subsection (5) the following new subsections—

"(5A) A parent whose consent to an adoption order is required by virtue of subsection (5)(a) shall give that consent as the Director thinks fit in either the prescribed general form of consent or the prescribed specific form of consent.

Amendment of section 5. (Cap. 290.)

(5B) Subject to subsection (5C), where the consent of a parent is given in the prescribed general form of consent, the parent shall cease to have any parental rights, duties, obligations or liabilities in respect of the infant with effect from the execution of the form of consent.

(5C) A parent whose consent to an adoption order was given in the prescribed general form of consent may revoke his consent by giving written notice of revocation to the Director within 3 months from the day on which the form of consent was executed, but subject to subsections (5D) and (5E) and save as aforesaid the consent shall be irrevocable.

(5D) Notwithstanding subsection (5C), a parent whose consent to an adoption order was given in the prescribed general form of consent may, at any time after the expiry of the period of 3 months referred to in that subsection and before the making of an adoption order, apply to the Court for an order revoking that consent on the ground that he wishes to resume the parental rights, duties, obligations and liabilities; and while the application is pending the Court shall not make any adoption order in respect of the child the subject of the consent.

(5E) Where the Court makes an order under subsection (5D) revoking a consent given in the prescribed general form of consent the parental rights, duties, obligations and liabilities relating to the child shall vest in the parent; but the order of revocation shall not affect any right, duty, obligation or liability so far as it relates to any period before the date of the order.

(5F) The Director shall, immediately upon the execution of the prescribed general form of consent by a parent, be guardian *ad litem* of the infant and may, where the infant does not have a guardian or no guardian can be found, perform such duties of a guardian as may be necessary in the interests of the welfare of the infant."

Amendment of section 7.

3. Section 7 of the principal Ordinance is amended—

(a) in subsection (1)—

(i) by deleting the full stop at the end thereof and substituting a colon; and

(ii) by inserting at the end of the subsection the following—

"Provided that this subsection shall not apply to a consent given by a parent in the prescribed general form of consent.";

(b) by inserting after subsection (1) the following new subsection—

"(1A) A document signifying the consent of a parent to the making of an adoption order given in the prescribed general form of consent, shall subject to subsection (3), be admissible as evidence of that consent whether the document is executed before or after the commencement of the proceedings.";

(c) in subsection (2) by deleting "Where any such document" and substituting the following—

"Where a document signifying consent to an adoption order, whether given in the prescribed specific form of consent or the prescribed general form of consent,"

4. Section 8 of the principal Ordinance is amended by inserting after subsection (1) the following new subsection—

Amendment of section 8.

"(1A) The Court, in making an adoption order shall consider whether it is in the interests of the infant that his true identity should be disclosed to him, having regard to the views of the prospective adopter, the opinion of the Director and also to the age and understanding of the infant."

5. Section 11 of the principal Ordinance is repealed.

Repeal of section 11.

6. Section 12 of the principal Ordinance is amended in subsection (3)—

Amendment of section 12.

(a) by deleting the colon and substituting a full stop; and

(b) by deleting the proviso.

7. Section 20 of the principal Ordinance is amended—

Amendment of section 20.

(a) by deleting subsection (1) and substituting the following—

"[cf. 1976 c.36, Schedule 1, para. 4.]

(1) The Court may, on the application of the adopter or of the adopted person, amend the order by the correction of any error in the particulars contained therein, and may—

(a) if satisfied on the application of the adopter or of the adopted person that within 1 year beginning with the date of the order any new name has been given to the adopted person (whether in baptism or otherwise), or taken by him, either in lieu of or in addition to a name specified in the particulars required to be entered in the Adopted Children Register in pursuance of the order, amend the order by substituting or adding that name in those particulars, as the case may require;

(b) if satisfied on the application of any person concerned that a direction for the marking of an entry in the registers of births or the Adopted Children Register included in the order in pursuance of section 19(3) or (4) was wrongly so included, revoke that direction.";

(b) by inserting after subsection (1) the following new subsection—

"(1A) Where an adoption order is amended or a direction revoked under subsection (1), the prescribed officer of the court shall cause the amendment to be communicated in the prescribed manner to the Registrar, who shall as the case may require—

(a) cause the entry in the Adopted Children Register to be amended accordingly; or

(b) cause the marking of the entry in the registers of births or the Adopted Children Register to be cancelled.";

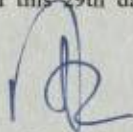
(c) in subsection (2)—

(i) by deleting "which made the order"; and

(ii) by inserting after "entry" in the second place where it occurs, the following—

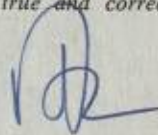
"or any marking of an entry".

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.



Clerk to the Legislative Council.

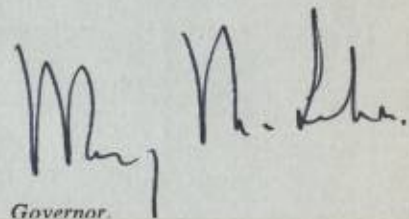
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.



Clerk to the Legislative Council.



I assent.



Mary M. K. Lee

Governor.

102

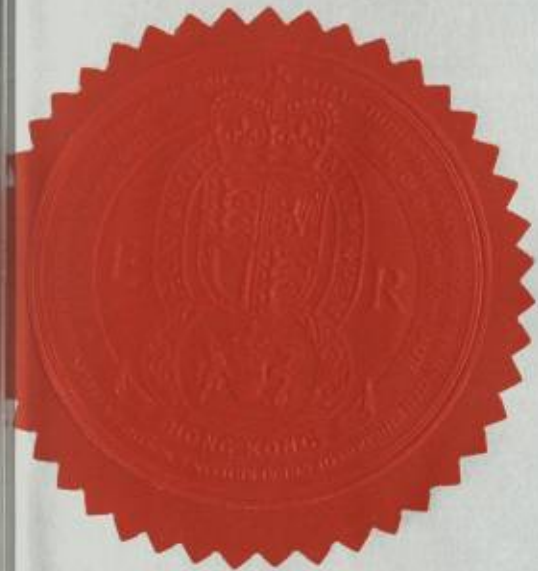
Clerk to the Legislative Council.

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

Clerk to the Legislative Council.

HONG KONG

No. 49 OF 1977



I assent.

Governor.

29th June, 1977.

An Ordinance to amend the Dentists Registration Ordinance.

[30th June, 1977]

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 Dentists Registration (Amendment) Ordinance 1977.

Short title and commencement

(2) Sections 2, 5, 6 and 7 shall come into operation on the 1st January 1978.

(3) Where a registered dentist makes an application before the 1st January 1978 for a certificate to practise under section 25 of the Stamp Ordinance in respect of the year 1978 the application shall be treated as an application for a practising certificate under section 11A of the Dentists Registration Ordinance and the Secretary may issue a practising certificate before that date as if that section were already in operation.

(Cap. 117.)

(Cap. 156.)

2. Section 2 of the principal Ordinance is amended by inserting after the definition of "Medical Council" the following new definition—

Amendment of section 2.

(Cap. 156.)

"practising certificate" means a certificate issued under section 11A;".

Amendment of section 4.

3. Section 4(2) of the principal Ordinance is amended by deleting paragraph (d) and substituting the following—

“(d) four dental surgeons qualified to be registered under paragraph (a) or (b) of section 8 to be appointed by the Director—

(i) from a panel of not less than twelve such dental surgeons nominated by the Hong Kong Dental Association; or

(ii) in the event of the Hong Kong Dental Association failing to nominate at least twelve such dental surgeons, at the discretion of the Director.”.

Amendment of section 8.

4. Section 8 of the principal Ordinance is amended—

(a) by being renumbered as subsection (1) thereof; and

(b) by inserting the following new subsection—

“(2) Notwithstanding anything contained in subsection (1), the Council may require any applicant for registration to pass such examinations as it may determine.”.

Amendment of section 11.

5. Section 11(1) of the principal Ordinance is amended by deleting “Every” and substituting the following—

“Subject to section 11A(7), every”.

Addition of new sections 11A and 11B.

6. The principal Ordinance is amended by adding after section 11 the following new sections—

“Registered dentist not to practise without practising certificate.

11A. (1) Subject to this section, a registered dentist shall not practise as a dentist in Hong Kong, unless he is the holder of a practising certificate which is then in force.

(2) Subject to the payment of the prescribed fee for the issue of a practising certificate, the Secretary, on application made to him for that purpose by a registered dentist, shall issue to him a certificate to the effect that he is, subject to any conditions and restrictions specified in the certificate, entitled to practise dentistry in Hong Kong.

(3) Where a practising certificate is issued pursuant to an application made during the course of a year in respect of that year, the certificate shall, subject to subsection (5), be in force from the time of its issue until the end of that year.

(4) Where a practising certificate is issued pursuant to an application made during the course of a year in respect of the following year, the certificate shall, subject to subsection (5), be in force for a period of 12 months commencing on 1st January in that following year.

(5) If at any time during the currency of a practising certificate issued under this section, the holder of the certificate ceases to be registered, the certificate shall thereupon be deemed to be cancelled.

(6) Any person who is required under this section to be the holder of a practising certificate under this section shall be deemed to have obtained the certificate when he has duly applied to the Secretary and paid the prescribed fee for the issue of the practising certificate.

(7) Notwithstanding section 11(1) a person who is required under this section to be the holder of a practising certificate shall not be entitled to recover any fees, costs or other remuneration on any cause of action unless he was,

at the time when the cause of action arose, the holder of a valid practising certificate.

(8) This section applies to any person whose name appears on the register.

Recovery of practising fees.

11B. (1) If any registered dentist contravenes subsection (1) of section 11A, the amount of the prescribed fee payable by him under subsection (2) of that section shall be recoverable as a civil debt.

(2) In any proceedings under this section a certificate purporting to be under the hand of the Secretary to the effect that the registered dentist concerned had not paid the prescribed fee for the issue of a practising certificate shall, until the contrary is proved, be evidence of non-payment of the fee.

(3) On recovery from a registered dentist of a prescribed fee under this section the Secretary shall, if the registered dentist's name appears on the register, issue the registered dentist with the appropriate practising certificate.”.

7. Section 15(3) of the principal Ordinance is amended by inserting after paragraph (b) the following—

“(ba) being a person required to be the holder of a practising certificate, has practised dentistry in Hong Kong for a period exceeding 6 months without having obtained such a certificate; or”.

8. Section 18(1) of the principal Ordinance is amended by deleting “Registrar and of any complainant or of the registered dentist, and any costs awarded may be recovered summarily as a civil debt in accordance with the provisions of sections 66 and 67 of the Magistrates Ordinance.” and substituting the following—

“(Cap. 227.) “Secretary, a complainant, a counsel or solicitor present at the inquiry and the registered dentist or any one or more of them, and any costs awarded may be recovered summarily as a civil debt in accordance with the Magistrates Ordinance.”.

9. Section 23 of the principal Ordinance is amended by adding after subsection (3) the following new subsection—

“(4) In deciding any appeal under this section the Court of Appeal may make such order for costs as it considers reasonable.”.

10. Section 26 of the principal Ordinance is amended by deleting “issued” and substituting the following—

“is used”.

11. Section 29 of the principal Ordinance is amended—

(a) by being renumbered as subsection (1) thereof;

(b) by deleting subsection (1)(d) and substituting the following—

“(d) any fee required to be paid under this Ordinance;

(da) the disposal of any fee paid or recovered under this Ordinance;”;

(c) by inserting the following new subsection—

“(2) Any regulations made under subsection (1)(d) may prescribe different fees to be payable by different categories of dentists.”.

Amendment of section 15.

Amendment of section 18.

Amendment of section 23.

Amendment of section 26.

Amendment of section 29.

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.

Clerk to the Legislative Council.

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

Clerk to the Legislative Council.



I assent.

Governor.

29th June 1977

102

Clerk to the Legislative Council.

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

102

Clerk to the Legislative Council.

HONG KONG

No. 50 OF 1977



I assent.

M. N. L.
Governor.

29th June, 1977.

An Ordinance to amend the Pharmacy and Poisons Ordinance.

[30th June, 1977]

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

1. (1) This Ordinance may be cited as the Pharmacy and Poisons (Amendment) Ordinance 1977. Short title and commencement.

(2) Sections 2(b), 3 and 5 shall come into operation on the 1st January 1978.

(3) Where a registered pharmacist makes an application before the 1st January 1978 for a certificate to practise under section 25 of the Stamp Ordinance in respect of the year 1978, the application shall be treated as an application for a practising certificate under section 10A of the Pharmacy and Poisons Ordinance and the Secretary may issue a practising certificate before that date as if that section were already in operation. (Cap. 117.) (Cap. 138.)

2. Section 2 of the principal Ordinance is amended— Amendment of section 2.

(a) by deleting the definition of "pharmaceutical product" and "medicine" and substituting the following new definition— (Cap. 138.)

“pharmaceutical product” and “medicine” mean any substance or mixture of substances manufactured, sold, supplied or offered for sale or supply for use in—

- (a) the diagnosis, treatment, mitigation, alleviation or prevention of disease or any symptom thereof;
- (b) the diagnosis, treatment, mitigation, alleviation of any abnormal physical or physiological state or any symptom thereof;
- (c) altering, modifying, correcting or restoring any organic function,

in human beings or in animals;” and

- (b) by inserting after the definition of “Poisons List” the following new definition—

“practising certificate” means a certificate issued under section 10A;”.

Amendment of section 7.

- 3. Section 7(3) of the principal Ordinance is amended—

- (a) by deleting the full stop after paragraph (d) and substituting a semicolon; and

- (b) by inserting after paragraph (d) the following—

“(e) being a person required to be the holder of a practising certificate, has practised as a pharmacist in Hong Kong for a period exceeding 6 months without having obtained such a certificate;

(f) is no longer practising as a pharmacist in Hong Kong.”.

Amendment of section 8.

- 4. Section 8 of the principal Ordinance is amended by deleting subsection (2) and substituting the following—

“(2) Notwithstanding anything contained in subsection (1), the Board may require any applicant for registration to pass such examinations as it may determine or to undergo such period of training as the Board may specify.”.

Addition of new sections 10A and 10B.

- 5. The principal Ordinance is amended by adding after section 10 the following new sections—

“Registered Pharmacist not to practise without practising certificate.

10A. (1) Subject to this section, a registered pharmacist shall not practise as a pharmacist in Hong Kong, unless he is the holder of a practising certificate which is then in force.

(2) Subject to the payment of the prescribed fee for the issue of a practising certificate, the Secretary, on application made to him for that purpose by a registered pharmacist, shall issue to him a certificate to the effect that he is, subject to any conditions and restrictions specified in the certificate, entitled to practise as a pharmacist in Hong Kong.

(3) Where a practising certificate is issued pursuant to an application made during the course of a year in respect of that year, the certificate shall, subject to subsection (5), be in force from the time of its issue until the end of that year.

(4) Where a practising certificate is issued pursuant to an application made during the course of a year in respect of the following year, the certificate shall, subject to sub-

section (5), be in force for a period of 12 months commencing on 1st January in that following year.

(5) If at any time during the currency of a practising certificate issued under this section, the holder of the certificate ceases to be registered under this Ordinance, the certificate shall thereupon be deemed to be cancelled.

(6) Any person who is required under this section to be the holder of a practising certificate under this section shall be deemed to have obtained the certificate when he has duly applied to the Secretary and paid the prescribed fee for the issue of the practising certificate.

(7) A person who is required under this section to be the holder of a practising certificate shall not be entitled to recover any fees, costs or other remuneration on any cause of action unless he was, at the time when the cause of action arose, the holder of a valid practising certificate.

(8) This section applies to any person whose name has been entered on the register of pharmacists.

Recovery of practising fees.

10B. (1) If any registered pharmacist contravenes subsection (1) of section 10A, the amount of the prescribed fee payable by him under subsection (2) of that section shall be recoverable as a civil debt.

(2) In any proceedings under this section a certificate purporting to be under the hand of the Secretary to the effect that the registered pharmacist concerned had not paid the prescribed fee for the issue of a practising certificate shall, until the contrary is proved, be evidence of non-payment of the fee.

(3) On recovery from a registered pharmacist of a prescribed fee under this section the Secretary shall, if the registered pharmacist's name appears on the register of pharmacists, issue the registered pharmacist with the appropriate practising certificate.”.

- 6. Section 29(1) of the principal Ordinance is amended—

Amendment of section 29.

- (a) by inserting after paragraph (a) the following new paragraphs—

“(aa) prescribing the form of practising certificate for a registered pharmacist and the fees to be paid on the issue of such certificate;

(ab) the disposal of any fee paid or recovered under this Ordinance;” and

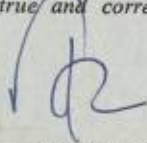
- (b) by inserting after subsection (1) the following new subsection—

“(1A) Any regulations made under subsection (1)(aa) may prescribe different fees to be payable by different categories of pharmacists.”.

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.


Clerk to the Legislative Council.

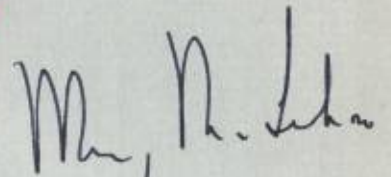
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.



Clerk to the Legislative Council.



I assent.



Governor.

29th June, 1977.

102

Clerk to the Legislative Council.

HONG KONG

No. 51 OF 1977



I assent.

Ma Sheng-ho
Governor.

29th June, 1977.

An Ordinance to amend the Stamp Ordinance.

[1st January 1978]

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

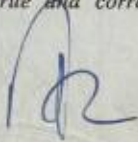
1. This Ordinance may be cited as the Stamp (Amendment) (No. 2) Ordinance 1977 and shall come into operation on the 1st January 1978. Short title and commencement.
2. Section 25 of the principal Ordinance is repealed. Repeal of section 25. (Cap. 117.)
3. The Schedule to the principal Ordinance is amended by deleting Head 15. Amendment of Schedule.

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.

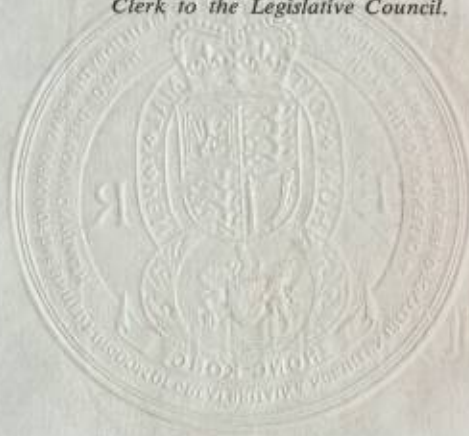
102

Clerk to the Legislative Council.

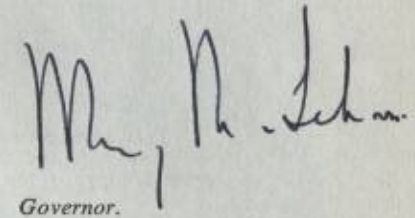
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.



Clerk to the Legislative Council.



I assent.



Governor.

29th June, 1977.


HONG KONG

No. 52 OF 1977

102
Clerk to the Legislative Council.



I assent.



M. N. Lehmann
Governor.

29th June, 1977.

An Ordinance to repeal the Asiatic Emigration Ordinance and to make consequential amendments.

[30th June, 1977]

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 Asiatic Emigration (Repeal) Ordinance 1977. Short title.

2. The Asiatic Emigration Ordinance is repealed.

Repeal of
Asiatic
Emigration
Ordinance.
(Cap. 79.)

3. The enactments specified in the first column of the Schedule are amended to the extent and in the manner set out in the second column of that Schedule.

Consequential
amendments.
Schedule.

SCHEDULE

[s. 3.]

CONSEQUENTIAL AMENDMENTS

Merchant Shipping Ordinance. 1. Section 29(1) is amended by deleting (Cap. 281.) paragraph (b).

- 2. Section 36(1)(d) is amended by deleting "(if a ship not coming within the provisions of the Chinese Passengers Act 1855, or of the Asiatic Emigration Ordinance)".
- 3. Section 114(1)(c) is amended by deleting "or under the Asiatic Emigration Ordinance".

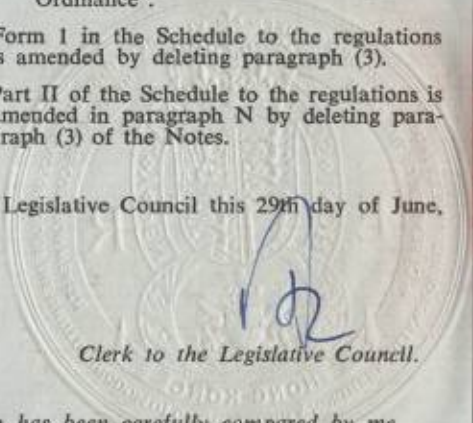
(Cap. 281, sub. leg.)

Merchant Shipping (Court of Survey) Regulations. Form I in the Schedule to the regulations is amended by deleting paragraph (3).

(Cap. 281, sub. leg.)

Merchant Shipping (Fees) Regulations. Part II of the Schedule to the regulations is amended in paragraph N by deleting paragraph (3) of the Notes.

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.



[Handwritten signature]

Clerk to the Legislative Council.

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

[Handwritten signature]

Clerk to the Legislative Council.



I assent.

[Handwritten signature]

Governor.

29th June, 1977.

An Ordinance to amend the Employment Ordinance.

[1st January 1978]

Ordinance)".

- 3. Section 114(1)(c) is amended by deleting "or under the Asiatic Emigration Ordinance".

(Cap. 281, sub. leg.)

Merchant Shipping (Court of Survey) Regulations.

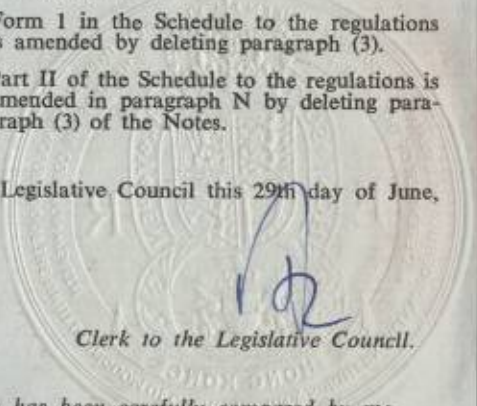
Form 1 in the Schedule to the regulations is amended by deleting paragraph (3).

(Cap. 281, sub. leg.)

Merchant Shipping (Fees) Regulations.

Part II of the Schedule to the regulations is amended in paragraph N by deleting paragraph (3) of the Notes.

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.



[Signature]
Clerk to the Legislative Council.

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

[Signature]

HONG KONG

No. 53 OF 1977



I assent.

[Signature]

Governor.

29th June, 1977.

An Ordinance to amend the Employment Ordinance.

[1st January 1978]

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 Employment (Amendment) (No. 3) Ordinance 1977 and shall come into operation on the 1st January 1978. Short title and commencement.

2. Section 2 of the principal Ordinance is amended by inserting, after the definition of "alternative holiday", the following new definitions—
 "“annual leave” means the annual leave provided for in Part VIII A;
 “annual leave pay” means the annual leave pay required by this Ordinance to be paid in respect of a period of annual leave and any sum required to be paid under section 41D;” Amendment of section 2. (Cap. 57.)

3. The principal Ordinance is amended by adding after Part VIII the following new Part— Addition of new Part VIII A.

“PART VIII A

ANNUAL LEAVE WITH PAY

Grant of annual leave.

41A. (1) Subject to this Part, every employee shall, in respect of each period of 12 months employment under a continuous contract, be granted by his employer within the period of 12 months following the completion of that period

of employment 7 days' annual leave with pay, and the time when the leave is so granted shall be appointed by the employer after consultation with the employee or his representatives.

(2) Every employer shall give his employee not less than 14 days' notice in writing of the time he has appointed for the grant of a period of annual leave, except where a shorter period of notice is agreed to by the employer and employee.

(3) The annual leave shall be granted by the employer and shall be taken by the employee in such manner that the employee has, within the period of 12 months during which that leave is required by subsection (1) to be granted, a period of not less than 7 consecutive days of absence from work made up of such annual leave or of part thereof and other days being statutory holidays or rest days, or, if the employee so requests, a period of 4 consecutive days of annual leave, and the remaining days of annual leave, if any, shall be granted consecutively or separately in accordance with subsection (1).

(4) If a rest day falls within the period of 7 consecutive days of absence from work specified in subsection (3), it shall be counted as annual leave and another rest day shall be substituted in accordance with section 18(5).

(5) No period of total incapacity for work by reason of sickness or injury occurring during a period of annual leave shall count as part of that annual leave unless it commences after the commencement of the period of annual leave.

Payment of
annual
leave pay.

41B. Where an employee is granted any period of annual leave, the employer shall pay him annual leave pay in respect of that period not later than the day on which he is next paid his wages after that period.

Rate of
annual leave
pay.

41C. (1) Annual leave pay shall, subject to subsection (2), be a sum equivalent to the wages, other than overtime pay, which the employee would have earned if he had worked during the period of annual leave.

(2) Where an employee is employed on piece rates or where the wages of an employee vary from day to day, the annual leave pay shall be calculated by reference to the average daily wages earned by the employee on the days which he worked during the period of 28 days preceding the period of annual leave, or the termination of the contract of employment, as the case may be.

Annual leave
pay on
termination.

41D. (1) Where an employee's contract of employment is terminated under section 9 after completion of a period of 12 months employment under a continuous contract in respect of which he has not been granted 7 days' annual leave, he shall as soon as practicable and in any case not later than 7 days after the day of termination be paid by his employer a sum equal to the annual leave pay that he would have received for that part of his 7 days' annual leave that has not been granted to him if granted immediately following the day of termination.

(2) Where, under a continuous contract, an employee's period of employment, not being a period in respect of which he is entitled to or has been granted 7 days' annual leave, is more than 3 but less than 12 months, and the

contract is terminated, otherwise than under section 9, for any reason whatsoever including his resignation, he shall as soon as practicable and in any case not later than 7 days after the day of termination be paid by his employer, in addition to any sum due under subsection (1), a sum equal to such proportion of the annual leave pay he would have received for 7 days' annual leave immediately following the day of termination as the number of complete weeks within the period of employment bears to 52.

Restriction
on pay in
lieu of
leave.

41E. Save as provided in section 41D, no payment of annual leave pay or other sum may be made in lieu of the grant of annual leave.

Annual leave
shutdown.

41F. (1) Every employer who intends to close down his business or part thereof for the purpose of granting annual leave to any of his employees shall give one month's notice in writing of his intention so to do to every employee who will as a result have to take annual leave or otherwise stop work during the period of closure.

(2) The provisions of subsection (1) shall be deemed to be complied with if not later than one month before commencement of the period of closure, the employer exhibits in a conspicuous place in the place of employment notice of the closure and of the names of all employees who will as a result have to take annual leave or otherwise stop working, or in lieu of such names, a description or other details enabling such employees to be clearly identified.

(3) Every person who is an employee at the commencement of the period during which the business or part thereof is closed down for the purpose specified in subsection (1), and who is not otherwise entitled to annual leave pay in respect of any day during that period, shall be allowed that day as annual leave and shall be paid by the employer annual leave pay in respect thereof; and for the purposes of this Part any annual leave with pay allowed by reason only of this subsection shall be deemed to have been granted in respect of a period of 12 months employment under a continuous contract ending immediately before the period of closure.

Employer to
keep annual
leave records.

41G. Every employer shall keep a record of—

- (a) the date of commencement and termination of—
- (i) the employment of each employee;
 - (ii) all periods of annual leave taken by each employee; and
 - (iii) all periods of closure of his business or part thereof for the purpose of granting any annual leave to any of his employees; and
- (b) all annual leave pay received by each employee."

4. The heading of Part IX is amended by inserting after "HOLIDAYS" the following—

"AND ANNUAL LEAVE".

Amendment of
heading of
Part IX.

5. Section 42 of the principal Ordinance is amended—

- (a) by inserting after "any holiday" the following—
" , annual leave"; and

Amendment of
section 42.

- (b) by inserting after "holiday pay" the following—
 ", annual leave pay".

Amendment of
 section 43.

6. Section 43 of the principal Ordinance is amended by inserting after "holiday pay" the following—
 ", annual leave pay".

Amendment of
 section 63.

7. Section 63 of the principal Ordinance is amended—
- (a) in subsection (2)(a)(ii) by inserting after "section 18(2)" the following—
 ", 41A(2), 41A(3) or 41F(1)";
- (b) in subsection (4) by deleting "section 40," and substituting the following—
 "section 40; or
 (c) to grant to any employee any annual leave which he is required to grant under section 41A(1); or
 (d) to grant to any employee any rest day or holiday which he is required to grant under section 41A(4); or
 (e) to pay to any employee any annual leave pay which he is required to pay under section 41A(1), 41D or 41F(3);"; and
- (c) in subsection (5) by inserting after "32," the following—
 "41B, 41G;".

Transitional
 provision.

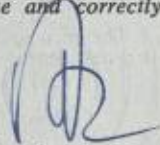
8. (1) Notwithstanding section 1, employment during 1977 under a continuous contract which does not terminate before 1st January 1978, shall be deemed to be employment under a continuous contract for the purposes of Part VIIIA of the principal Ordinance.

(2) Except in consequence of subsection (1), no employment prior to the commencement of this Ordinance shall entitle any employee to any annual leave or annual leave pay under Part VIIIA of the principal Ordinance.

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.

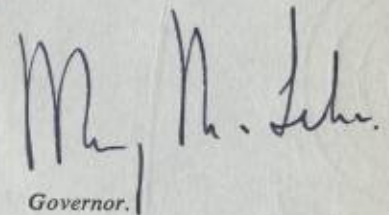

 Clerk to the Legislative Council.

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


 Clerk to the Legislative Council.



I assent.


 Governor.

29th June, 1977.

Amendment of section 43.

6. Section 43 of the principal Ordinance is amended by inserting after "holiday pay" the following—
"annual leave pay".

Amendment of section 63.

7. Section 63 of the principal Ordinance is amended—

(a) in subsection (2)(a)(ii) by inserting after "section 18(2)" the following—

"41A(2), 41A(3) or 41F(1)";

(b) in subsection (4) by deleting "section 40," and substituting the following—

"section 40; or

(c) to grant to any employee any annual leave which he is required to grant under section 41A(1); or

(d) to grant to any employee any rest day or holiday which he is required to grant under section 41A(4); or

(e) to pay to any employee any annual leave pay which he is required to pay under section 41A(1), 41D or 41F(3); and

(c) in subsection (5) by inserting after "32," the following—

"41B, 41G,".

Transitional provision.

8. (1) Notwithstanding section 1, employment during 1977 under a continuous contract which does not terminate before 1st January 1978, shall be deemed to be employment under a continuous contract for the purposes of Part VIIIA of the principal Ordinance.

(2) Except in consequence of subsection (1), no employment prior to the commencement of this Ordinance shall entitle any employee to any annual leave or annual leave pay under Part VIIIA of the principal

HONG KONG

No. 54 OF 1977



I assent.

M. N. Leung
Governor.

29th June, 1977.

An Ordinance to amend the Employment Ordinance.

[]

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

1. This Ordinance may be cited as the Employment (Amendment) (No. 4) Ordinance 1977 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement

2. The principal Ordinance is amended by adding, after Part IX, the following new Part—

Addition of new Part IXA. (Cap. 57.)

"PART IXA

LIABILITY TO PAY WAGES OF SUB-CONTRACTOR'S AND NOMINATED SUB-CONTRACTOR'S EMPLOYEES

Interpretation and application

Interpretation.

43A. (1) In this Part, unless the context otherwise requires—

"building works" means the construction, site formation, reconstruction, maintenance (including redecoration and external cleaning), repairs, alteration or demolition of the whole or any part of—

- (a) any building, dock, pier, bridge, viaduct or other structure; or
- (b) any harbour or port works, reclamation, road, tunnel, sewer, drain, well or waterworks, and any installation works in respect of such building works;

"main nominated sub-contractor" means a nominated sub-contractor who enters into a contract, express or implied, directly with a principal contractor to perform all or any part of the work which the principal contractor has contracted to perform;

"nominated sub-contractor" means—

- (a) any person—
- (i) who enters into a contract, express or implied, with a principal contractor to perform all or any part of the work which the principal contractor has contracted to perform; or
- (ii) who enters into a contract, express or implied, to perform all or any part of the work which a person referred to in sub-paragraph (i) has contracted to perform, who is nominated by an owner or occupier of property, or by an agent or authorized architect, surveyor or civil, municipal or structural engineer of such owner or occupier; and
- (b) any person who subsequently enters into a contract, express or implied, to perform all or any part of the work agreed to be performed by a nominated sub-contractor within the meaning of paragraph (a) of this definition;

"principal contractor" means a person who enters into a contract directly with an owner or occupier of property, or with an agent or authorized architect, surveyor or civil, municipal or structural engineer of such owner or occupier, to perform any work for such owner or occupier;

"sub-contractor" means—

- (a) any person who enters into a contract, express or implied, with a principal contractor to perform all or any part of the work which the principal contractor has contracted to perform; and
- (b) any other person who enters into a contract, express or implied, to perform all or any part of the work which a sub-contractor within the meaning of paragraph (a) has contracted to perform,

but does not include a nominated sub-contractor;

"work" means—

- (a) building works; and
- (b) the supply of manual labour for the purposes of or in connexion with building works.
- (2) For the purposes of this Part—
- (a) a sub-contractor is a superior sub-contractor to another sub-contractor if all or any part of the work which he contracted to perform is sub-

contracted to that other sub-contractor, whether or not such work is performed by that other sub-contractor or further sub-contracted by that other sub-contractor;

- (b) a nominated sub-contractor is a superior nominated sub-contractor to another nominated sub-contractor if all or any part of the work which he contracted to perform is sub-contracted to that other nominated sub-contractor, whether or not such work is performed by that other nominated sub-contractor or further sub-contracted by that other nominated sub-contractor.

Application.

(54 of 1977.)

Liability of principal contractor and superior sub-contractor to pay wages of employees of sub-contractors.

43B. This Part shall not apply to wages for any work for which a contract was entered into by a principal contractor, nominated sub-contractor or sub-contractor prior to the commencement of the Employment (Amendment) (No. 4) Ordinance 1977.

Sub-contractor's employees' wages

43C. (1) Subject to this Part, if any wages become due to an employee who is employed by a sub-contractor on any work which the sub-contractor has contracted to perform, and such wages are not paid within the period specified in section 23, 24 or 25, as the case may be, such wages shall be payable to the employee—

- (a) where the sub-contractor has contracted with the principal contractor, by the principal contractor; and
- (b) where the sub-contractor has contracted with a superior sub-contractor, by the principal contractor and every superior sub-contractor to the sub-contractor, jointly and severally.

(2) The liability of a principal contractor and of a principal contractor and superior sub-contractor or superior sub-contractors jointly and severally under subsection (1) shall be limited—

- (a) to the wages of an employee whose employment relates wholly to the work which the principal contractor has contracted to perform and whose place of employment is wholly on the site of the building works; and
- (b) to the wages due to such an employee for 2 months without any deductions under this Ordinance and such months shall be the first 2 months of the period in respect of which the wages are due to the employee.

(3) Subject to subsection (4) the wages payable under subsection (1) shall be paid by the principal contractor or superior sub-contractor, as the case may be, not later than 30 days after the date on which a notice under section 43D is received by him or service thereof is deemed to be effected on him.

(4) Where any claim in respect of the wages payable under subsection (1) is filed with the Labour Tribunal and an award or order is made in favour of the employee, the wages shall be paid within such time as the Labour Tribunal

may direct, or, in the absence of any direction, not later than 30 days after the making of the award or order.

Notice by employee to principal contractor.

43D. (1) Where the wages of an employee who is employed by a sub-contractor are not paid by his employer within the period specified in section 23, 24 or 25, as the case may be, the employee shall serve on the principal contractor, within 30 days (or such other additional period not exceeding 90 days as the Commissioner may permit) after the date on which the wages become due, a notice in writing stating the—

- (a) name and address of the employee;
- (b) name and address of his employer;
- (c) address of the place of employment of the employee;
- (d) particulars of the work in respect of which the wages are due; and
- (e) amount of wages due and the period to which they relate.

(2) A principal contractor who receives a notice under subsection (1) from an employee of a sub-contractor shall, within 14 days after the receipt of the notice, serve a copy of the notice on every superior sub-contractor to that sub-contractor (if any) of whom he is aware.

(3) A principal contractor and superior sub-contractor (if any) shall not be liable to pay any wages under section 43C to the employee of a sub-contractor if that employee fails to serve a notice on the principal contractor under subsection (1).

(4) A principal contractor who without reasonable excuse fails to comply with subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

Employer to supply information at request of employee.

43E. (1) Where an employer who is a sub-contractor fails to pay, within the period specified in section 23, 24 or 25, as the case may be, any wages due to an employee employed by him on work which he has contracted to perform, he shall within 7 days of the receipt of a written request made by the employee supply to the employee the name and address of the principal contractor and every superior sub-contractor to him and shall, within such 7 days' period, deliver a copy of the written request to the principal contractor and every superior sub-contractor to him.

(2) An employer who without reasonable excuse fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

Recovery of wages paid by principal contractor or superior sub-contractor.

43F. (1) If a principal contractor or superior sub-contractor pays to an employee any wages under section 43C, the wages so paid shall be a debt due by the employer of that employee to the principal contractor or superior sub-contractor, as the case may be.

(2) Any principal contractor or superior sub-contractor who pays to an employee any wages under section 43C may either—

(a) claim contribution from every superior sub-contractor to the employee's employer or from the principal contractor and every other such superior sub-contractor as the case may be; or

(b) deduct by way of set-off the amount paid by him from any sum due or which may become due—

(i) to any sub-contractor to whom he has sub-contracted all or any part of work that he contracted to perform being work upon which the employee was employed, and

(ii) in respect of the work that he has sub-contracted.

(3) For the purposes of this section any amount—

(a) paid by a principal contractor or a superior sub-contractor by way of contribution under subsection (2)(a), or

(b) deducted by a principal contractor or a superior sub-contractor from any sum due by him by way of set-off under subsection (2)(b),

shall be deemed to be payment by the principal contractor or superior sub-contractor who has paid the amount by way of contribution or by the superior sub-contractor who has suffered a deduction from any sum due to him by way of set-off to an employee of wages under section 43C.

Nominated sub-contractor's employees' wages

Liability of superior nominated sub-contractor to pay wages of employees of nominated sub-contractors.

43G. (1) Subject to this Part, if any wages become due to an employee who is employed by a nominated sub-contractor on any work which the nominated sub-contractor has contracted to perform, and such wages are not paid within the period specified in section 23, 24 or 25, as the case may be, such wages shall be payable to the employee by every superior nominated sub-contractor to the nominated sub-contractor by whom the employee is employed, jointly and severally.

(2) The liability of a superior nominated sub-contractor or superior nominated sub-contractors jointly and severally under subsection (1) shall be limited—

(a) to the wages of an employee whose employment relates wholly to the work which the main nominated sub-contractor has contracted to perform whether or not his place of employment is on the site of the building works; and

(b) to the wages due to such an employee for 2 months without any deductions under this Ordinance and such months shall be the first 2 months of the period in respect of which the wages are due to the employee.

(3) Subject to subsection (4) the wages payable under subsection (1) shall be paid by the superior nominated sub-contractor not later than 30 days after the date on which a notice under section 43H is received by him or service thereof is deemed to be effected on him.

(4) Where any claim in respect of the wages payable under subsection (1) is filed with the Labour Tribunal and an award or order is made in favour of the employee, the wages shall be paid within such time as the Labour Tribunal may direct, or, in the absence of any direction, not later than 30 days after the making of the award or order.

Notice by employee to main nominated sub-contractor.

43H. (1) Where the wages of an employee who is employed by a nominated sub-contractor are not paid by his employer within the period specified in section 23, 24 or 25, as the case may be, the employee shall serve on the main nominated sub-contractor, within 30 days (or such other additional period not exceeding 90 days as the Commissioner may permit) after the date on which the wages became due, a notice in writing containing the particulars specified in section 43D(1).

(2) A main nominated sub-contractor who receives a notice under subsection (1) from an employee of a nominated sub-contractor shall, within 14 days after the receipt of the notice, serve a copy of the notice on every superior nominated sub-contractor to that nominated sub-contractor (if any) of whom he is aware.

(3) A superior nominated sub-contractor shall not be liable to pay any wages under section 43G to the employee of a nominated sub-contractor if that employee fails to serve a notice on the main nominated sub-contractor under subsection (1).

(4) A main nominated sub-contractor who without reasonable excuse fails to comply with subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

Employer to supply information at request of employee.

43I. (1) Where an employer who is a nominated sub-contractor fails to pay, within the period specified in section 23, 24 or 25, as the case may be, any wages due to an employee employed by him on work which he has contracted to perform, he shall within 7 days of the receipt of a written request made by the employee supply to the employee the name and address of the main nominated sub-contractor and every superior nominated sub-contractor to him and shall, within such 7 days' period, deliver a copy of the written request to the main nominated sub-contractor and every superior nominated sub-contractor to him.

(2) An employer who without reasonable excuse fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

Recovery of wages paid by superior nominated sub-contractor.

43J. (1) If a superior nominated sub-contractor pays to an employee any wages under section 43G, the wages so paid shall be a debt due by the employer of that employee to the superior nominated sub-contractor.

(2) Any superior nominated sub-contractor who pays to an employee any wages under section 43G may either—

- (a) claim contribution from every other superior nominated sub-contractor to the employee's employer; or
- (b) deduct by way of set-off the amount paid by him from any sum due or which may become due—

(i) to any nominated sub-contractor to whom he has sub-contracted all or any part of work that he contracted to perform being work upon which the employee was employed; and

(ii) in respect of the work that he has sub-contracted.

(3) For the purposes of this section any amount—

- (a) paid by a superior nominated sub-contractor by way of contribution under subsection (2)(a), or
- (b) deducted by a superior nominated sub-contractor from any sum due by him by way of set-off under subsection (2)(b),

shall be deemed to be payment by the superior nominated sub-contractor who has paid the amount by way of contribution or has suffered a deduction from any sum due to him by way of set-off to an employee of wages under section 43G.

General

Cessation of employer's liability for wages paid by principal contractor, superior sub-contractor or superior nominated sub-contractor.

43K. Where any wages are paid to an employee by a principal contractor or superior sub-contractor under section 43C or by a superior nominated sub-contractor under section 43G, the liability of the employer shall, subject to sections 43F(1) and 43J(1), cease.

Service of notice.

43L. (1) A notice under section 43D or 43H may be served on a principal contractor or a main nominated sub-contractor respectively and a request under section 43E or 43I may be served on an employer—

- (a) by delivering it to him personally;
- (b) by leaving it at his usual address or last known residential or business address; or
- (c) by sending it to him by registered post to any address referred to in paragraph (b).

(2) Service under subsection (1)(b) shall be deemed to have been effected on the day on which the notice or request is left at the premises.

Employee's rights against employer not affected.

43M. Nothing in this Part shall prejudice the right of an employee to recover any wages due to him by an employer directly from the employer."

3. The Labour Tribunal Ordinance is amended in the Schedule by inserting after paragraph 4 the following new paragraph—

"5. Any question as to—

- (a) the right of an employee to payment of wages by a person other than his employer under Part IXA of the Employment Ordinance; and
- (b) the amount of such payment."

Amendment of the Labour Tribunal Ordinance. (Cap. 25.)

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.

[Handwritten signature]

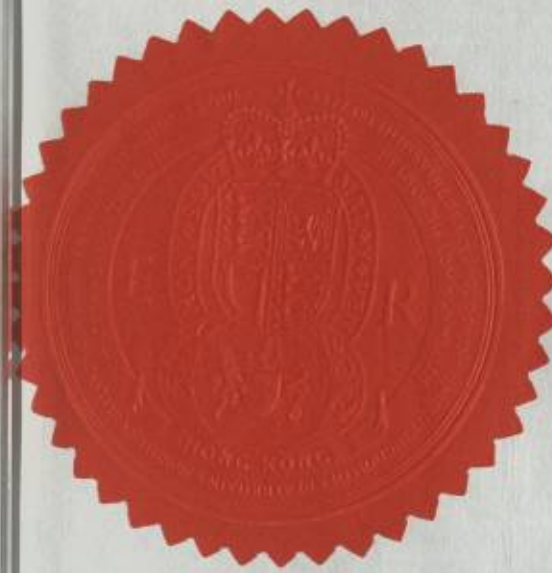
Clerk to the Legislative Council.

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

[Handwritten signature]

Clerk to the Legislative Council.

[Faint embossed text]



I assent.

[Handwritten signature]

Governor.

29th June, 1977.

An Ordinance to amend the Trade Marks Ordinance.

HONG KONG

No. 55 OF 1977

142
Clerk to the Legislative Council.

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

102
Clerk to the Legislative Council.



I assent.

M. R. S. Lee
Governor.

29th June, 1977.

An Ordinance to amend the Trade Marks Ordinance.

[]

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

1. This Ordinance may be cited as the Trade Marks (Amendment) Ordinance 1977 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

2. The principal Ordinance is amended by adding, after section 13, the following new section—

Addition of new section 13A. (Cap. 43.)

*Priority for application made in Convention country. (cf. 7 Edw. 7 c. 29, s. 91.)

13A. (1) Subject to subsection (2), any person who has applied for protection for any trade mark in a Convention country, or his legal representative or assignee, shall be entitled to registration of his trade mark under this Ordinance in priority to other applicants and the registration shall have the same date as the date of the application in the Convention country.

(2) For the purposes of obtaining priority under subsection (1), the application for registration of the trade mark under this Ordinance must be made within 6 months from—

(a) the date of application for protection in the Convention country; or

(b) where more than one such application for protection has been made, from the date of the first application.

(3) Nothing in subsection (1) shall entitle the proprietor of a trade mark to recover damages for any infringement happening prior to the actual date on which his trade mark is registered under this Ordinance.

(4) An application for the registration of a trade mark under this section shall, subject to such further requirements as may be prescribed—

(a) be made in the same manner as an ordinary application under this Ordinance; and

(b) specify—

(i) the Convention country in which the application for protection, or the first such application, was made; and

(ii) the date on which such application for protection was made.

(5) Where a person has applied for protection for any trade mark by an application which—

(a) in accordance with the terms of a treaty subsisting between any two or more Convention countries, is equivalent to an application duly made in any one of those Convention countries; or

(b) in accordance with the law of any Convention country, is equivalent to an application duly made in that Convention country,

he shall be deemed for the purposes of this section to have applied in that Convention country.

(6) In this section "Convention country" means—

(a) the United Kingdom;

(b) any country (including any colony, protectorate or territory subject to the authority or under the suzerainty of another country, or territory administered by another country) for the time being specified in the Schedule.

Schedule.

(7) The Governor may by order published in the *Gazette*—

(a) add to the Schedule—

(i) the name of any country which has acceded to the Paris Convention for the Protection of Industrial Property 1883, as revised at Brussels in 1900, at Washington in 1911, at the Hague in 1925, at London in 1934, at Lisbon in 1958 and at Stockholm in 1967, and as the same may be revised from time to time;

(ii) the name of any colony, protectorate or territory subject to the authority or under the suzerainty of another country (other than the

United Kingdom), or territory administered by another country (other than the United Kingdom), on behalf of which such other country has acceded to the said Convention;

(b) delete from the Schedule the name of any country which has denounced the said Convention, or the name of any colony, protectorate or territory on behalf of which the said Convention has been denounced;

(c) otherwise amend the Schedule."

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

(a) by deleting the full stop and substituting a colon; and

(b) by inserting the following new proviso—

"*Inf.* 142
Geo. 6
c. 22,
s. 19(1).]"

Provided that, in relation to the date as of which a trade mark shall be registered and to the date to be deemed the date of registration, this subsection shall, as respects an application to which section 13A applies, have effect subject to that section."

Amendment of section 17.

4. The principal Ordinance is amended by adding after section 91 the following new Schedule—

Addition of new Schedule.

"SCHEDULE

[s. 13A.]

LIST OF COUNTRIES (EXCLUDING THE UNITED KINGDOM)
ADHERING TO THE PARIS CONVENTION FOR THE PROTECTION OF
INDUSTRIAL PROPERTY 1883, AS REVISED FROM TIME TO TIME

Algeria	France (including the Departments of Guadeloupe, Guiana, Martinique and Reunion and Overseas Territories)
Argentina	Gabon
Australia (including Papua, New Guinea, Norfolk Island, Nauru)	Germany (Democratic Republic)
Austria	Germany (Federal Republic)
Bahamas	Greece
Belgium	Haiti
Brazil	Holy See
Bulgaria	Hungary
Cameroon	Iceland
Canada	Indonesia
Central African Republic	Iran
Chad	Iraq
Congo (People's Republic)	Irish Republic
Cuba	Israel
Cyprus	Italy
Czechoslovakia	Ivory Coast
Dahomey	Japan
Denmark (including the Faroe Islands)	Jordan
Dominican Republic	Kenya
Egypt	Lebanon
Finland	Liechtenstein

Luxembourg	Spain
Madagascar	Sri Lanka
Malawi	Sweden
Malta	Switzerland
Mauritania	Syrian Arab Republic
Mexico	Tanzania (Tanganyika only)
Monaco	Togo
Morocco	Trinidad and Tobago
Netherlands (including Curacao, Surinam)	Tunisia
New Zealand	Turkey
Niger	Uganda
Nigeria	Union of Soviet Socialist Republics
Norway	United States of America (including Puerto Rico, Virgin Islands (US), Eastern Samoa, Guam)
Philippines	Upper Volta
Poland	Uruguay
Portugal (including the Azores and Madeira)	Viet-Nam
Romania	Yugoslavia
San Marino	Zaire
Senegal	Zambia".
South Africa	

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.

Clerk to the Legislative Council.

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

Clerk to the Legislative Council.



I assent.

Governor.

PART II

INCORPORATION AND POWERS

Incorporation
of Consumer
Council.

3. (1) The Consumer Council existing at the commencement of this Ordinance is hereby created a body corporate consisting of the persons who from time to time hold office as members of the Council.

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

(3) The Council shall continue to be known in the Chinese language as "消費者委員會".

Functions of
Council.

4. (1) The functions of the Council are to protect and promote the interests of consumers of goods and services by—

- (a) collecting, receiving and disseminating information concerning goods and services;
- (b) receiving and examining complaints by and giving advice to consumers of goods and services;
- (c) taking such action as it thinks justified by information in its possession, including tendering advice to the Government or to any public officer;
- (d) encouraging business and professional associations to establish codes of practice to regulate the activities of their members;
- (e) undertaking such other functions as the Council may adopt with the prior approval of the Governor in Council.

(2) The Governor may by notice in writing to the Council declare any goods or services or class of goods or services to be outside the scope of the Council's functions under subsection (1).

(3) In subsection (1) and in section 5(2)(c) "goods and services" does not include goods and services which are—

- (a) supplied by—
 - (i) the Government or the Urban Council; or
 - (ii) a body mentioned in the Schedule; or

Schedule.

- (b) made the subject of a declaration under subsection (2).

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

Powers of
Council.

5. (1) The Council may do such things as are reasonably necessary to enable it to carry out its functions.

(2) Without restricting the generality of subsection (1), the Council may in carrying out its functions—

- (a) acquire, hold and dispose of all kinds of property movable and immovable and in any manner which it thinks fit;
- (b) enter into any contract;
- (c) undertake the testing and examination of goods and services;
- (d) produce or distribute, by way of sale or otherwise, any publication which is of interest to consumers;
- (e) do any thing which it may do under this Ordinance in association or co-operation with any other person or sponsor any other person to do that thing;

(f) charge for the use of any facility or service provided by the Council;

(g) with the prior approval of the Governor, become a member of or affiliate to any international body concerned with consumer matters.

6. (1) The Council shall consist of the following members—

Membership
of Council.

- (a) a Chairman who shall be appointed by the Governor for a term not exceeding 2 years;
- (b) the person who holds the office of Executive Director pursuant to section 10(1); and
- (c) not less than 13 nor more than 15 other persons each of whom shall be appointed by the Governor for a term not exceeding 2 years.

(2) The Chairman and any other member appointed under subsection (1)(c) may be reappointed upon expiry of their respective terms of office.

(3) The Chairman and any other member appointed under subsection (1)(c) may at any time—

- (a) resign his office by notice to the Governor; or
- (b) be removed therefrom by the Governor for permanent incapacity or other sufficient cause;

and upon such resignation or removal the term for which he was appointed shall be deemed to have expired.

(4) Where the Chairman or any other member appointed under subsection (1)(c) is precluded by temporary incapacity or other cause from exercising his functions as such for any period the Governor may appoint another person to act in place of the Chairman or other member during such period with all such rights, powers, duties or liabilities as if he had been appointed under subsection (1).

(5) The Executive Director may authorize any other officer of the Council to attend a meeting in his stead, and in that case such officer shall be deemed for all purposes to be a member of the Council.

(6) Where any question arises under subsection (3) or (4) as to whether any incapacity or cause exists or whether any incapacity is temporary or permanent or any cause sufficient, the decision of the Governor thereon shall be final.

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

Meetings of
Council.

(2) The following procedural provisions shall apply to every meeting of the Council and subject thereto the Council may regulate its own procedure—

- (a) 8 members shall form a quorum;
- (b) the Chairman or acting Chairman shall preside or, if both are absent or disqualified under section 9(c), the members present shall appoint one of their number to preside;
- (c) every question shall be determined by a majority of votes of the members present and voting thereon;
- (d) in the event of an equality of votes the member presiding shall have a casting vote in addition to his ordinary vote.

Committees.

8. (1) The Council may appoint committees and may delegate to them the exercise and performance of any of its powers and functions except this power of delegation.

(2) Persons who are not members of the Council are eligible for appointment to committees.

(3) Subject to the terms of any delegation by the Council, every committee—

- (a) may exercise and perform the delegated powers and functions with the same effect as if it were the Council itself;
- (b) shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary;
- (c) may regulate its own procedure.

Disclosure of member's interest.

9. If a member of the Council, or of any committee of the Council, has a direct or indirect commercial interest in any matter under discussion at a meeting of the Council or of the committee, being an interest greater than that which he has as a member of the general public, the following provisions shall apply—

- (a) he shall disclose the nature of his interest at the meeting;
- (b) the disclosure shall be recorded in the minutes;
- (c) where the disclosure is made by the member presiding, he shall vacate the chair during the discussion;
- (d) the member (including one who has vacated the chair under paragraph (c)) shall, if so required by the member presiding, withdraw from the meeting during the discussion and shall not in any case, except as otherwise determined by the member presiding, vote on any resolution concerning the matter or be counted for the purpose of establishing the existence of a quorum.

Appointment of staff and advisers.

10. (1) Subject to subsection (4), the Council shall appoint an Executive Director to act as its chief executive.

(2) The Council may appoint such other employees as it thinks fit and, subject to subsection (4), determine all matters relating to their remuneration and terms and conditions of appointment or employment.

(3) The Council may engage the services of technical and professional advisers in such manner and on such terms and conditions as it thinks fit.

(4) The Council shall obtain the prior approval of the Governor to—

- (a) any appointment proposed to be made under subsection (1) and the terms and conditions thereof;
- (b) the suspension or dismissal of the Executive Director;
- (c) the salary or salary scale (including allowances and other pecuniary benefits) and conditions of employment applicable to the Executive Director and every other employee or class of employee, and any variation thereof.

(5) No person shall be employed by the Council otherwise than on the salary or salary scale or on the conditions of employment applicable to that person approved by the Governor under subsection (4).

Documents of Council.

11. (1) The Council may make and execute all such documents as may be expedient for or conducive to the exercise and performance of its powers, functions and duties.

(2) The fixing of the seal of the Council to any document shall—

- (a) be authorized by resolution of the Council; and
- (b) be authenticated by the signatures of any 2 members authorized by resolution of the Council, either generally or specially, to act for that purpose.

(3) Any document purporting to be duly executed under the seal of the Council shall, unless the contrary is proved, be considered to be duly executed.

(4) Any contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be in the form of a deed may be entered into or executed on behalf of the Council by any person generally or specially authorized by the Council for that purpose.

PART III

FINANCIAL

12. (1) The Governor may, out of money appropriated for the purpose by the Legislative Council, authorize payment to the Consumer Council of such amounts as he thinks fit.

Resources of Council.

(2) The resources of the Council shall consist of—

- (a) all money received by the Council pursuant to subsection (1);
- (b) money paid to the Council by way of donations, fees, subscriptions, rent and interest;
- (c) all other money and property, including accumulations of income, received by the Council for its purposes.

13. The Council may, with the approval of the Financial Secretary, borrow or otherwise raise money and charge all or any part of its property as security therefor.

Borrowing powers.

14. All money of the Council that is not immediately required shall be invested—

Investment of funds.

- (a) on fixed deposit in any bank or savings bank approved by the Financial Secretary, either generally or in any particular case, for the purpose; or
- (b) in such other forms of investment as the Financial Secretary may approve.

15. The Council shall in each financial year adopt estimates of income and expenditure for the ensuing financial year and, before a date to be appointed by the Financial Secretary, send them to the Governor for his approval together with a programme of its proposed activities for the ensuing financial year.

Estimates.

16. (1) The Council shall keep proper accounts and proper records in relation thereto and shall within 3 months after the expiry of a financial year, or such further period as the Financial Secretary may allow, prepare a statement of the accounts of the Council, which statement shall include an income and expenditure account and a balance sheet.

Accounts, audit and annual report.

(2) The Council shall, subject to subsection (3), appoint an auditor, who shall be entitled to have access at any time to all books of account,

vouchers and other financial records of the Council and to require such information and explanations relating thereto as he thinks fit.

(3) The Council shall obtain the prior approval of the Financial Secretary to any appointment proposed to be made under subsection (2).

(4) The auditor shall, as soon as is practicable, audit the accounts required by subsection (1) and shall submit a report thereon to the Council.

(5) The Council shall within 3 months after the receipt by it of the auditor's report in respect of its accounts for a financial year, or within such further period as the Financial Secretary may allow, furnish—

- (a) a report on the affairs of the Council for that year;
- (b) a copy of its accounts therefor; and
- (c) the auditor's report on the accounts,

to the Governor who shall cause the same to be tabled in the Legislative Council.

PART IV

GENERAL

17. The Council is not a servant or agent of the Crown and does not enjoy any status, immunity or privilege of the Crown.

18. (1) The Governor may, if he considers that the public interest so requires, give to the Council such directions as he thinks fit with respect to the exercise and performance by the Council of its powers, functions and duties under this Ordinance, either generally or in any particular case.

(2) The Council shall comply with any direction given to it under subsection (1).

19. (1) No member or employee of the Council or of any committee of the Council shall be personally liable for any act done or default made—

- (a) by the Council; or
- (b) by any committee of the Council;

acting in good faith in the course of the operations of the Council or of the committee.

(2) The protection hereby conferred on members and employees of the Council or of a committee in respect of any act or default shall not in any way affect any liability of the Council for that act or default.

20. (1) No person shall publish or cause to be published any advertisement which states, either expressly or by implication, that the Council or any committee, member or employee thereof has approved or has refrained from disapproving the advertisement or any of the claims or statements made or goods or services depicted or described in the advertisement.

(2) Any person who contravenes subsection (1) commits an offence and is liable to a fine of \$5,000.

(3) In subsection (1) "advertisement" means any words, whether written or spoken, or any picture drawing or figure—

- (a) appearing in any publication; or
- (b) brought to the notice of members of the public in any other way.

Council not servant or agent of Crown.

Governor may give directions.

Protection of members of Council and committees.

Advertisements not to state or imply approval by Council.

21. (1) All property of whatever kind and whether movable or immovable vested in or belonging to the Consumer Council existing at the commencement of this Ordinance shall as from that date vest in or belong to that Council in its corporate capacity without any further assurance.

Transitional provisions.

(2) All obligations and liabilities of the said Consumer Council are as from the commencement of this Ordinance the obligations and liabilities of the Council in its corporate capacity.

(3) Where anything has been commenced by or under the authority of the said Consumer Council before the commencement of this Ordinance such thing may be carried on and completed by the Council in its corporate capacity.

(4) Every person who immediately before the commencement of this Ordinance holds an appointment as Chairman, Executive Director or a member of the said Consumer Council is, as from such commencement but subject to the terms of his appointment, the Chairman, Executive Director, or a member of the Council, as the case may be, for the purposes of this Ordinance.

(5) Notwithstanding the definition of "financial year" in section 2 the period between the commencement of this Ordinance and the 31st March 1978 shall be deemed to be a financial year.

(6) No stamp duty shall be payable in respect of any transfer of property under this section.

22. The Schedule to the Prevention of Bribery Ordinance is amended by inserting after item 39 the following new item—

"40. Consumer Council."

Amendment of Prevention of Bribery Ordinance. (Cap. 201.)

SCHEDULE

[s. 4.]

Cable and Wireless Limited.
 Cheung Chau Electric Company Limited.
 China Light and Power Company Limited.
 China Motor Bus Company Limited.
 Commercial Television Limited.
 Cross-Harbour Tunnel Company Limited.
 Eastern Ferry Company Limited.
 Fish Marketing Organization.
 Hong Kong and China Gas Company Limited.
 Hong Kong and Yaumati Ferry Company Limited.
 Hong Kong Air Cargo Terminals Limited.
 Hong Kong Commercial Broadcasting Company Limited.
 Hong Kong Electric Company Limited.
 Hong Kong Housing Authority.
 Hong Kong Telephone Company Limited.
 Hong Kong Tramways Limited.
 Hop Shing Kung Ferry Company Limited.
 Kowloon Motor Bus Company (1933) Limited.
 Mass Transit Railway Corporation.
 New Lantao Bus Company Limited.

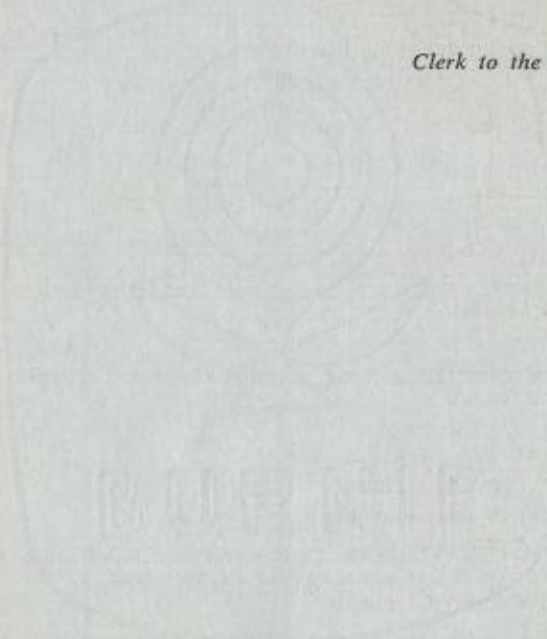
Peak Tramways Company Limited.
Rediffusion Television Limited.
Shun Lee Motor Boat Company.
"Star" Ferry Company Limited.
Television Broadcasts Limited.
Vegetable Marketing Organization.

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.

Clerk to the Legislative Council.

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

Clerk to the Legislative Council.



I assent.

Governor.

14th July, 1977.

An Ordinance to provide for the construction, establishment and management of a sports centre at Sha Tin and to provide for matters connected therewith and incidental thereto.

"Star" Ferry Company Limited.
Television Broadcasts Limited.
Vegetable Marketing Organization.

Passed by the Hong Kong Legislative Council this 29th day of June, 1977.

Clerk to the Legislative Council.

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

Clerk to the Legislative Council.

HONG KONG

No. 57 OF 1977



I assent.

Governor.

14th July, 1977.

An Ordinance to provide for the construction, establishment and management of a sports centre at Sha Tin and to provide for matters connected therewith and incidental thereto.

[15th July, 1977]

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

PART I

PRELIMINARY

1. This Ordinance may be cited as the Jubilee Sports Centre Ordinance 1977. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.
"Board" means the Jubilee Sports Centre Board incorporated under section 3;
"Chairman" means the Chairman of the Board appointed under section 12;
"financial year" means the period commencing on the 1st of April each year and ending on the 31st of March in the year following except that the period from the commencement of the Ordinance to the 31st March next thereafter shall be deemed to be a financial year;
"member" means a member of the Board;
"sports centre" means the sports centre at Sha Tin established and managed by the Board.

PART II

THE JUBILEE SPORTS CENTRE BOARD

Establishment and incorporation of the Jubilee Sports Centre Board.

3. There is hereby established a board to be called the Jubilee Sports Centre Board which shall, in that name, be a body corporate with perpetual succession and shall be capable of suing and being sued.

Establishment and name of the sports centre.

4. (1) A sports centre shall be established by the Board on land in Sha Tin vested in it by the Government.

(2) The sports centre shall be called the Jubilee Sports Centre.

Functions of the Board.

5. (1) The functions of the Board shall be—

- (a) to establish, manage and control the sports centre;
- (b) to provide at the sports centre sporting and other related facilities of any kind as it thinks fit;
- (c) to provide expert coaching in a wide number of sports, together with facilities necessary for practice, with a view to raising the standard of performance in sports in Hong Kong and stimulating increased participation in sports and recreation generally;
- (d) to provide such amenities at the sports centre as it thinks fit.

(2) The Board may—

- (a) demarcate and construct playing fields, pitches, courts, tracks and other areas at the sports centre for the conduct of organized games and sports;
- (b) construct swimming pools at the sports centre;
- (c) construct and equip gymnasiums and other areas at the sports centre for such sporting or recreational use as it thinks fit;
- (d) develop the sports centre for the purposes of sports or recreation generally.

Powers of the Board.

6. (1) The Board may do all such acts as are reasonably necessary for the performance or exercise of all or any of its functions or powers under this Ordinance and may perform any other function which is incidental or conducive to or connected with the furtherance of its functions and may in particular, but without prejudice to the generality of the foregoing—

- (a) acquire and hold property of any description for the purposes of the sports centre and, subject to the terms and conditions upon which the same is held, dispose of any such property;
- (b) construct buildings, and any premises or structures ancillary thereto, for the provision of sporting and recreational facilities and other buildings, premises or structures necessary for the purposes of the sports centre and its users;
- (c) alter, enlarge, improve, repair or demolish any buildings, premises or structures at the sports centre;
- (d) provide any equipment, fixtures, fittings or furniture for the purposes of the sports centre;
- (e) enter into any contract;
- (f) become a member of, act as agent for or otherwise take part in the activities of any association or institution which is, either wholly or in part, concerned with any matter relating to sports or recreation;
- (g) hold sporting events and athletic competitions;

- (h) permit the use of the facilities at the sports centre by any person and, subject to section 7(2), charge fees therefor in such cases as it thinks fit;
- (i) specify the purposes for which the sports centre, or any part thereof, may be used;
- (j) provide transport free of charge, or contribute towards the cost of transport, in the case of persons who are to take part in any sporting event or competition held at the sports centre or who are permitted to use the facilities at the sports centre;
- (k) appoint any person or committee for any such general or special purpose as in the opinion of the Board would be better regulated and managed by such means;
- (l) accept gifts and donations, whether of property or otherwise and whether subject to any special trust or not;
- (m) award scholarships in sports in suitable cases.

7. (1) The Board may—

- (a) fix the fees to be paid for, and specify conditions to be observed in, the use of the sports centre or any part thereof, or any facilities provided therein;
- (b) fix the fees to be paid by the public for admission to any function in the sports centre organized by the Board; and
- (c) fix charges to be paid for any trading or advertising in the sports centre.

(2) The Board—

- (a) may waive any fees fixed under subsection (1) in such cases as it thinks fit where the use of the sports centre or any part thereof, or any facilities provided therein, is granted to persons under 18 years of age;
- (b) may reduce or waive any fees fixed under subsection (1) in any other particular case.

(3) Any fees or other charges whatsoever collected by the Board under this Ordinance shall accrue to the revenue of the Board.

8. (1) The Board may grant to any person the exclusive use of the sports centre or any part thereof, or any facilities provided therein, for such purpose and at such times as the Board may approve and subject to such conditions as it may impose.

(2) Subject to any conditions imposed by the Board under subsection (1), the person to whom the exclusive use of the sports centre or any part thereof, or any facilities provided therein, has been granted under subsection (1) may determine—

- (a) whether or not the public shall be admitted to the sports centre or any part thereof during the period of such exclusive use; and
- (b) the fees, if any, to be paid by members of the public for admission during this period.

9. The Board shall have a common seal, and the fixing of the seal shall—

- (a) be authorized or ratified by resolution of the Board; and
- (b) be authenticated by the signature of any 2 members, authorized by resolution of the Board either generally or specially to act for that purpose.

Powers of Board in relation to fees, conditions of use, etc.

Allocation and granting of sports centre or parts thereof.

Seal of the Board.

Documents of the Board.

10. (1) The Board may make and execute any document in the performance or exercise of its functions or powers or in connexion with any matter reasonably incidental to or consequential upon the performance or exercise of its functions or powers.

(2) Any document purporting to be duly executed under the seal of the Board shall, unless the contrary is proved, be deemed to have been duly executed.

Certain documents not required to be sealed.

11. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

PART III

MEMBERSHIP AND PROCEDURE OF BOARD

Membership of the Board.

12. (1) The Board shall consist of not more than 9 members to be appointed by the Governor, of whom—

- (a) one shall be appointed by the Governor as Chairman of the Board; and
- (b) not more than 4 shall be appointed in consultation with the Royal Hong Kong Jockey Club.

(Cap. 1.)

(2) Without prejudice to section 42 of the Interpretation and General Clauses Ordinance, every member shall be appointed for a period of 3 years or for such lesser period as the Governor may in any particular case appoint, but may from time to time be reappointed.

(3) Any member may at any time by notice in writing to the Governor resign from the Board.

(4) If the Chairman is absent from Hong Kong or is, for any other reason unable to act as Chairman, the Governor may appoint a member to act as Chairman during the absence or incapacity of the Chairman.

(5) If any member other than the Chairman is absent from Hong Kong, or is for any other reason unable to exercise the powers or perform the duties of his office as a member, the Governor may appoint another person to be a temporary member of the Board during the absence or incapacity of that member.

Proceedings of the Board.

13. (1) At a meeting of the Board a majority of the members appointed at the time shall form a quorum.

(2) At a meeting of the Board, the Chairman, or in the absence of the Chairman, such other member as the members present may select, shall preside.

(3) All questions for determination at a meeting of the Board shall be decided by a majority of votes of the members present and voting thereon and in the event of an equality of votes the member presiding shall have a casting vote in addition to his original vote.

(4) Subject to this Ordinance, arrangements relating to meetings of the Board, the procedure at, and the conduct of, its meetings, shall be such as the Board may determine.

Validity of proceedings.

14. The validity of any proceedings of the Board shall not be affected by—

- (a) any defect in the appointment of any member;

- (b) the absence of any member from the meeting at which such proceeding occurred; or
- (c) any vacancy among members of the Board.

PART IV

FINANCIAL

15. The Board may borrow or otherwise raise money and charge all or any part of its property as security therefor, and pay interest on any money so borrowed or raised.

Power to borrow money.

16. (1) The Board shall keep such accounts of its financial transactions as the Financial Secretary may require and shall prepare for each financial year a statement of the accounts of the Board, which statement shall include an income and expenditure account and balance sheet and shall be signed by the Chairman.

Accounts and statements.

(2) The signed statement of accounts of the Board shall be submitted by the Chairman to an auditor appointed by the Board not later than 4 months following the end of the period to which it relates or by such later date as the Governor may allow.

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

(4) A copy of the signed and audited statement of accounts together with the report, if any, of the appointed auditor and a report by the Board on its activities during the period covered by the audited accounts, shall be submitted to the Governor and the Royal Hong Kong Jockey Club, and laid on the table of the Legislative Council within 2 months of the receipt by the Board of the signed and audited statement of accounts from the appointed auditor.

17. All funds of the Board that are not immediately required shall be deposited in any savings bank, or on fixed deposit in any bank, nominated by the Financial Secretary, either generally or in any particular case, for that purpose, or, subject to the prior approval of the Financial Secretary, shall be invested in such investments as the Board thinks fit.

Investment of surplus funds.

PART V

STAFF

18. (1) The Board shall appoint a person to be the Chief Executive of the Board.

Appointment of Chief Executive and other employees.

(2) The Board may appoint such other employees as it thinks necessary.

(3) All matters relating to the remuneration, the terms and conditions of appointment, and the work and conduct, of employees of the Board, and their suspension or dismissal from office, shall be determined by the Board.

19. (1) The Board may engage the services of technical and professional advisers to advise the Board in any matter arising out of or in connexion with any of the functions or powers of the Board.

Employment of technical and professional advisers.

(2) All matters relating to the remuneration and the terms and conditions of engagement of advisers, and the manner of their engagement, under subsection (1) shall be determined by the Board.

Staff benefits.

20. (1) The Board may—

- (a) grant, or make provision for the grant of, pensions, gratuities and retirement benefits to its employees;
- (b) provide other benefits for the welfare of its employees and their dependants;
- (c) make payments, whether *ex gratia* or legally due, to the personal representatives of a deceased employee or to any person who was dependent on such employee at his death.

(2) The Board may establish, manage and control or enter in an arrangement with any company or association for the establishment, management and control by such company or association either alone or jointly with the Board of any fund or scheme for the purpose of providing for the pensions, gratuities, benefits and payments referred to in subsection (1).

(3) The Board may make contributions to any fund or scheme referred to in subsection (2) and may require its employees to make contributions thereto.

(4) The Board may supply living accommodation and household effects, for the occupation and use of employees and advisers of the Board and their families, at such rent and on such terms and conditions as it may determine.

(5) In this section "employees" includes any class of employee which the Board may specify and in subsection (1) includes former employees.

PART VI

GENERAL

21. The Board is not the servant or agent of the Crown and does not enjoy any status, immunity or privilege of the Crown.

Board not servant or agent of the Crown.

22. The Board shall upon request by the Governor afford to him sufficient facilities for obtaining information with respect to the property and affairs of the Board and shall in such manner and at such times as the Governor may require furnish him with returns, accounts and other information with respect thereto and afford to him facilities for the verification of information furnished.

Governor may obtain information.

23. (1) The Governor may, if he considers the public interest so requires, give directions in writing to the Board and the Board shall comply with those directions.

Governor may give directions.

(2) No such direction shall be inconsistent with any provision of this Ordinance.

24. (1) The Board may, under its common seal, make by-laws not inconsistent with this Ordinance for all or any of the following purposes—

By-laws.

- (a) the management and control, including the closing or partial closing, of the sports centre;

- (b) the fixing of the times during which the sports centre or any part thereof may be open to members of the public;
- (c) the selection of groups of persons, schools, associations or institutions who may use the sports centre or any part thereof, or any facilities provided therein;
- (d) the manner in which applications for use of the sports centre or any part thereof, or any facilities provided therein, may be made;
- (e) the use of any equipment, apparatus, fitting or facility provided for use at the sports centre;
- (f) the preservation of good order and discipline and prevention of nuisances in the sports centre;
- (g) the control of trading or advertising in the sports centre;
- (h) the eviction of trespassers from the sports centre;
- (i) the better carrying out of the functions and duties of the Board.

(2) All by-laws made under subsection (1) shall be subject to the approval of the Legislative Council.

(3) The Board shall cause printed copies of all by-laws made under subsection (1) to be kept at its principal office and to be available for sale to any person at a reasonable cost.

25. Any by-laws made under section 24 may provide that a contravention of specified provisions thereof shall be an offence and may prescribe penalties therefor not exceeding a fine of \$2,000 and imprisonment for 3 months.

Further powers in relation to by-laws.

26. Without prejudice to any Ordinance relating to the prosecution of criminal offences or to the powers of the Attorney General in relation to the prosecution of criminal offences, prosecutions for an offence under the by-laws made under section 24 may be brought in the name of the Board.

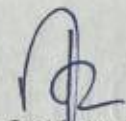
Board may prosecute in its name.

27. The Schedule to the Prevention of Bribery Ordinance is amended by inserting after item 40 the following new item—

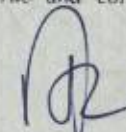
Amendment of Prevention of Bribery Ordinance. (Cap. 201.)

"41. The Jubilee Sports Centre Board."

Passed by the Hong Kong Legislative Council this 13th day of July, 1977.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



I assent.

M. N. Saha

Governor.

14th July, 1977.

An Ordinance to amend the Sale of Goods Ordinance

BAHARATI

HONG KONG

No. 58 OF 1977



I assent.

Governor

14th July, 1977.

An Ordinance to amend the Sale of Goods Ordinance.

[15th July, 1977]

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 Sale of Goods (Amendment) Ordinance 1977. Short title.

2. Section 2 of the principal Ordinance is amended—

(a) in subsection (1)—

(i) by inserting after the definition of "action" the following new definition—

"“business” includes a profession and the activities of any Government Department or the Urban Council or any other statutory body or authority;” and

(ii) by inserting after the definition of "buyer" the following new definition—

“1973
c. 13,
s. 7(1). “contract for the international sale of goods” means a contract of sale of goods made by parties whose places of business (or, if they have none, habitual residences) are in different countries and in the case of which one of the following conditions is satisfied—

Amendment of
section 2.
(Cap. 26.)

- (a) the contract involves the sale of goods which are at the time of the conclusion of the contract in the course of carriage or will be carried from one country to another;
- (b) the acts constituting the offer and acceptance have been effected in different countries; or
- (c) delivery of the goods is to be made in the country other than that within which the acts constituting the offer and the acceptance have been effected;"; and

(b) by inserting after subsection (4) the following new subsection—

"1973
c. 13,
s. 7(2).

(5) Goods of any kind are of merchantable quality within the meaning of this Ordinance if they are as fit for the purpose or purposes for which goods of that kind are commonly bought as it is reasonable to expect having regard to any description applied to them, the price (if relevant) and all the other relevant circumstances; and any reference in this Ordinance to unmerchantable goods shall be construed accordingly."

3. Section 6 of the principal Ordinance is repealed.

4. Section 14 of the principal Ordinance is repealed and replaced by the following new section—

"Implied
undertaking
as to title etc.
1973
c. 13, s. 1.

14. (1) In every contract of sale, other than one to which subsection (2) applies, there is—

- (a) an implied condition on the part of the seller that in the case of the sale, he has a right to sell the goods, and in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass; and
- (b) an implied warranty that the goods are free, and will remain free until the time when the property is to pass, from any charge or encumbrance not disclosed or known to the buyer before the contract is made and that the buyer will enjoy quiet possession of the goods except so far as it may be disturbed by the owner or other person entitled to the benefit of any charge or encumbrance so disclosed or known.

(2) In a contract of sale, in the case of which there appears from the contract or is to be inferred from the circumstances of the contract an intention that the seller should transfer only such title as he or a third person may have, there is—

- (a) an implied warranty that all charges or encumbrances known to the seller and not known to the buyer have been disclosed to the buyer before the contract is made; and
- (b) an implied warranty that neither—
 - (i) the seller; nor
 - (ii) in a case where the parties to the contract intend that the seller should transfer only such title as a third person may have, that person; nor
 - (iii) anyone claiming through or under the seller or that third person otherwise than under a charge

Repeal of
section 6.

Repeal and
replacement
of section 14.

or encumbrance disclosed or known to the buyer before the contract is made,
will disturb the buyer's quiet possession of the goods."

5. Section 15 of the principal Ordinance is amended—

(a) by being renumbered as subsection (1); and

(b) by inserting after subsection (1) the following new subsection—

"1973
c. 13,
s. 2.

(2) A sale of goods shall not be prevented from being a sale by description by reason only that, being exposed for sale or hire, they are selected by the buyer."

Amendment of
section 15.

6. Section 16 of the principal Ordinance is repealed and replaced by the following new section—

"Implied
undertakings
as to quality
or fitness.
1973 c. 13,
s. 3.

16. (1) Except as provided by this section, and section 17, and subject to the provisions of any other enactment, there is no implied condition or warranty as to the quality or fitness for any particular purpose of goods supplied under a contract of sale.

Repeal and
replacement
of section
16.

(2) Where the seller sells goods in the course of a business, there is an implied condition that the goods supplied under the contract are of merchantable quality, except that there is no such condition—

- (a) as regards defects specifically drawn to the buyer's attention before the contract is made; or
- (b) if the buyer examines the goods before the contract is made, as regards defects which that examination ought to reveal.

(3) Where the seller sells goods in the course of a business and the buyer, expressly or by implication, makes known to the seller any particular purpose for which the goods are being bought, there is an implied condition that the goods supplied under the contract are reasonably fit for that purpose, whether or not that is a purpose for which such goods are commonly supplied, except where the circumstances show that the buyer does not rely, or that it is unreasonable for him to rely, on the seller's skill or judgment.

(4) An implied condition or warranty as to quality or fitness for a particular purpose may be annexed to a contract of sale by usage.

(5) Subsections (1), (2), (3) and (4) apply to a sale by a person who in the course of a business is acting as agent for another as they apply to a sale by a principal in the course of a business, except where that other is not selling in the course of a business and either the buyer knows that fact or reasonable steps are taken to bring it to the notice of the buyer before the contract is made.

(6) In the application of subsection (3) to an agreement for the sale of goods under which the purchase price or part of it is payable by instalments any reference to the seller shall include a reference to the person by whom any antecedent negotiations are conducted.

(7) In subsection (6) "antecedent negotiations" means any negotiations or arrangements with the buyer whereby he was induced to make the agreement or which otherwise promoted the transaction to which the agreement relates."

Amendment of section 24.

7. Section 24 of the principal Ordinance is amended by deleting subsection (2).

Repeal and replacement of section 57.

8. Section 57 of the principal Ordinance is repealed and replaced by the following new section—

"Exclusion of implied terms and conditions. 1973 c. 13, s. 4.

57. (1) Subject to subsections (2) to (11) where any right, duty or liability would arise under a contract of sale of goods by implication of law, it may be negated or varied by express agreement, or by the course of dealing between the parties, or by usage if the usage is such as to bind both parties to the contract.

(2) An express condition or warranty does not negative a condition or warranty implied by this Ordinance unless inconsistent therewith.

(3) In the case of a contract of sale of goods, any term of that or any other contract exempting from all or any of the provisions of section 14 shall be void.

(4) In the case of a contract of sale of goods, any term of that or any other contract exempting from all or any of the provisions of section 15, 16 or 17 shall be void in the case of a consumer sale and shall, in any other case, not be enforceable to the extent that it is shown that it would not be fair or reasonable to allow reliance on the term.

(5) In determining for the purposes of subsection (4) whether or not reliance on any such term would be fair or reasonable regard shall be had to all the circumstances of the case and in particular to the following matters—

- (a) the strength of the bargaining positions of the seller and buyer relative to each other, taking into account, among other things, the availability of suitable alternative products and sources of supply;
- (b) whether the buyer received an inducement to agree to the term or in accepting it had an opportunity of buying the goods or suitable alternatives without it from any source of supply;
- (c) whether the buyer knew or ought reasonably to have known of the existence and extent of the term (having regard, among other things, to any custom of the trade and any previous course of dealing between the parties);
- (d) where the term exempts from all or any of the provisions of section 15, 16 or 17 if some condition is not complied with, whether it was reasonable at the time of the contract to expect that compliance with that condition would be practicable;
- (e) whether the goods were manufactured, processed, or adapted to the special order of the buyer.

(6) Subsection (5) shall not prevent the court from holding, in accordance with any rule of law, that a term

which purports to exclude or restrict any of the provisions of section 15, 16 or 17 is not a term of the contract.

(7) In this section "consumer sale" means a sale of goods (other than a sale by auction or by competitive tender) by a seller in the course of a business where the goods—

- (a) are of a type ordinarily bought for private use or consumption; and
- (b) are sold to a person who does not buy or hold himself out as buying them in the course of a business.

(8) The onus of proving that a sale falls to be treated for the purposes of this section as not being a consumer sale shall lie on the party so contending.

(9) Any reference in this section to a term exempting from all or any of the provisions of any section of this Ordinance is a reference to a term which purports to exclude or restrict, or has the effect of excluding or restricting, the operation of all or any of the provisions of that section, or the exercise of a right conferred by any provision of that section, or any liability of the seller for breach of a condition or warranty implied by any provision of that section.

(10) It is hereby declared that any reference in this section to a term of a contract includes a reference to a term which although not contained in a contract is incorporated in the contract by another term of the contract.

(11) This section is subject to section 62(5)."

9. The principal Ordinance is amended by adding after section 57 the following new section—

Addition of new section 57A.

"Conflict of laws. 1973 c. 13, s. 5.

57A. Where the proper law of a contract for the sale of goods would, apart from a term that it should be the law of some other country or a term to the like effect, be the law of Hong Kong, or where any such contract contains a term which purports to substitute, or has the effect of substituting, provisions of the law of some other country for all or any of the provisions of sections 14 to 17 and 57, those sections shall, notwithstanding that term but subject to section 62(5), apply to the contract."

10. Section 62 of the principal Ordinance is amended by inserting after subsection (4) the following new subsections—

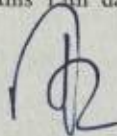
Amendment of section 62.

"1973 c. 13, s. 6.

(5) Nothing in section 57 or 57A shall prevent the parties to a contract for the international sale of goods from negating or varying any right, duty or liability which would otherwise arise by implication of law under sections 14 to 17.

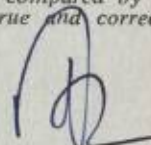
(6) The amendments of this Ordinance made by the Sale of Goods (Amendment) Ordinance 1977 shall not apply to contracts to which this Ordinance applies which were entered into prior to the date of commencement of that Ordinance; and all such contracts shall continue to be governed by the provisions of this Ordinance in operation immediately prior to the date of commencement of the Sale of Goods (Amendment) Ordinance 1977."

Passed by the Hong Kong Legislative Council this 13th day of July, 1977.



Clerk to the Legislative Council.

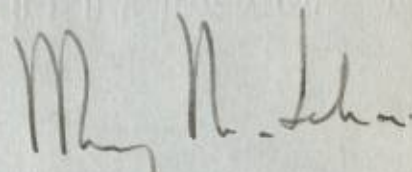
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.



Clerk to the Legislative Council.



I assent.



Governor.

14th July, 1977.

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Clerk to the Legislative Council.

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

Clerk to the Legislative Council.

HONG KONG

No. 59 OF 1977



I assent.

Governor.

14th July, 1977.

An Ordinance to amend the Fixed Penalty (Traffic Contraventions) Ordinance.

[]

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

1. This Ordinance may be cited as the Fixed Penalty (Traffic Contraventions) (Amendment) Ordinance 1977 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

2. Section 2 of the principal Ordinance is amended—

Amendment of section 2. (Cap. 237.)

(a) by deleting the definition of "contravention" and substituting the following—

"contravention" means a contravention of any of the provisions of section 4, section 5, section 6, section 7, section 8(1), (2) and (4), section 9, section 10 or section 11(1); and

(b) in the definition of "proceedings", by deleting "for recovery of the fixed penalty" and substituting the following—

"under section 16(1)".

3. Section 6(2) of the principal Ordinance is amended by deleting paragraph (b).

Amendment of section 6.

Amendment of section 7.

4. Section 7 of the principal Ordinance is amended—
- in subsection (1) by deleting "or length of road"; and
 - by deleting subsection (2).

Repeal and replacement of section 8.

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

"Parking or waiting in parking places.

8. (1) No person shall park a motor vehicle, or cause or permit a motor vehicle to wait, in a parking place in contravention of any sign lawfully erected in or near such parking place—

- directing vehicles in the parking place; or
- restricting the use of the parking place to any type or class of vehicle or to vehicles used for any particular purpose.

(2) Subject to subsection (3), no person shall park a motor vehicle, or cause or permit a motor vehicle to wait, in a parking place in such a manner that it occupies more than one space or unnecessarily projects over any line delineating the parking place or space in which it is parked or is waiting.

(3) Where a motor vehicle occupies more than one space, or projects over a line delineating the space in which it is parked or waiting into an adjoining space, it shall be a defence in proceedings in respect of a contravention of subsection (2) to prove that the vehicle—

- is longer than one space; and
- was not so parked or waiting so as to occupy more spaces than is necessary having regard to the length of the vehicle.

(4) No person shall park any motor vehicle, or cause or permit any motor vehicle to wait, in any parking place the operation of which is suspended under regulation 4(1) of the Road Traffic (Parking and Waiting) Regulations."

(Cap. 220, sub. leg.)

Amendment of section 9.

6. Section 9(1) of the principal Ordinance is amended—
- by deleting the colon and substituting a full stop; and
 - by deleting the proviso.

Amendment of section 10.

7. Section 10 of the principal Ordinance is amended by inserting after subsection (2) the following new subsection—

"(3) Where any motor vehicle—

- is parked or waits in a parking place in respect of which there are parking meters; and
- occupies more than one space therein in accordance with section 8(3),

the person who parked the vehicle, or caused or permitted the vehicle to wait, shall insert or cause to be inserted an appropriate coin into the parking meter for each of the parking spaces occupied or partially occupied thereby."

8. Section 11 of the principal Ordinance is amended by deleting subsection (2) and substituting the following—

Amendment of section 11.

"(2) In any proceedings in respect of a contravention of subsection (1), it shall be a defence to prove that due to a defect in the relevant parking meter—

- the sign referred to in subsection (1) was not exhibited, or was not exhibited for the appropriate period of time, notwithstanding that an appropriate coin was inserted in the meter; or
- it was not possible to insert a coin in the meter."

9. Section 12 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 12.

"Defences.

First Schedule.

12. (1) Without prejudice to any other provision of this Ordinance, in proceedings for a contravention specified in the first column of the First Schedule, it shall be a defence to prove that the contravention was committed in any of the scheduled circumstances indicated opposite thereto in the second column of the First Schedule.

Second Schedule.

(2) For the purposes of subsection (1) and the First Schedule "scheduled circumstances" means any of the circumstances set out in paragraph 1 of the Second Schedule."

10. Section 15 of the principal Ordinance is amended—

Amendment of section 15.

(a) in subsection (1) by deleting "reasonably suspects" and substituting the following—

"has reasonable cause to believe"; and

(b) by inserting after subsection (5) the following new subsection—

"(5A) Subject to section 20B, no payment shall be accepted after the time prescribed in the notice served under subsection (3)."

11. The principal Ordinance is amended by adding after section 15 the following new section—

Addition of new section 15A.

"Withdrawal of notice of fixed penalty.

15A. (1) Where a notice under section 15(3) has been served on any person, the Commissioner of Police may, at any time before the commencement of any proceedings under section 16 against that person, withdraw that notice, and may serve on that person a notice in writing informing him that the notice has been withdrawn.

(2) Where a notice under section 15(3) had been withdrawn under this section and any sum of money has been paid pursuant to the notice, the Director of Accounting Services shall, on demand by the person on whom the notice was served, repay to that person the sum so paid."

12. Section 17(2) of the principal Ordinance is amended in paragraph (b) by deleting "18(2)" and substituting the following—

Amendment of section 17.

"18(3)".

Repeal and replacement of section 18.

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

"Proceedings in the absence of the defendant.

18. (1) Where at the time and place appointed for the hearing or adjourned hearing of a complaint a person served with a summons under section 17(1) does not appear before the magistrate, the magistrate may, subject to subsection (2), proceed to the hearing of the complaint and adjudicate thereon as fully and effectually to all intents and purposes as if such person had personally appeared before him in obedience to the summons.

(2) The magistrate shall not begin to hear the complaint in the absence of the defendant unless—

- (a) service is proved under section 17(2); or
- (b) the defendant has appeared on a previous occasion to answer to the complaint.

(3) Notwithstanding section 17(2), for the purposes of subsection (2) a summons shall be deemed not to have been served unless service was effected within what is deemed by a magistrate to be a reasonable time before the time appointed in the summons for appearing thereto."

Amendment of section 19.

14. Section 19 of the principal Ordinance is amended—

- (a) by deleting "ex parte"; and
- (b) by inserting after "section 18" the following—
"in the absence of the defendant,".

Addition of new sections 20A and 20B.

15. The principal Ordinance is amended by adding after section 20 the following new sections—

"Discontinuance of complaint.

20A. The complainant may, without the leave of the magistrate, discontinue a complaint against a defendant at any stage of the proceedings on giving notice in writing to the defendant and to the magistrate concerned.

Payment of fixed penalty after issue of summons.

20B. (1) Notwithstanding that proceedings have been instituted against a person who has failed to pay the fixed penalty in accordance with a notice served on him under section 15(3), the defendant may pay the fixed penalty in accordance with subsection (2), and, if at the same time the defendant also pays to the court the sum of \$15 by way of costs, the proceedings shall thereupon terminate.

(2) Payment under subsection (1) shall be made to the court before which the defendant is required to appear not less than 72 hours before the time specified in the summons for his appearance; and the summons shall be produced at the time of payment."

Amendment of section 21.

16. Section 21 of the principal Ordinance is amended by inserting after subsection (2) the following new subsection—

"(2A) In any proceedings in respect of a contravention of section 9 any sign, being a sign in accordance with a diagram in the First Schedule to the Road Traffic (Parking and Waiting) Regulations, erected in any place shall be deemed to have been lawfully erected until the contrary is proved, and the fact that such a sign differs slightly in size, colour or type from a sign

(Cap. 220, sub. leg.)

prescribed in the said First Schedule shall not affect the validity of such sign so long as the general appearance of the sign is not thereby materially impaired."

17. Section 22 of the principal Ordinance is amended—

Amendment of section 22.

(a) by deleting subsections (2) and (3) and substituting the following—

"(2) If at the conclusion of any proceedings an order for payment of the fixed penalty is made, the magistrate—

- (a) may at the same time make an order for the payment of costs by the defendant of not less than \$20 or more than \$400; and
- (b) shall at the time make an order, in respect of the motor vehicle of which the defendant is the registered owner and which is the subject matter of the complaint, directing the Commissioner, so long as the defendant fails to pay the sum adjudged to be paid on expiry of 24 hours from the making of the order—

(i) to take no action under regulation 13(3), (4) or (5) of the Road Traffic (Registration and Licensing of Vehicles) Regulations on receipt of any notice of transfer of ownership of the motor vehicle; and

(ii) to refuse to license the motor vehicle under regulation 19(2A), (7) or (8) of the Road Traffic (Registration and Licensing of Vehicles) Regulations.

(3) An order under subsection (2)(b) shall specify—

- (a) the name of the defendant;
- (b) the registration mark of the motor vehicle; and
- (c) the sum adjudged to be paid;"

(b) by inserting after subsection (3) the following new subsection—

"(3A) Where an order under subsection (2)(b) is made, the magistrate shall cause notice of the order to be sent to the Commissioner if the sum adjudged to be paid is not paid within 24 hours of the making of the order;" and

(c) in subsection (4)—

- (i) by deleting "which is served on the Commissioner"; and
- (ii) in paragraph (b) by inserting before "valid" in the second place where it occurs the following—
"notice of a".

18. Section 23 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 23.

"Distress in cases of default.

23. If a defendant fails within 1 month to pay any sum adjudged to be paid the complainant may apply in the absence of the defendant to a magistrate for an order directing that—

- (a) the sum adjudged to be paid, or where an application for an order under this section is in respect of more than one sum adjudged to be paid, the total of such sums; and

- (b) any subsequent costs in the proceedings including the costs of an application under this section, or where an application for an order under this section is in respect of more than one sum adjudged to be paid, the total of the subsequent costs in all the proceedings, be levied on any goods and chattels of the defendant by distress and sale thereof."

Addition of
new First and
Second
Schedules.

19. The principal Ordinance is amended by adding at the end thereof the following new Schedules—

"FIRST SCHEDULE [s. 12(1).]

RECOGNIZED DEFENCES

<i>Contravention</i>	<i>Scheduled circumstances which may constitute a defence</i>
section 4	B, C, E, G
5	G
6	E, G
7	A, B, C, D, E, F, G
8(1)	A, B, C, E, F, G
8(2)	A, B, C, E, F, G
8(4)	A, B, C, E, F, G
9(1) & (2)	A, B, C, D, E, F, G
10(1) & (3)	A, B, C, E, F, G
11	A, B, C, E

SECOND SCHEDULE [s. 12(2).]

SCHEDULED CIRCUMSTANCES

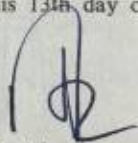
1. For the purposes of section 12 and the First Schedule, the circumstances which may constitute a defence in proceedings for a contravention are as follows—

- A. Where a vehicle is being used for operations in connexion with any building or other construction, demolition or excavation, if the vehicle cannot be conveniently used for such operations outside a period of restriction and is parked or is waiting—
- (i) in a position as close as possible to the site of the operations; and
- (ii) for a period no longer than is necessary.
- B. Where a vehicle is being used for operations in connexion with the removal of any obstruction to traffic, the maintenance, improvement or reconstruction of any road or the laying, erection, alteration or repair in or near to any road of any sewer or main, pipe or apparatus for the supply of gas, water or electricity, or of any tramway, subway, tunnel, telegraph or telephone cables, posts or supports, if the vehicle cannot be conveniently used for

such operations outside a period of restriction and is parked or is waiting—

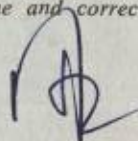
- (i) in a position as close as possible to the site of the operations; and
- (ii) for a period no longer than is necessary.
- C. Where a motor vehicle is being used on a restricted road for the purposes of the police, fire services or ambulance services, or for the conveyance of public mail, if compliance with the Ordinance would be likely to hinder the use of the vehicle on that occasion for any of those purposes.
- D. Where a public omnibus, being an omnibus which is being used or is intended to be used to carry passengers at separate and distinct fares within Hong Kong or on a recognized and predetermined route or for a recognized and predetermined purpose in accordance with a right or licence granted by or under any enactment—
- (i) is waiting at an authorized stopping place or at a turning or terminal point for such time as is necessary to enable any person to board or alight or to load or unload his personal effects;
- (ii) is parked temporarily at any place at or near a turning or terminal point provided for that purpose under the Public Omnibus Services Ordinance; or
- (iii) is, with the permission in writing of the Commissioner, parked at a terminus between the hours of 11 p.m. and 7 a.m.
- E. Where anything is done with the express permission or by the direction of a police officer in uniform.
- F. Where any person causes or permits any motor vehicle to wait for no longer than is necessary to enable—
- (i) a person to board or alight, or to load or unload his personal effects; or
- (ii) goods or material to be unloaded from the vehicle on the road and delivered to premises or a place to which the road is a means of access, if it is not possible to unload the vehicle on any neighbouring road that is not a restricted road; or
- (iii) goods or material to be collected from such premises or place and loaded on to the vehicle on the road, if it is not possible to load the vehicle on any neighbouring road that is not a restricted road.
- G. Where a motor vehicle is prevented from proceeding by—
- (i) mechanical breakdown; or
- (ii) other circumstances beyond the driver's control, and all reasonable steps are taken to minimise any obstruction and effect the removal of the vehicle as soon as possible.
2. In paragraph 1, unless the context otherwise requires—
- "period of restriction" in respect of any road means any period during which the parking or waiting of vehicles is prohibited or restricted in accordance with a sign erected under the Road Traffic (Parking and Waiting) Regulations; (Cap. 220, sub. leg.)
- "restricted road" means a road referred to in section 7(1)."

Passed by the Hong Kong Legislative Council this 13th day of July,
1977.



Clerk to the Legislative Council.

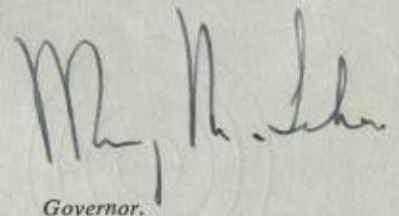
*This printed impression has been carefully compared by me
with the bill, and is found by me to be a true and correctly
printed copy of the said bill.*



Clerk to the Legislative Council.



I assent.



Governor.

28th July, 1977.

An Ordinance to amend the Dangerous Drugs Ordinance.

102
Clerk to the Legislative Council.

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

Clerk to the Legislative Council.

HONG KONG

No. 60 OF 1977



I assent.

W. H. S. Lee
Governor.

28th July, 1977.

An Ordinance to amend the Dangerous Drugs Ordinance.

[29th July, 1977]

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 Dangerous Drugs (Amendment) Ordinance 1977. Short title.

2. The principal Ordinance is amended by adding after section 53 the following new sections— Addition of section 53A. (Cap. 134.)

"Surrender of travel document.

53A. (1) A magistrate may, on the application of the Commissioner of Police or the Commissioner of the Preventive Service, by written notice require a person who is the subject of an investigation in respect of a specified offence alleged or suspected to have been committed by him to surrender to the Commissioner of Police or Commissioner of the Preventive Service any travel document in his possession.

(2) The matter of an application under subsection (1) shall be substantiated by the oath of the applicant.

(3) A notice under subsection (1) shall be served personally on the person to whom it is addressed.

(4) A person on whom a notice under subsection (1) is served shall comply with such notice forthwith.

(5) If a person on whom a notice under subsection (1) has been served fails to comply with the notice forthwith, he may thereupon be arrested and taken before a magistrate.

(6) Where a person is taken before a magistrate under subsection (5), the magistrate shall, unless such person thereupon complies with the notice under subsection (1) or satisfies the magistrate that he does not possess a travel document, by warrant commit him to prison there to be safely kept—

- (a) until the expiry of the period of 28 days from the date of his committal to prison as aforesaid; or
- (b) until such person complies with the notice under subsection (1) and a magistrate, by order in that behalf, orders and directs the Commissioner of Prisons to discharge such person from prison (which order shall be sufficient warrant for the Commissioner of Prisons so to do),

whichever occurs first.

(7) Upon the surrender of a travel document under this section, the Commissioner of Police or the Commissioner of the Preventive Service, as the case may be, shall issue a receipt identifying the travel document.

(8) A travel document which is surrendered to the Commissioner of Police or the Commissioner of the Preventive Service under this section may be detained for 3 months from the date on which it was surrendered and may be detained for not more than two further periods of 3 months if a magistrate, on application by the Commissioner of Police or the Commissioner of the Preventive Service, is satisfied that the investigation could not reasonably have been completed before the date of such application and authorizes such further detention.

(9) All proceedings before a magistrate under this section shall be conducted in chambers.

(10) In this section—

"Commissioner of Police" includes a deputy or assistant commissioner of police;

"Commissioner of the Preventive Service" includes a deputy or assistant commissioner of the Preventive Service;

"specified offence" means any offence punishable under any section of this Ordinance, on conviction on indictment, with imprisonment for a term of 15 years or any greater punishment, and aiding, abetting, counselling or procuring the commission by another of any such offence;

"travel document" means a passport or other document issued for the purpose of travel which establishes the identity or nationality of the holder.

53B. (1) A person who has surrendered his travel document in accordance with section 53A may at any time make written application to the Commissioner of Police or the Commissioner of Preventive Service, as the case may be, for its return and every such application shall contain a statement of the grounds on which it is made.

Application
for return
of travel
document.

(2) Before determining an application under subsection (1), the Commissioner of Police or the Commissioner of the Preventive Service may require that any matter of fact relied on in the application shall be substantiated by statutory declaration.

(3) Any person aggrieved by the refusal of an application under subsection (1) may, within 14 days of being informed of such refusal, appeal to a magistrate against that refusal and the magistrate may, upon considering the grounds of the application and any evidence which may be adduced in relation thereto by or on behalf of either party, order that the travel document be returned.

(4) The decision of a magistrate in relation to an appeal under this section shall be final."

Passed by the Hong Kong Legislative Council this 27th day of July, 1977.

Clerk to the Legislative Council.

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

Clerk to the Legislative Council.



I assent.

M. N. L.

Governor.

28th July, 1977.

An Ordinance to amend the Summary Offences Ordinance.

HONG KONG

No. 61 OF 1977



I assent.

M. N. Loh
Governor.

28th July, 1977.

An Ordinance to amend the Summary Offences Ordinance.

[29th July, 1977]

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

1. This Ordinance may be cited as the Summary Offences (Amendment) (No. 2) Ordinance 1977. Short title.

2. Section 4 of the principal Ordinance is amended by deleting subsection (26). Amendment of section 4. (Cap. 228.)

3. The principal Ordinance is amended by adding after section 4A the following new section— Addition of new section 4B.

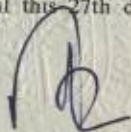
*Objects dropped from buildings.

4B. (1) If anything is dropped or allowed to fall from any building to the danger or injury of any person in or near a public place, the person who drops that thing or allows it to fall commits an offence and is liable to a fine of \$10,000 and imprisonment for 6 months.

(2) If anything is dropped or allowed to fall from any building in the course of the construction, repair or decoration of the building or part thereof, to the danger or injury of any person in or near a public place, the principal contractor on the site and the contractor carrying out the construction, repair or decoration commits an offence and is liable to a fine of \$50,000 and imprisonment for one year.

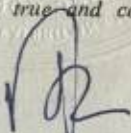
(3) It shall not be a defence to a charge against a contractor under subsection (2) that the person who dropped the thing or allowed it to fall has not been prosecuted or that the thing was dropped or allowed to fall without the consent or knowledge of the contractor, but a contractor so charged shall not be convicted if he proves to the satisfaction of the court that he could not reasonably have prevented the thing being dropped or allowed to fall to the danger or injury of any person in or near a public place or that reasonable measures had been taken by him or another person to prevent such an occurrence."

Passed by the Hong Kong Legislative Council this 27th day of July, 1977.

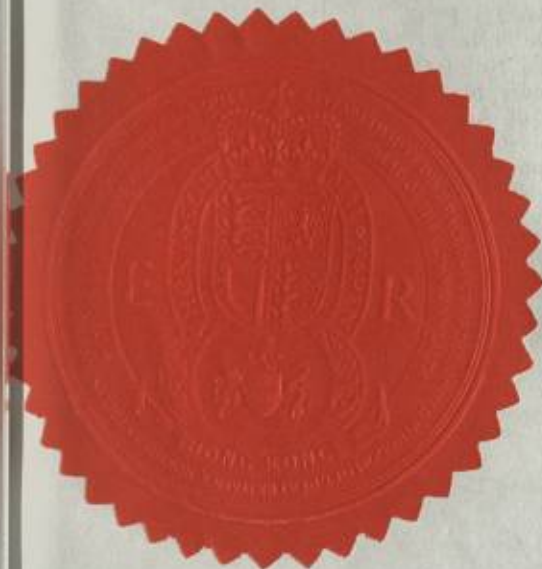


Clerk to the Legislative Council.

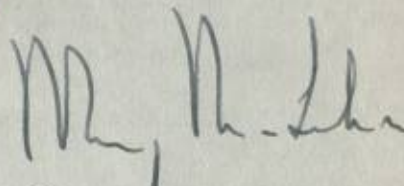
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.



Clerk to the Legislative Council.



I assent.

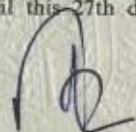


Governor.

28th July, 1977.

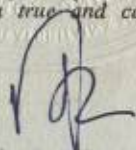
that the thing was dropped or allowed to fall without the consent or knowledge of the contractor, but a contractor so charged shall not be convicted if he proves to the satisfaction of the court that he could not reasonably have prevented the thing being dropped or allowed to fall to the danger or injury of any person in or near a public place or that reasonable measures had been taken by him or another person to prevent such an occurrence."

Passed by the Hong Kong Legislative Council this 27th day of July, 1977.



Clerk to the Legislative Council.

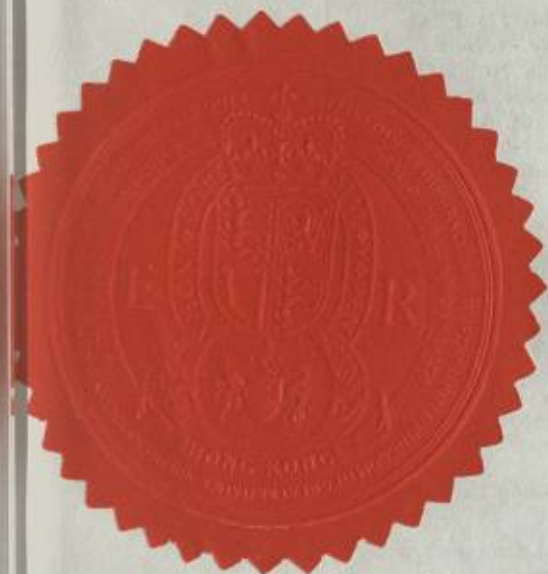
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.



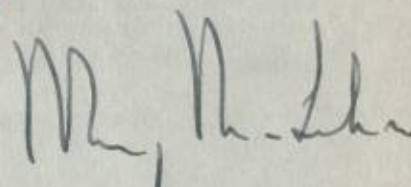
Clerk to the Legislative Council.

HONG KONG

No. 62 OF 1977



I assent.



Governor.

28th July, 1977.

An Ordinance to amend the Zetland Hall Trustees Incorporation Ordinance.

[29th July, 1977]

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 Zetland Hall Trustees Incorporation (Amendment) Ordinance 1977. Short title.

2. The principal Ordinance is amended by adding after section 1 the following new section— Addition of new section 1A. (Cap. 1055.)

"Interpretation. 1A. In this Ordinance, unless the context otherwise requires—

"trustees" means the Zetland Hall Trustees incorporated by section 2."

3. Section 2 of the principal Ordinance is amended— Amendment of section 2.

(a) in subsection (1) by deleting " , hereinafter called the corporation,";

(b) in subsection (2) by deleting "corporation" and substituting the following—

"trustees";