

**HONG KONG**

No. 56 OF 1972



I assent.

*Hugh Norman - Walker*

*Acting Governor.*

*31st August, 1972.*

An Ordinance to consolidate and amend the law relating to the guardianship of minors.

[1st September, 1972]

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 Guardianship of Minors Ordinance 1972. Short title.
2. In this Ordinance, unless the context otherwise requires— Interpretation.  
“court” means the Supreme Court or the District Court;  
“maintenance” includes education;  
“parent” means father or mother.

## PART II

## GENERAL PRINCIPLES

Principles on which questions relating to custody, upbringing, etc. of minors are to be decided.  
1971 c. 3, s. 1.

3. Where in any proceedings before any court (whether or not a court as defined in section 2)—

- (a) the custody or upbringing of a minor; or
- (b) the administration of any property belonging to or held on trust for a minor or the application of the income thereof,

is in question, the court, in deciding that question, shall regard the welfare of the minor as the first and paramount consideration, and shall not take into consideration whether from any other point of view the claim of the father, or any right at common law possessed by the father, in respect of such custody, upbringing, administration or application is superior to that of the mother, or the claim of the mother is superior to that of the father.

Equal right of mother to apply to court.  
1971 c. 3, s. 2.

4. The mother of a minor shall have the like powers to apply to the court in respect of any matter affecting the minor as are possessed by the father.

## PART III

## APPOINTMENT, REMOVAL AND POWERS OF GUARDIANS

Rights of surviving parent as to guardianship.  
1971 c. 3, s. 3.

5. On the death of a parent of a minor, the surviving parent, if any, shall, subject to this Ordinance, be guardian of the minor either alone or jointly with any guardian appointed by the deceased parent; and—

- (a) where no guardian has been appointed by the deceased parent; or
- (b) in the event of the death or refusal to act of the guardian or guardians appointed by the deceased parent,

the court may, if it thinks fit, appoint a guardian to act jointly with the surviving parent.

Power of parent to appoint testamentary guardians.  
1971 c. 3, s. 4.

6. (1) A parent of a minor may by deed or will appoint any person to be guardian of the minor after his death.

(2) Any guardian so appointed shall act jointly with the surviving parent, if any, unless the surviving parent objects to his so acting.

(3) If the surviving parent so objects, or if the guardian so appointed considers that the surviving parent is unfit to have the

custody of the minor, the guardian may apply to the court, and the court may either—

- (a) refuse to make any order (in which case the surviving parent shall remain sole guardian); or
- (b) make an order that the guardian so appointed—
  - (i) shall act jointly with the surviving parent; or
  - (ii) shall be the sole guardian of the minor.

(4) Where guardians are appointed by both parents, the guardians so appointed shall, after the death of the surviving parent, act jointly.

(5) If under section 5 a guardian has been appointed by the court to act jointly with the surviving parent, he shall continue to act as guardian after the death of the surviving parent; but, if the surviving parent has appointed a guardian, the guardian appointed by the court shall act jointly with the guardian appointed by the surviving parent.

7. Where a minor has no parent, no guardian of the person, and no other person having parental rights with respect to him, the court, on application of any person, may, if it thinks fit, appoint the applicant to be the guardian of the minor.

Power of court to appoint guardian for minor having no parent, etc.  
1971 c. 3, s. 5(1).

8. The Supreme Court may, in its discretion, on being satisfied that it is for the welfare of the minor, remove from his office any testamentary guardian or any guardian appointed or acting by virtue of this Ordinance, and may also, if it deems it to be for the welfare of the minor, appoint another guardian in place of the guardian so removed.

Power of Supreme Court to remove or replace guardian.  
1971 c. 3, s. 6.

9. Where two or more persons act as joint guardians of a minor and they are unable to agree on any question affecting the welfare of the minor, any of them may apply to the court for its direction, and the court may make such order regarding the matters in difference as it may think proper.

Disputes between joint guardians.  
1971 c. 3, s. 7.

10. (1) A guardian of the estate of a minor shall, subject to the rights and powers of any personal representative or trustee in whom the minor's estate may be vested, have in addition to such other rights as may be granted to him, the right to—

Guardian's powers of management.  
(cf. 1971 c. 3, s. 8.)

- (a) receive the rents and profits of the lands of the minor;
- (b) manage the personal estate of the minor;
- (c) bring legal proceedings to enforce the rights expressed in paragraphs (a) and (b).

(2) The guardian shall account to the minor for any rents, profits or income received by him under subsection (1).

#### PART IV

##### ORDERS FOR CUSTODY AND MAINTENANCE

**11.** (1) The court may, on the application of a parent of a minor (who may apply without next friend), make such order regarding—

- (a) the custody of the minor; and
- (b) the right of access to the minor of either parent,

as the court thinks fit having regard to the welfare of the minor and to the conduct and wishes of the parents.

(2) Where the court makes an order under subsection (1) giving the custody of the minor to the mother, the court may make a further order requiring the father to pay to the mother such weekly or other periodical sum towards the maintenance of the minor as the court thinks reasonable having regard to the means of the father.

(3) An order may be made under subsection (1) or (2) notwithstanding that the parents of the minor are then residing together, but—

- (a) no such order shall be enforceable, and no liability thereunder shall accrue, while they are residing together; and
- (b) any such order shall cease to have effect if for a period of three months after it is made they continue to reside together.

(4) An order under subsection (1) or (2) may be varied or discharged by a subsequent order made on the application of either parent or (in the case of an order under subsection (1)) after the death of either parent on the application of any guardian under this Ordinance.

**12.** (1) Where the court makes an order under section 6(3)(b)(ii) that a person shall be the sole guardian of a minor to the exclusion of his surviving parent, the court may—

- (a) make such order regarding—
  - (i) the custody of the minor; and
  - (ii) the right of access to the minor of his surviving parent,

Orders for custody and maintenance on application of parent.  
1971 c. 3, s. 9.

Orders for custody and maintenance where person is guardian to exclusion of surviving parent.  
1971 c. 3, s. 10.

as the court thinks fit, having regard to the welfare of the minor; and

- (b) make a further order requiring the surviving parent to pay to the guardian such weekly or other periodical sum towards the maintenance of the minor as the court thinks reasonable having regard to the means of the surviving parent.

(2) The powers conferred by subsection (1) may be exercised at any time and include power to vary or discharge any order previously made under those powers.

**13.** The powers of the court under section 9 shall, where one of the joint guardians is the surviving parent of the minor, include power—

- (a) to make such order regarding—
  - (i) the custody of the minor; and
  - (ii) the right of access to the minor of his surviving parent,

as the court thinks fit having regard to the welfare of the minor;

- (b) to make an order requiring the surviving parent to pay such weekly or other periodical sum towards the maintenance of the minor as the court thinks reasonable having regard to the means of the surviving parent;
- (c) to vary or discharge any order previously made under that section.

**14.** (1) Any person for the time being under an obligation to make payments in pursuance of any order for the payment of money under this Ordinance shall within fourteen days of a change of address give notice of his new address to such person, if any, as may be specified in the order.

(2) Any person who fails without reasonable excuse to give a notice, which he is required by subsection (1) to give, shall be guilty of an offence and shall be liable on conviction to a fine of five hundred dollars.

**15.** (1) Where a maintenance order has been made and there is any pension or income capable of being attached payable to the person against whom the order is made, the court may—

- (a) after giving the person an opportunity of being heard; and

Orders for custody and maintenance where joint guardians disagree.  
1971 c. 3, s. 11.

Person subject to maintenance order to notify change of address.  
1971 c. 3, s. 13(2).

Attachment of pension or income to satisfy order.

- (b) on being satisfied that the person has without reasonable cause failed to make any payments which he is required by the order to make,

order the pension or income to be attached as to the whole or part of the amount payable under the maintenance order and the amount attached to be paid to the person named by the court.

(2) An order under this section shall be an authority to the person by whom the pension or income is payable to make the payment in accordance with the order, and the receipt of the person to whom the payment is ordered to be made shall be a good discharge to the payer.

## PART V

### ILLEGITIMATE CHILDREN

16. (1) Subject to this section, section 11(1) shall apply in relation to a minor who is illegitimate as it applies in relation to a minor who is legitimate, and references in section 11(1), and in any other provision of this Ordinance so far as it relates to proceedings under section 11(1), to the father or mother or parent of a minor shall be construed accordingly.

(2) No order shall be made by virtue of subsection (1) under section 11(2) in respect of a minor who was born on or after the 7th October 1971.

(3) For the purposes of sections 5, 6, 7 and 12 a person—

- (a) being the natural father of an illegitimate child; and  
(b) being entitled to the child's custody by virtue of an order in force under section 11(1) as applied by this section,

shall be treated as if he were the lawful father of the minor; but any appointment of a guardian made by virtue of this subsection under section 6(1) shall be of no effect unless the appointer is entitled to the custody of the minor as under paragraph (b) immediately before his death.

## PART VI

### JURISDICTION, PROCEDURE AND APPEALS

17. (1) The District Court shall not be competent—

- (a) to entertain any application, other than an application for variation or discharge of an existing order under

Application to illegitimate children. 1971 c. 3, s. 14(1), (2), (3).

District Court's jurisdiction. *ibid.* 1971 c. 3, s. 15(2)(a).]

this Ordinance, relating to a minor who has attained the age of sixteen years, unless the minor is physically or mentally incapable of self-support; or

- (b) to award the payment of sums towards the maintenance of any minor exceeding one hundred and twenty dollars a week.

(2) The Legislative Council may, by resolution, amend the maximum weekly sum which may be ordered under subsection (1)(b).

18. The District Court (Civil Jurisdiction and Procedure) Ordinance shall apply to every proceeding before, and every order by, the District Court under this Ordinance, and—

Procedure in District Court. (Cap. 336.)

- (a) the application may be heard and determined otherwise than in open court;

(b) where the District Court considers that the matter is one which could more conveniently be dealt with by the Supreme Court, the District Court may refuse to make an order and in that case, without prejudice to the general right of appeal conferred by the District Court (Civil Jurisdiction and Procedure) Ordinance, no appeal shall lie from the decision of the District Court;

- (c) an order for the payment of money shall be enforceable in like manner as an order for the payment of a civil debt.

19. Where any application has been under this Ordinance to the District Court, the Supreme Court shall, at the instance of any party to the application, order the application to be removed to the Supreme Court and there proceeded on such terms as to costs as it thinks proper.

Removal to Supreme Court. 1971 c. 3, s. 16(1).

20. Nothing in this Ordinance shall restrict or affect the jurisdiction of the Supreme Court to appoint or remove guardians or otherwise in respect of minors.

Saving for powers of Supreme Court. 1971 c. 3, s. 17(1).

## PART VII

### SUPPLEMENTARY

21. (1) The Infants Custody Ordinance is repealed.

(2) The Schedule to the Application of English Law Ordinance is amended by deleting item 13.

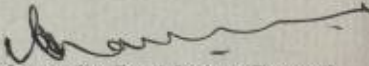
Repeal and amendments. (Cap. 13.) (Cap. 88.)

(Cap. 4, sub. leg.)


(3) The Rules of the Supreme Court are amended in the heading to rule 3 of Order 91 and in rules 3 and 4(1) of Order 91 by deleting "Infants Custody Ordinance" and substituting the following—

"Guardianship of Minors Ordinance 1972".

Passed by the Hong Kong Legislative Council this 30th day of August, 1972.

  
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.*

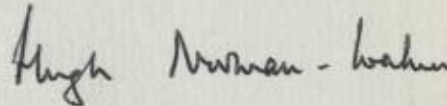
  
Clerk to the Legislative Council.

HONG KONG

No. 57 OF 1972



I assent.



Acting Governor.

31st August, 1972.

An Ordinance to amend the Immigration Ordinance.

[1st September, 1972]

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 Short title.  
(Amendment) Ordinance 1972.
2. Section 2 of the principal Ordinance is amended by inserting, after the definition of "immigrant", the following—  
"immigration assistant" means any member of the Immigration Service of the rank of immigration assistant;" Amendment of section 2. (Cap. 115.)
3. Section 5 of the principal Ordinance is amended—  
(a) in subsection (6) by inserting—  
(i) after "immigration officer", the following—  
"or immigration assistant"; Amendment of section 5.

- (ii) after "that officer", the following—  
"or that assistant"; and
- (iii) after "the officer", the following—  
"or the assistant"; and

- (b) in subsection (8) by inserting, after "immigration officer", the following—  
"or immigration assistant".

Amendment of  
section 11.

4. Section 11 of the principal Ordinance is amended by deleting subsection (5) and substituting the following—

"(5) The Director may at any time by notice in writing to any person other than a person who has the right to land in Hong Kong by virtue of section 8(1) impose any condition of stay (other than a limit of stay) in respect of such person.

(5A) An immigration officer may at any time by notice in writing to any person other than a person who has the right to land in Hong Kong by virtue of section 8(1)—

- (a) cancel any condition of stay in force in respect of such person;
- (b) vary any condition of stay (other than a limit of stay) in force in respect of such person if the condition as varied could properly be imposed by an immigration officer (other than the Director) under section 11(2)(b);
- (c) vary any limit of stay in force in respect of such person by enlarging the period during which such person may remain in Hong Kong."

Amendment of  
section 13.

5. Section 13 of the principal Ordinance is amended by inserting after "11(5)" the following—

“, (5A)”.

Amendment of  
section 24.

6. Section 24 of the principal Ordinance is amended—
- (a) in subsection (2) by inserting, after "immigration officer", the following—  
"or immigration assistant"; and
- (b) in subsection (4) by inserting, after "immigration officer", the following—  
“, immigration assistant”.

7. Section 25 of the principal Ordinance is amended in subsections (3) and (4) by inserting, after "immigration officer", the following—

“, immigration assistant”.

8. Section 33 of the principal Ordinance is amended in subsection (1) by inserting, after "immigration officer", the following—

“, immigration assistant”.

9. Section 35 of the principal Ordinance is amended in subsections (3) and (4) by inserting, after "immigration officer" wherever it occurs, the following—

“, immigration assistant”.

10. Section 42 of the principal Ordinance is amended—

- (a) in paragraph (1)(a) by inserting after "immigration officer" the following—

“, immigration assistant”; and

- (b) in paragraph (1)(b) by deleting "the Director or any other immigration officer" and substituting the following—

"an immigration officer or immigration assistant”.

11. Section 52 of the principal Ordinance is amended—

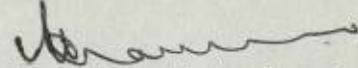
- (a) in subsection (1) by inserting after "immigration officer" the following—

“or an immigration assistant”; and

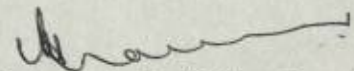
- (b) in subsection (2) by inserting after "immigration officer" the following—

“or immigration assistant”.

Passed by the Hong Kong Legislative Council this 30th day of August, 1972.

  
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. 58 OF 1972



I assent.

*Hugh Norman Weber*

*Acting Governor.*

*31st August, 1972.*

An Ordinance to amend the Legal Aid Ordinance.

[1st September, 1972]

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

1. This Ordinance may be cited as the Legal Aid (Amendment) Ordinance 1972. Short title.

2. Section 3 of the principal Ordinance is amended by repealing subsection (3), and substituting the following subsections— Amendment of section 3. (Cap. 91.)

(Cap. 221.)

(Cap. 159.)

“(3) Every person holding an appointment under subsection (1) shall, when performing any duty or exercising any power under this Ordinance or under rules made pursuant to section 9A of the Criminal Procedure Ordinance, have all the rights, powers, privileges, and duties of a barrister and solicitor duly admitted under the Legal Practitioners Ordinance, including a right of audience before any court:

Provided that no such person shall undertake or conduct as counsel the case for a defendant at the committal or trial of such defendant in any criminal cause or matter or conduct any appeal on behalf of any such defendant in any criminal cause or matter.

(4) Notification in the *Gazette* to the effect that a person has been appointed to any of the offices referred to in subsection (1), or has ceased to hold any such office, shall be sufficient proof of the facts stated in the notice."

Amendment of section 28.

3. Section 28 of the principal Ordinance is amended by inserting, after paragraph (p) of subsection (2), the following—

"(pa) provide, either generally or specially, for the fees and costs of any officer holding office under section 3 in respect of any civil matter (whether contentious or non-contentious) in which he has occasion to act;"

Passed by the Hong Kong Legislative Council this 30th day of August, 1972.

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.

Acting Governor.

**HONG KONG**

No. 59 OF 1972



I assent.

*Mugh Mwan-Loke*

Acting Governor.

31st August, 1972.

An Ordinance to amend the Magistrates 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 Magistrates (Amendment) Ordinance 1972 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 8 the following new section—

Addition of section 8A. (Cap. 227.)

"Notice to appear before a magistrate in respect of certain offences. Fourth Schedule, Form 1A.

**8A.** (1) Notwithstanding section 8, if a public officer specified in the first column of the Fourth Schedule reasonably suspects that a person has committed any offence specified opposite thereto in the second column of that Schedule, the public officer may serve on that person personally a notice requiring him to appear at a time, being not earlier than three clear days after the notice has been served on him

committal or trial of such defendant in any criminal cause or matter or conduct any appeal on behalf of any such defendant in any criminal cause or matter.

(4) Notification in the *Gazette* to the effect that a person has been appointed to any of the offices referred to in subsection (1), or has ceased to hold any such office, shall be sufficient proof of the facts stated in the notice."

Amendment of section 28.

3. Section 28 of the principal Ordinance is amended by inserting, after paragraph (p) of subsection (2), the following—

"(pa) provide, either generally or specially, for the fees and costs of any officer holding office under section 3 in respect of any civil matter (whether contentious or non-contentious) in which he has occasion to act;"

Passed by the Hong Kong Legislative Council this 30th day of August, 1972.

and place specified in the notice before a magistrate to be dealt with according to law.

(2) A notice under subsection (1)—

(a) shall be in the prescribed form;

(b) shall be signed by the public officer by whom it is served; and

(c) shall state—

(i) the name and address of the person upon whom the notice is served;

(ii) the offence which is alleged to have been committed with sufficient particulars thereof;

(iii) the time and place at which the offence is alleged to have been committed; and

(iv) the time and place at which the person on whom the notice is served is required to appear.

(3) If a person upon whom a notice under subsection (1) has been served fails to appear before a magistrate at the time and place mentioned in the notice, and it is made to appear to the magistrate by oath that the notice was served on that person personally, the magistrate may issue his warrant for the apprehension of that person and to bring that person before him or another magistrate to be dealt with according to law.

Form 2A.

(4) If a person upon whom a notice under subsection (1) has been served appears before a magistrate in accordance with the notice, or is brought before a magistrate by a warrant issued under subsection (3), the magistrate may hear and determine the offence alleged in the notice as if a complaint has been made or an information has been laid against that person in respect of the offence and for such purposes, the provisions under this Ordinance relating to hearing of complaint or information and the proceedings thereon shall apply *mutatis mutandis*.

(5) If a person upon whom a notice under subsection (1) has been served is brought before a magistrate by a warrant issued under subsection (3), the magistrate shall order that person to pay costs of

not less than twenty dollars or not more than four hundred dollars, whether or not he is convicted of the offence alleged in the notice:

Provided that no order shall be made where the magistrate is satisfied that exceptional circumstances existed which rendered it inequitable to require compliance with the notice.

(6) Any costs ordered to be paid under subsection (5) shall be recoverable under section 69(2) in the same manner as costs awarded under section 69(1).

(7) Notwithstanding anything to the contrary in this Ordinance, a magistrate may permit a representative to appear on behalf of a person upon whom a notice under subsection (1) has been served where such representative satisfies the magistrate that he is authorized to enter a plea of guilty and is himself able to pay any fine imposed."

3. Section 135 of the principal Ordinance is amended by deleting the full-stop at the end thereof and substituting the following—

Amendment of section 135.

"and the Fourth Schedule."

4. The principal Ordinance is amended by adding after the Third Schedule the following Schedule—

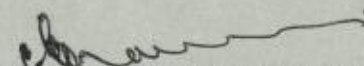
Addition of Fourth Schedule.

"FOURTH SCHEDULE

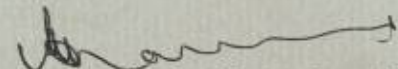
[s. 8A.]

	<i>Public Officer</i>	<i>Offences</i>
(Cap. 132.)	Health Inspector Amenities Officer Overseer	(i) Any offence against Part III of the Public Health and Urban Services Ordinance.
(Cap. 132. sub. leg.)	Amenities Assistant Foreman	(ii) Any offence against the Public Cleansing and Prevention of Nuisances By-laws 1972.  (iii) Any offence against the Public Cleansing and Prevention of Nuisances (New Territories) Regulations 1972."

Passed by the Hong Kong Legislative Council this 30th day of August, 1972.

  
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.*

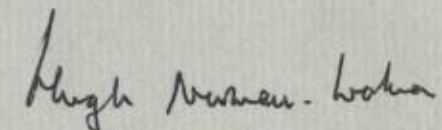
  
Clerk to the Legislative Council.

**HONG KONG**

No. 60 OF 1972



I assent.



*Acting Governor.**31st August, 1972.*

An Ordinance to amend the Public Health and Urban Services Ordinance.

[1st September, 1972]

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

1. This Ordinance may be cited as the Public Health and Urban Services (Amendment) (No. 4) Ordinance 1972. Short title.

2. Section 83 is repealed and replaced by the following—

“Interpretation for the purposes of sections 83A to 86D.

**83.** For the purposes of sections 83A to 86D—  
“commodity” means any goods, wares, or merchandise (including food and drink); and includes any sample of any such goods, wares, or merchandise;

“equipment” includes any stall, table, stool, chair, utensil, container, bin, or other furniture or para-

Section 83 repealed and new sections 83 and 83A substituted. (Cap. 132.)

phernalia used in connexion with hawking; but does not include any commodity sold, or offered or exposed for sale, by a hawker;

"hawker offence" means an offence against section 83B or against any regulations made under section 83A;

"stall" includes any erection, structure, box, cart, barrow, trolley, bicycle, tricycle, or van.

Regulations relating to hawkers.

**83A.** (1) The Authority may make regulations for all or any of the following purposes—

- (a) providing for the licensing of hawkers;
- (b) providing for the classification of hawkers;
- (c) restricting or prohibiting hawkers from carrying on business in any specified place or area or otherwise than in any specified place or area;
- (d) regulating or prohibiting the hawking of any specified commodities or services;
- (e) prescribing conditions subject to which licensed hawkers may operate;
- (f) providing for the employment by licensed hawkers of deputies and assistants;
- (g) providing for the allocation of pitches to licensed hawkers, and for the erection by any such hawkers of stalls thereon, subject to such conditions as the Authority may specify (either generally or in any specific case);
- (h) providing for the removal of hawkers and their equipment and commodities;
- (i) providing for the court, on convicting a hawker of a hawker offence, to recommend to the Authority that the licence (if any) of the hawker be cancelled or suspended;
- (j) prescribing fees and charges in respect of licences and in respect of the allocation and use of hawker pitches;
- (k) providing for such other matters as may be necessary for the proper regulation and control of hawkers.

(2) Any regulation made under subsection (1)(c) relating to the restriction or prohibition of hawkers

carrying on business in any specified place or area, or otherwise than in any specified place or area, may provide that the place or area be prescribed by the Urban Council in relation to the urban areas or the Director of Urban Services in relation to the New Territories by order published in the *Gazette*, and may, in addition to publication in the *Gazette*, provide for any other means of making the place or area known to the public."

3. The principal Ordinance is amended by inserting, after section 83A, the following new section—

Insertion of new section 83B.

"Commissioner for Transport may set aside streets for hawking purposes.

**83B.** (1) Subject to subsection (2), no person shall engage in hawking in any street which has not been declared to be a street set aside for hawking purposes in accordance with this section.

(2) Nothing in subsection (1) shall prevent an itinerant hawker licensed under regulations made under section 83A from engaging in hawking in any street which has not been set aside in accordance with this section so long as he is authorized to do so by his licence.

(3) Any person who, without lawful authority or excuse, contravenes subsection (1) shall be guilty of an offence.

(4) The Commissioner for Transport may from time to time, after consultation with the Authority and the Commissioner of Police, declare in writing that the whole or any part of a street may be set aside to be used for hawking purposes, and shall give notice of any such declaration—

- (a) by publishing it in one issue of the *Gazette*;
- (b) by publishing it in three consecutive issues of at least one English language newspaper and one Chinese language newspaper;
- (c) by causing copies of it to be exhibited in one or more conspicuous places in or in the immediate vicinity of the street.

(5) On the requirements of subsection (4) being satisfied—

- (a) the Authority may allocate pitches in the street to hawkers (other than itinerant

hawkers) licensed under regulations made pursuant to section 83A, subject to such conditions as may be specified by the Authority;

(b) the Commissioner for Transport may, if he thinks necessary, by further notice in the *Gazette*, order that—

(i) the street be closed to vehicular traffic; or

(ii) the street be closed to vehicular traffic travelling in such direction as he specifies in the notice,

either at all times or at such times as he specifies in the notice.

(6) On making an order under subsection (5)(b), the Commissioner for Transport shall cause to be erected pursuant to the Road Traffic Ordinance at each entrance to the street appropriate signs indicating the closure in accordance with the order.

(Cap. 220.)

(7) No action shall lie against the Crown, the Commissioner for Transport, the Authority, or any public officer by reason only of the exercise of the powers conferred by this section.

(8) Where under subsection (4) only part of a street is set aside, every reference in this section to the term 'street' shall be construed as meaning the part of the street so set aside."

4. Section 86 of the principal Ordinance is repealed and replaced by the following—

"Seizure of hawker equipment and commodities from alleged offenders.

86. (1) A public officer authorized in writing by the Authority for the purposes of this section or a police officer may seize any equipment or commodity in respect of which he has reason to believe that a hawker offence has been committed.

(2) Any commodity of a perishable nature seized under subsection (1) may immediately be disposed of by the Commissioner of Police or the Authority, as the case may be.

(3) Where any equipment or commodity has been seized under subsection (1) and a claim is made in respect of the equipment or commodity within 48 hours after the date of the seizure, the Commissioner

Section 86 repealed and new sections 86 - 86D substituted.

of Police or the Authority, as the case may be, unless an information is laid within 72 hours after the date of the seizure for a hawker offence in respect of the equipment or commodity, shall, if satisfied that the claimant was entitled to the possession of the equipment or commodity at the time of the seizure—

(a) return the equipment or commodity to the claimant; or

(b) in the case of a perishable commodity disposed of under subsection (2), assess its value and pay to him the amount of that value.

(4) Where a claim under subsection (3) is refused, the claimant shall be informed of his rights under section 86C.

(5) Where an information is laid within 72 hours after the date of seizure for an offence in respect of any equipment or commodity seized under subsection (1), the equipment or commodity, or, in the case of a perishable commodity that has been disposed of under subsection (2) by way of sale, the proceeds of sale, shall be retained pending disposal under section 86A.

Forfeiture of hawker equipment and commodities by the court.

86A. (1) Where any person is convicted of a hawker offence in respect of any equipment or commodity seized under section 86(1), the informant shall inform the court of the seizure and thereupon the court shall, in addition to any other penalty—

(a) order the forfeiture of the equipment or commodity, or, in the case of a perishable commodity disposed of under section 86(2) by way of sale, the proceeds of sale, if the offence is one designated for the purposes of this subsection by regulations made under section 83; or

(b) unless it finds and specifies special reasons, which reasons shall be special to the facts of the case and not special to the offender as distinct from the offence, shall, in the case of any other hawker offence, make such an order.

(2) Where—

- (a) a person is charged with a hawker offence in respect of any equipment or commodity seized under section 86(1) is acquitted; or
- (b) on the hearing of any such charge the court finds special reasons under subsection (1)(b) of this section,

the court shall, if it is satisfied that the person was lawfully entitled to possession of the equipment or commodity at the time of the seizure, order that it be returned to him or, in the case of a perishable commodity disposed of under section 86(2), assess the value of the commodity and order that the amount of that value be paid to him.

(3) If the court is not so satisfied, it may, on the application of any other person claiming to be entitled to the equipment or commodity or of its own motion, make such other order as it thinks fit disposing of the equipment or commodity, or, in the case of a perishable commodity disposed of by way of sale, the proceeds of sale.

Seizure of abandoned hawker equipment and commodities.

**86B.** (1) A public officer authorized in writing by the Authority for the purposes of this section or a police officer may seize any equipment or commodity found in a public place which he has reason to believe has been abandoned by a hawker in circumstances not appearing to him to involve the commission of a hawker offence.

(2) Any commodity of a perishable nature seized under subsection (1) may immediately be disposed of by the Commissioner of Police or the Authority, as the case may be.

(3) Where any equipment or commodity has been seized under subsection (1) and a claim is made in respect of the equipment or commodity within 48 hours after the date of the seizure, the Commissioner of Police or the Authority, as the case may be, shall, if satisfied that the claimant was entitled to the possession of the equipment or commodity at the time of the seizure and was not guilty of an offence in respect of it—

- (a) return the equipment or commodity to the claimant; or

- (b) in the case of a perishable commodity disposed of under subsection (2), assess its value and pay to him the amount of that value.

(4) Where a claim under subsection (3) is refused, the claimant shall be informed of his rights under section 86C.

Application to court for return of seized hawker equipment or commodities.

**86C.** (1) Where a claim in respect of any equipment or commodity is made under section 86 or section 86B within the permitted time and—

- (a) the claim is refused; or
- (b) the claimant is dissatisfied with the amount of any payment made to him under either of those sections,

an application may be made within 14 days of the refusal or payment to a court for an order for the return of the equipment or commodity or, in the case of a commodity disposed of under section 86(2) or section 86B(2), for an assessment of the value of the commodity and for an order for the payment of the amount of that value or, as the case may be, the difference between the amount already paid and the amount of the value.

(2) Where an application is made under subsection (1), the court may, after first having given the person refusing the claim under section 86 or section 86B an opportunity of being heard, make the order sought if it is satisfied that the applicant at the time of the seizure—

- (a) was entitled to possession of the equipment or commodity; and
- (b) intended using the equipment or commodity for a lawful purpose.

(3) If the court makes the order sought, it may award to the applicant such sum against the Crown by way of costs as it thinks fair and reasonable.

(4) If the court does not make the order sought, it may, of its own motion, make such other order as it thinks fit disposing of the equipment or commodity, or, in the case of a perishable commodity disposed of by way of sale, the proceeds of sale.

Forfeiture  
by opera-  
tion of law.

**86D.** Where—

- (a) no claim is made under section 86 or section 86B in respect of any equipment or commodity seized under either of those sections within 48 hours after the date of the seizure; or
- (b) such a claim having been made and refused, no application is made under section 86C(1) in respect of the equipment or commodity within 14 days after the date of refusal,

the equipment or commodity, or, in the case of a perishable commodity that has been disposed of under section 86(2) or section 86B(2) by way of sale, the proceeds of sale, shall, unless the equipment or commodity has previously been returned to the person lawfully entitled to possession thereof or retained for disposal by the court under section 86A, be deemed on the expiry of the period of 48 hours or 14 days, as the case may be, to be forfeited to the Crown.”.

Amendments  
to Third, Sixth,  
and Ninth  
Schedules.

**5.** (1) The Third Schedule to the principal Ordinance is amended—

- (a) by repealing the item relating to section 83, and substituting the following—

“83A	Urban Council	Governor in Council
83B	Urban Council	Director of Urban Services”;

- (b) by repealing the item relating to section 86, and substituting the following—

“86	Urban Council	Director of Urban Services
86B	Urban Council	Director of Urban Services”.

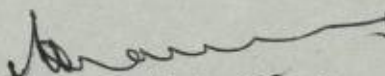
(2) The Sixth Schedule to the principal Ordinance is amended by inserting in the appropriate columns, after the item relating to section 81(2), the following—

“83B(3)	Urban Council	Director of Urban Services”.
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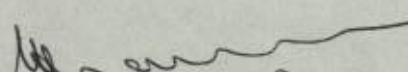
(3) The Ninth Schedule to the principal Ordinance is amended by inserting in the appropriate columns, after the item relating to section 81(2), the following—

“83B(3)	\$1,000 fine	\$50 fine.”.
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Passed by the Hong Kong Legislative Council this 30th day of August, 1972.

  
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. 61 OF 1972



I assent.

*Hugh Norman-Walker*

*Acting Governor.*

*31st August, 1972.*

An Ordinance to amend the Dutiable Commodities Ordinance.

[1st September, 1972]

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 Dutiable Commodities (Amendment) Ordinance 1972. Short title.

2. Section 53 of the principal Ordinance is amended— Amendment of section 53. (Cap. 109.)

(a) in the definition of "denatured spirits"—

(i) by deleting "and" at the end of paragraph (b);

(ii) by adding after paragraph (b) the following new paragraph—

"(ba) liquor which has been mixed with a substance or substances approved by the Government Chemist and which the Director is satisfied is

for industrial use and not intended to be used for the manufacture of a toilet preparation; and"; and

(iii) in paragraph (c) by inserting after "liquor" in the first place where it occurs, the following—

"other than liquor contained in or used as a toilet preparation,";

(b) in the definition of "liquor", "alcoholic liquor", "spirituous liquor" or "spirit", by deleting "two per cent of proof spirit" and substituting the following—

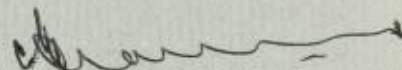
"1.2. per cent of ethyl alcohol by volume"; and

(c) by inserting, after the definition of "retail", the following new definition—

"toilet preparation" means any preparation containing more than 1.2. per cent of ethyl alcohol by volume which the Director is satisfied is intended for use—

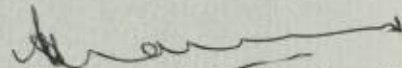
- (a) for personal hygiene or cosmetic purposes,
- (b) in medicine, veterinary medicine or chiropody;"

Passed by the Hong Kong Legislative Council this 30th day of August, 1972.



*Clerk to the Legislative Council.*

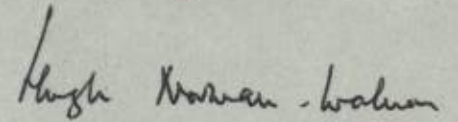
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*



*Clerk to the Legislative Council.*



I assent.



**HONG KONG**

No. 62 OF 1972



I assent.

*Hugh Norman Walsh*

*Acting Governor.*

*31st August, 1972.*

An Ordinance to amend the Summary Offences Ordinance.

[1st September, 1972]

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) Ordinance 1972. Short title.

**2.** Section 13 of the principal Ordinance is repealed and replaced by the following— Repeal and replacement of section 13. (Cap. 228.)

"Making noise at night etc.

**13.** (1) Any person who—  
(a) between the hours of 11 p.m. and 6 a.m. makes or causes or permits to be made or caused any noise whatever calculated to disturb or interfere with the public tranquillity or to annoy any person; or

- (b) between the hours of 8 p.m. and 6 a.m. or on any public holiday, causes or permits to be caused any piling,

shall be guilty of an offence and shall be liable to a fine of five thousand dollars.

(2) If a court is satisfied that a person charged under subsection (1) acted—

- (a) as watchman or servant of the proprietor or occupier of any dwelling house, warehouse, or other outhouse, office, premises or construction site, or of the inhabitant or person in charge thereof; or
- (b) by or with the direction, knowledge, sanction, sufferance or permission of such proprietor or occupier or of such inhabitant or person in charge,

the court may dismiss the charge, and summon before it the proprietor or occupier, or inhabitant or person in charge, and being satisfied that he did so direct, sanction, suffer or permit the making of the noise or the operation of the pile driver, impose a fine on such proprietor or occupier, or inhabitant or person in charge, of five thousand dollars.

(3) When an offence is committed under subsection (1) in or upon any dwelling house, premises or construction site, if it is impracticable or difficult to apprehend, discover or identify the person committing it, the court may, summon before it the proprietor, occupier, inhabitant or person in charge, of such dwelling house, premises or construction site, and if it appears that the offence was committed by the direction or with the knowledge, sanction, sufferance or permission of the proprietor, occupier, inhabitant or person in charge, impose on him a fine of five thousand dollars.

(4) This section shall not apply—

- (a) to such districts or areas; or
- (b) for such purposes or in such circumstances,

as the Governor in Council may specify by order published in the *Gazette*.

(5) An order under subsection (4) may—

- (a) be made subject to such conditions or limitations;

- (b) have effect for such periods or parts of periods; or

(c) have such partial operation,

as the Governor in Council may specify in the order.

(6) A person shall not be liable under this section for any noise made or caused—

(a) during and in the course of any work carried out under and in accordance with a permit in writing issued by or on behalf of the Director of Public Works;

(b) in accordance with the terms of an order made by the Governor in Council under subsection (4).

(7) In this section—

“pile” means any sheet, column, post, tube or caisson not exceeding 10 feet in diameter driven or formed in the ground and also means any pile known as a “jacked pile”, “screw pile”, “cast-in-place pile”, “composite pile”, “sand pile”, “sheet pile”, “bored pile”, “caisson pile”, and any other form of pile;

“piling” means the sinking or forming of a pile in the ground by hammering, jacking, screwing, augering, boring, jetting, vibrating, casting or any other means, and also means the driving or sinking of any casing or tube into the ground to form a well or caisson for foundation purposes, whether or not the casing or tube is later extracted; and

“work” means any work in connexion with or for the construction, demolition, reconstruction, shoring, alteration or repair, of the whole or any part of any building, arch, bridge, chimney, dock, hoarding, shelter, tunnel, wall, pier, wharf or other structure or any road, street, channel drain, service lane, sewer, water conduit, lighting or public utility and any work carried out on the foreshore.

(8) Subsection (1)(b) shall come into operation on the 1st June 1973.”

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

Addition of  
new section  
13A.

"Offences relating to permits and orders issued or made under section 13.

**13A.** Any person who—

- (a) contravenes any condition contained in a permit issued to him by the Director of Public Works under section 13(6)(a); or
- (b) contravenes any condition or limitation specified in an order made by the Governor in Council under section 13(4).

shall be liable to a fine of five thousand dollars.

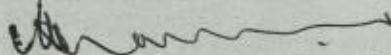
Amendment of section 37.

**4.** Section 37 of the principal Ordinance is amended—

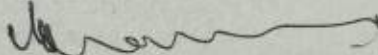
- (a) in paragraph (d) by deleting "and" where it occurs after the semicolon; and
- (b) by the insertion after paragraph (d) of the following new paragraph—

"(da) the issue by the Director of Public Works of permits for the purposes of section 13, the admission of such permits in evidence and the imposition by the Director of Public Works in such permits of the conditions under which work as defined in section 13(7) shall be carried out; and".

Passed by the Hong Kong Legislative Council this 30th day of August, 1972.

  
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.*

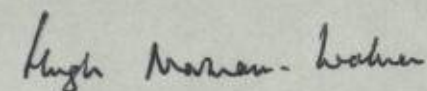
  
Clerk to the Legislative Council.

**HONG KONG**

No. 63 OF 1972



I assent.



Acting Governor.

31st August, 1972.

An Ordinance to amend the Waterworks Ordinance.

[1st September, 1972]

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 Waterworks (Amendment) Ordinance 1972. Short title.

**2.** Section 2 is amended in subsection (1) by deleting the definition of "quarter". Amendment of section 2. (Cap. 102.)

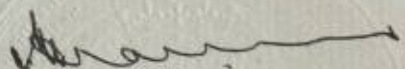
**3.** Section 5 of the principal Ordinance is amended in paragraph (a) by deleting "quarterly or at such lesser periods as the water authority may in any case determine" and substituting the following— Amendment of section 5.

"at such periods as the water authority may determine".

Saving.

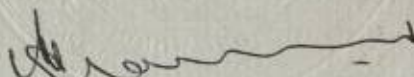
4. Every undertaking given under section 5(a) of the principal Ordinance and in force at the commencement of this Ordinance shall be deemed to have been given under that section as amended by this Ordinance.

Passed by the Hong Kong Legislative Council this 30th day of August, 1972.



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.*



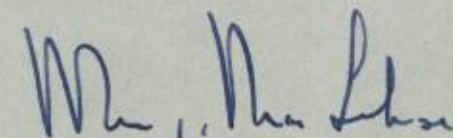
Clerk to the Legislative Council.

**HONG KONG**

No. 64 OF 1972



I assent.



Governor.

2nd November, 1972.

An Ordinance to amend the Urban Council Ordinance.

[3rd November, 1972.]

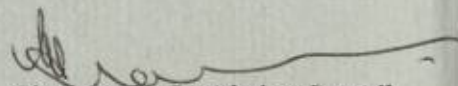
Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Urban Council (Amendment) (No. 2) Ordinance 1972. Short title.

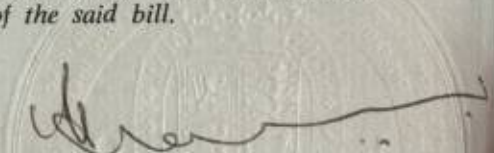
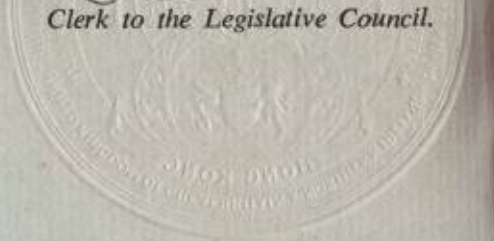
2. Section 30 of the principal Ordinance is amended in subsection (1) by deleting paragraph (i) and substituting the following— Amendment of section 30. (Cap. 101.)

- “(i) the voiding of a poll at a polling station and the taking of a fresh poll;
- (j) generally, the carrying into effect of the provisions of this part of the Ordinance.”.

Passed by the Hong Kong Legislative Council this 1st day of November, 1972.

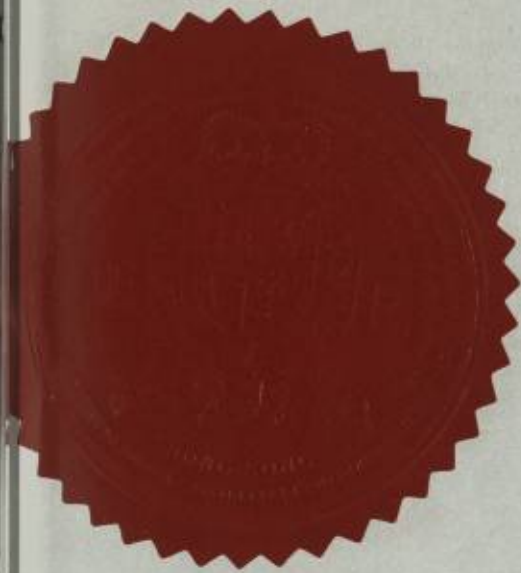
  
Clerk to the Legislative Council.

*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.*

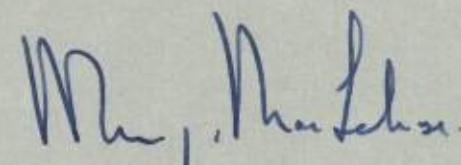
  
Clerk to the Legislative Council.  


**HONG KONG**

No. 65 OF 1972



I assent.

  
Governor.

2nd November, 1972.

An Ordinance to amend the Television Ordinance.

[3rd November, 1972.]

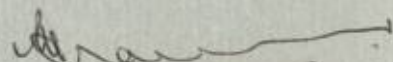
Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Television (Amendment) Ordinance 1972. Short title.


2. Section 9 of the principal Ordinance is amended in subsection (2) by deleting "at the expiry of each five year period" and substituting the following— Amendment of section 9. (Cap. 52.)

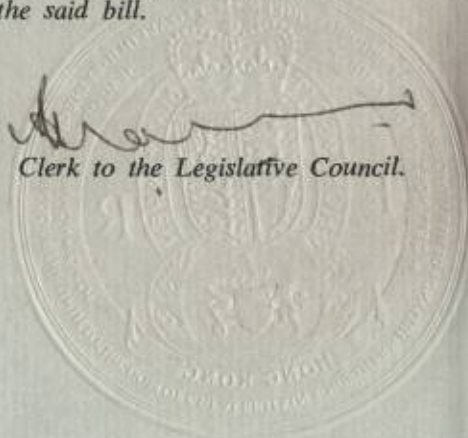
"on the 19th November 1972 or on such later date as may be determined by the Governor in Council by order published in the *Gazette*".

Passed by the Hong Kong Legislative Council this 1st day of November, 1972.

  
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.

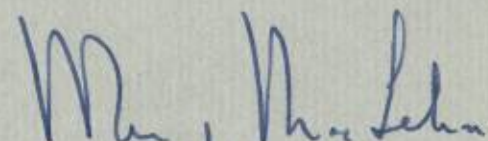


**HONG KONG**

No. 66 OF 1972



I assent.

  
Governor.

2nd November, 1972.

An Ordinance to amend the Peak Tramway Ordinance.

[3rd November, 1972.]

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 Peak Tramway (Amendment) Ordinance 1972. Short title.
2. Section 21 of the principal Ordinance is amended— Amendment of section 21. (Cap. 265.)
  - (a) in subsection (2) by deleting "31st of March" and substituting the following—  
"31st of December";
  - (b) by inserting after subsection (4) the following new subsection—  
"(5) The Legislative Council may, by resolution, amend the rate of the permit fee specified in sub-

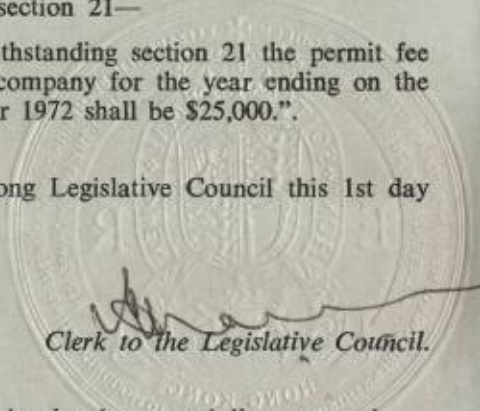
section (2), or amend that rate for any year; and any resolution under this subsection may have retrospective effect to the 1st of January of the year in which the resolution is passed."

Addition of new section 21A.

3. The principal Ordinance is amended by adding the following new section after section 21—

"Remission of permit fee. 21A. Notwithstanding section 21 the permit fee payable by the company for the year ending on the 31st of December 1972 shall be \$25,000."

Passed by the Hong Kong Legislative Council this 1st day of November, 1972.



*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. 67 OF 1972



I assent.

*M. J. Ma*  
Governor.

2nd November, 1972.

An Ordinance to amend the Bills of Exchange 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 Bills of Exchange (Amendment) Ordinance 1972 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 14 of the principal Ordinance is amended by deleting paragraph (a) and substituting the following—

Amendment of section 14. (Cap. 19.)


"(a) the bill is due and payable in all cases on the last day of the time of payment as fixed by the bill or, if that is a general holiday, on the succeeding business day;"

1971 c. 80, s. 3(2).

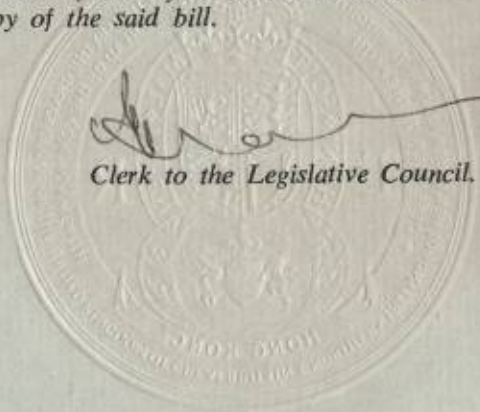

3. This Ordinance shall not apply to bills drawn and notes made before the commencement of this Ordinance.

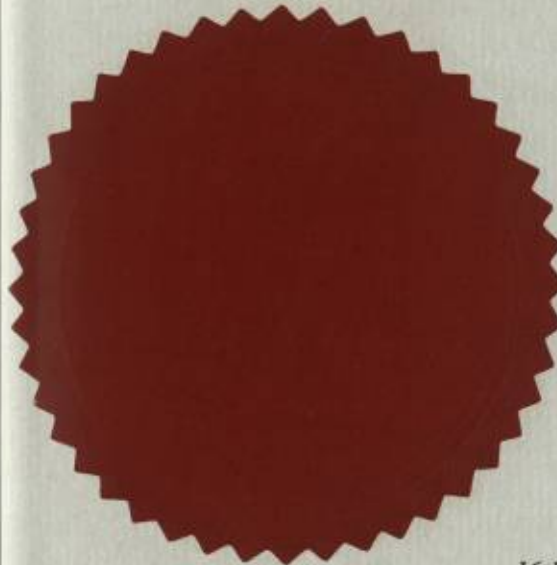
Application.

Passed by the Hong Kong Legislative Council this 1st day of November, 1972.

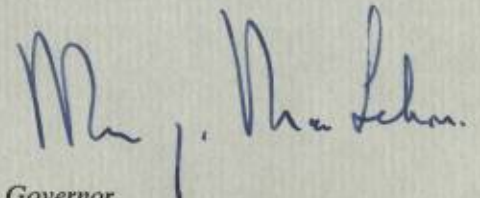
  
Clerk to the Legislative Council.

*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.

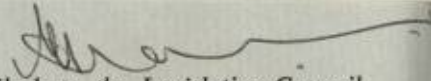


I assent.




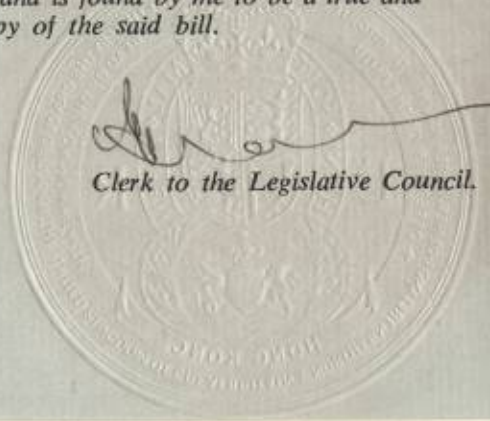
Governor.

16th November, 1972.

  
Clerk to the Legislative Council.

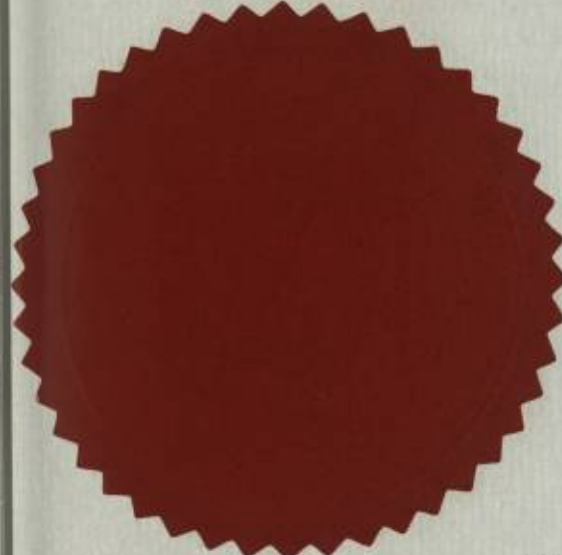
*This printed impression has been carefully compared  
by me with the bill, and is found by me to be a true and  
correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

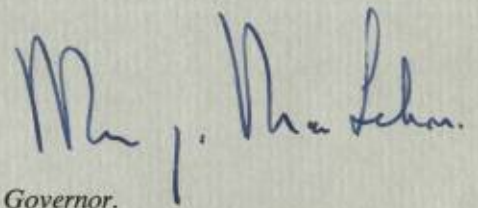


**HONG KONG**

No. 68 OF 1972



I assent.

  
Governor.

16th November, 1972.

An Ordinance to establish the Hong Kong Society of Accountants and to provide for the registration and control of the accountancy profession, and for matters ancillary to or connected with the purposes aforesaid.

[ ]

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 Professional Accountants Ordinance 1972 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title  
and commence-  
ment.

2. In this Ordinance, unless the context otherwise requires—  
“approved institute” means an institute, society, association or other body specified in the Schedule;

Interpretation.

“certified public accountant” means a professional accountant registered as such by virtue of section 24(1) and holding a practising certificate;

Schedule.

- "Council" means the Council of the Society established under section 10;
- "Disciplinary Committee" means the Disciplinary Committee appointed under section 33;
- "elected member" means a member of the Council elected under section 10(2)(c);
- "practising certificate" means a current practising certificate issued under section 30;
- "President" means the President of the Society elected under section 4 or 51(3) and any person acting as President;
- "professional accountant" means a person who is registered as a professional accountant under section 22;
- "public accountant" means a professional accountant registered as such by virtue of section 24(2) and holding a practising certificate;
- "register" means the register of professional accountants kept under section 22;
- "registered address" means any address of a professional accountant which is entered in the register under section 22(2);
- "registered office" means the registered office referred to in section 31;
- "Registrar" means the Registrar appointed under section 21;
- "Registrar General" means the Registrar General appointed under the Registrar General (Establishment) Ordinance;
- "Society" means the Hong Kong Society of Accountants incorporated by section 3;
- "Vice-President" means the Vice-President of the Society elected under section 4 or 51(3) and any person acting as Vice-President.

## PART II

### THE HONG KONG SOCIETY OF ACCOUNTANTS

3. The persons registered as professional accountants under section 22 shall—

- (a) be a body corporate with perpetual succession;
- (b) be known as the Hong Kong Society of Accountants; and
- (c) in that name be capable of suing and being sued and, subject to this Ordinance, of doing and suffering all such other acts as a body corporate may lawfully do and suffer.

(Cap. 100.)

Incorporation  
of Society.

4. (1) There shall be a President and a Vice-President of the Society, who shall be elected by the Council from the elected members.

Appointment  
of President  
and Vice-  
President.

(2) The President and the Vice-President shall, unless they are deemed by virtue of section 15 to have vacated their offices as members of the Council, hold office until they retire from office as members of the Council under section 12.

(3) If a casual vacancy occurs in the office of President, the Vice-President shall act as President.

(4) If a casual vacancy occurs in the office of Vice-President, the Council may elect an elected member to fill the vacancy.

(5) For the purposes of this section and section 11, a casual vacancy shall be deemed to occur when a person is temporarily absent from Hong Kong or is temporarily unable to attend to the business of the Council.

(6) Notwithstanding subsection (1), if only one elected member is proposed for election to fill a vacancy in the office of President or Vice-President, such elected member shall, without taking a vote upon the proposal, be deemed to have been elected at the conclusion of the meeting of the Council at which the vacancy is to be filled.

5. The Society shall maintain an office the address of which shall be notified to the Registrar General.

Office of  
Society.

6. (1) The Society shall have and may use a common seal, the affixing of which shall be authenticated by the signature of the Registrar.

Official seal  
and authentication  
thereof, and  
instruments  
executed  
thereunder.

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

7. The objects of the Society shall be—

- (a) to maintain a register of professional accountants;
- (b) to regulate the practice of the accountancy profession;
- (c) to conduct examinations and act in such other manner as may be necessary to ascertain whether persons are qualified to be admitted to the register;
- (d) to encourage the study of accountancy by accountants and students, and to give certificates, bursaries, scholarships and rewards on such terms and conditions as may be specified from time to time;
- (e) to maintain a library and reading rooms for the use of accountants and students;

Objects of the  
Society.

- (f) to establish and assist in establishing and supporting associations, funds, trusts and schemes intended to benefit accountants or their dependants, and to grant pensions and allowances to any accountant or his dependants;
- (g) to represent the views of the profession and to preserve and maintain its integrity and status;
- (h) to discourage dishonourable conduct and practices by professional accountants, and for this purpose to hold inquiries into the conduct of professional accountants;
- (i) to provide for the settlement of disputes between professional accountants;
- (j) to take such action as the Society considers necessary in any matter affecting the professional interests of professional accountants;
- (k) to do all such other things as are incidental or conducive to the attainment of the above objects.

Power of  
Society to  
make by-laws.

8. (1) The Society may, subject to the approval of the Governor in Council, make by-laws—

- (a) regulating the practice of accountancy by professional accountants in Hong Kong;
- (b) fixing registration and other fees;
- (c) regulating meetings of the Society and the Council;
- (d) governing the registration, training and education of students and the fees payable therefor;
- (e) governing the discipline of students;
- (f) empowering the Council to make rules prescribing examinations for students, the fees payable therefor and all matters incidental to the holding thereof including exemptions or concessions which may be granted in respect of the examinations;
- (g) regulating the conditions on which examiners shall be engaged;
- (h) regulating the appointment of an auditor;
- (i) providing for the use and custody of the common seal of the Society;
- (j) providing for the custody, investment and expenditure of the funds and the management of property of the Society;
- (k) specifying the procedure of the Disciplinary Committee and the composition and procedure of any other committee;

- (l) specifying the designations for professional accountants and the initials by which professional accountants may be known;
- (m) prescribing the practical experience required for the issue of a practising certificate;
- (n) regulating the nomination and election of elected members of the Council;
- (o) conferring on members of the Council and employees and auditors of the Society a right of indemnity against the Society for actions brought against them for things done by them in the execution of the Ordinance;
- (p) prescribing anything which is to be or may be prescribed by the Ordinance;
- (q) generally for the better carrying into effect of the purposes of this Ordinance and for the furtherance of the objects of the Society.

(2) A copy of any by-laws made by the Society shall, as soon as practicable after the making thereof, be duly certified by the President and transmitted by him for the approval of the Governor in Council.

(3) A by-law under subsection (1) may be made only by a majority of two-thirds of the professional accountants present and voting at a general meeting of the Society convened for the purpose of making the by-laws. Notice of such meeting and of the by-laws to be proposed thereat shall be sent by registered post to every professional accountant at his registered address not less than twenty-one days before the date fixed for the meeting, but the non-receipt of such a notice by any professional accountant shall not invalidate the proceedings thereat.

(4) Until the first general meeting of the Society, the Governor may make by-laws for the Society in respect of any of the matters specified in subsection (1).

9. (1) The first annual general meeting of the Society shall be held within nine months after the commencement of this Ordinance.

General  
meetings.

(2) An annual general meeting of the Society shall be held not less than once in every calendar year, and not more than fifteen months after the holding of the last preceding annual general meeting.

(3) General meetings of the Society, other than the annual general meeting, shall be held as required by the by-laws.

(4) Any professional accountant may, at any meeting of the Society, move any resolution which is not inconsistent with the

purposes and provisions of this Ordinance but may not move a resolution in respect of any act done in pursuance of the powers conferred by section 26, 27, 30, 34, 35, 36 or 39.

### PART III

#### THE COUNCIL OF THE SOCIETY

Establishment and composition of the Council.

**10.** (1) There is hereby established the Council of the Hong Kong Society of Accountants.

(2) The Council shall, subject to subsection (3), consist of the following twelve members—

- (a) the Financial Secretary, or a person appointed by him as his representative;
- (b) the Accountant General, or a person appointed by him as his representative; and
- (c) ten professional accountants (not being persons entitled to be registered only under section 24(2)) elected at an annual general meeting of the Society, of whom at the time of election—
  - (i) not less than four shall be holders of practising certificates;
  - (ii) not less than four shall be neither holders of practising certificates nor employed by holders of practising certificates.

(3) In addition to the members specified in subsection (2), the Governor may appoint not more than two members, each of whom shall be a representative of a university or other educational institution which provides courses of instruction in accountancy.

Filling vacancies in Council.

**11.** (1) If a casual vacancy occurs under subsection (3) or (4) of section 4, or a vacancy is deemed to arise under section 15, the Council may appoint a professional accountant of the class referred to in sub-paragraph (i) or (ii) of section 10(2)(c), as the vacancy may require.

(2) A professional accountant appointed under subsection (1) to fill—

- (a) a casual vacancy under subsection (3) or (4) of section 4 shall hold office for so long as the member in whose place he is appointed would have held office or until the member resumes his office on the Council, whichever is the earlier; or

- (b) a vacancy under section 15 shall hold office for so long as the member in whose place he is appointed would have held office.

**12.** Immediately before the conclusion of each annual general meeting of the Society, the five elected members who have been longest in office since their last election shall retire from office but shall be eligible for re-election:

Compulsory retirement of elected members.

Provided that at the second annual general meeting the five retiring elected members shall be determined by lot.

**13.** (1) If the number of professional accountants nominated as candidates for election to the Council at an annual general meeting of the Society—

Procedure for election of professional accountants as elected members.

- (a) does not exceed the number of vacancies for elected members, the candidates shall be deemed to have been elected to the Council with effect from immediately before the conclusion of the annual general meeting at which the vacancies are to be filled;
- (b) exceeds the number of vacancies for elected members, the election shall be determined by ballot, and the candidates so elected shall hold office as elected members with effect from immediately before the conclusion of the annual general meeting; or
- (c) is less than the number of vacancies in respect of elected members, the Governor may appoint a professional accountant to fill any vacancy among the elected members of the Council remaining unfilled at the conclusion of the annual general meeting.

(2) A professional accountant appointed by the Governor under subsection (1)(c) shall hold office until the next annual general meeting.

**14.** If a vacancy is not filled by the Council within thirty days by appointment under section 11(1), the Governor may appoint a professional accountant of the class referred to in sub-paragraph (i) or (ii) of section 10(2)(c) to fill the vacancy, as the vacancy may require.

Governor may appoint a professional accountant to Council if Council fails to fill a vacancy.

**15.** An elected member shall be deemed to have vacated his office as a member of the Council if—

Vacation of office by Council members.

- (a) he resigns his office, by notice in writing delivered to the Registrar;

- (b) he is absent without permission of the President from three consecutive meetings of the Council of which he has had notice to attend, and the Council resolves that his office shall be vacant;
- (c) he becomes bankrupt or makes an arrangement or composition with his creditors;
- (d) he ceases to be ordinarily resident in Hong Kong;
- (e) his name is removed from the register under section 27(1)(c) or (d) or section 35(1)(a); or
- (f) he ceases to belong to the class of which he was a member under sub-paragraph (i) or (ii) of section 10(2)(c):

Provided that this paragraph shall not apply if the remaining number of elected members of that class is not less than four.

Accounts.

**16.** (1) The Council shall maintain proper accounts of all transactions of the Society and shall prepare for every financial year a statement of the accounts of the Society, containing an income and expenditure account and a balance sheet, both of which shall be signed by the President.

(2) The Society in general meeting shall appoint an auditor who shall be entitled at any time to have access to all books of account, vouchers and other financial records of the Society and to require such information and explanations thereon as he thinks fit.

(3) The auditor shall audit the statements drawn up under subsection (1) as soon as possible and shall make a report thereon to the Council.

(4) A copy of the signed and audited statement of accounts, together with the auditor's report made under subsection (3), shall be—

- (a) sent to each professional accountant with the notice of the annual general meeting; and
- (b) submitted for approval to the annual general meeting of the Society next following the end of the financial year to which they relate.

(5) The auditor shall be entitled to attend the annual general meeting of the Society at which the statement of accounts which have been reported on by him are to be submitted for approval and to make any statement or explanation he desires with respect to the accounts.

(6) The Council shall determine the period, which may be more or less than twelve months, in respect of which the accounts of the Society shall be made up.

(7) In this section "financial year" means the period determined by the Council under subsection (6) as the period in respect of which the accounts of the Society shall be made up.

**17.** (1) The management and control of the Society and of its property shall be vested in the Council and all such powers, acts or things as may be exercised or done by the Society which are not required by this Ordinance, or by a resolution passed by the Society in general meeting, to be exercised or done by the Society may be exercised or done by the Council.

General powers of Council.

(2) No such resolution of the Society shall invalidate the exercise of any power or the doing of any act or thing by the Council before the date of the resolution.

(3) Subject to this Ordinance, the Council may regulate its own procedure and that of any committee appointed under section 18(1)(m) relating to—

- (a) the holding of meetings;
- (b) the notice to be given of such meetings;
- (c) the proceedings at such meetings;
- (d) the keeping of minutes at such meetings; and
- (e) the custody, production and inspection of such minutes.

**18.** (1) Without derogating from the generality of the powers conferred by section 17(1), the Council may—

Particular powers of Council.

- (a) do anything necessary for the better carrying out of the objects of the Society;
- (b) appoint such employees and agents as it deems necessary;
- (c) appoint the bankers of the Society;
- (d) purchase, take on lease or in exchange, hire or otherwise acquire any movable or immovable property, and erect any buildings;
- (e) sell, lease, mortgage, dispose of or otherwise deal with any movable or immovable property of the Society;
- (f) invest moneys of the Society;
- (g) borrow moneys upon security or otherwise;

- (h) exchange information with similar bodies and with members of the profession in other countries and arrange with such bodies for the reciprocal recognition of accountants;
- (i) establish and maintain branches of the Society in Hong Kong and overseas and delegate the powers, duties and functions of the Society to such branches;
- (j) institute, conduct, defend, compound or abandon any legal proceedings by or against the Society or its officers or otherwise concerning the affairs of the Society and compound or allow time for payment or satisfaction of any debts due or of any claims or demands made by or against the Society;
- (k) refer any claim or demand by or against the Society to arbitration and comply with any award made as a result of such arbitration;
- (l) make and give receipts, releases and other discharges for moneys payable to and for claims and demands of the Society;
- (m) appoint committees to assist or advise the Council in the exercise of its powers and delegate to such committees such of its powers as it may from time to time determine; and
- (n) publish periodicals, booklets or other written material, and produce or sponsor the production of documentary films or other audio-visual material, and distribute the same by sale, loan, hire or otherwise, with or without charge, as the Council thinks fit.

(2) A committee appointed under subsection (1)(m) may, subject to the by-laws of the Society, include persons who are not professional accountants.

**19.** (1) The Council may, on behalf of the Society, accept property, by way of grant, gift, testamentary disposition or otherwise, on such conditions as it may determine.

(2) A list shall be kept by the Registrar of all donations to the Society and the name of the donor and any special conditions attached to the donation shall be entered in the list.

(3) Property donated to the Society for a specific purpose shall be applied for that purpose.

**20.** No fees shall be paid to any member of the Council for his services as a member, but a member may be repaid from the funds of the Society any expenses incurred by him in relation to the affairs of the Society.

Council may accept grants, gifts, etc.

Reimbursement of expenses of Council members.

## PART IV

### REGISTRATION OF PROFESSIONAL ACCOUNTANTS

**21.** (1) The Council shall appoint, on such terms and conditions as it thinks fit, a Registrar.

Appointment of Registrar and notification to Registrar General.

(2) The Registrar shall be the secretary to the Society and to the Council and shall, on the instruction of the President, convene any meeting of the Society or of the Council.

(3) The Council shall register the appointment of the Registrar with the Registrar General.

**22.** (1) The Registrar shall maintain a register of professional accountants, in such form as may be specified by the Council, and shall be responsible for the custody thereof.

Register of professional accountants.

(2) Upon the making of an order for the registration of an applicant under section 26(1), the Registrar shall enter in the register the following particulars of the person to be registered—

- (a) his name;
- (b) his residential address and any business address or, if he holds a practising certificate, his residential address and his registered office;
- (c) the qualification by virtue of which he is registered; and
- (d) such other particulars as the Council may direct.

(3) The register shall at all reasonable times be open to inspection at the office of the Society by any person without charge.

**23.** When a person has been registered under section 22, the Registrar shall issue to him a certificate of registration in such form as the Council may determine.

Certificate of registration.

**24.** (1) A person shall be qualified to be registered under this Ordinance as a professional accountant if he proves to the satisfaction of the Council that—

Qualifications for registration as professional accountant.

- (a) he has attained the age of twenty-one years;
- (b) he is of good character; and
- (c) (i) he is a member of an approved institute; or  
(ii) he has passed such examinations in accountancy and other subjects and has complied with such requirements relating to practical experience as may be prescribed.

(2) A person who is not qualified to be registered under subsection (1) shall be entitled to be registered under this subsection as a professional accountant if, at the commencement of this Ordinance, his name is entered in Part I or Part II of the authorized list kept under section 131(3) of the Companies Ordinance.

(Cap. 32.)

Application for registration.

**25.** (1) A person shall apply to the Council to be registered as a professional accountant under this Ordinance, in such form as the Council may specify, and shall lodge with his application such registration fee as may be fixed by the Council.

(2) The applicant shall, if so directed by the Council, attend in person before the Council.

Acceptance or refusal of registration.

**26.** (1) The Council may order that an application for registration be approved or rejected.

(2) If the Council orders the rejection of an application under subsection (1)—

- (a) the order of rejection, which shall state the reason for rejection, shall be served forthwith by the Registrar upon the applicant either personally or by registered post addressed to the address shown in the application; and
- (b) the registration fee lodged with the application for registration shall be refunded to the applicant.

Removal from register of certain persons.

**27.** (1) The Council shall order the name of any professional accountant to be removed from the register if he—

- (a) resigns;
- (b) dies;
- (c) has been registered by mistake or in consequence of any misleading, false or fraudulent statement, declaration or representation, either oral or in writing;
- (d) has failed to renew his registration under section 28.

(2) The name of a professional accountant shall not be removed from the register under subsection (1)(d) unless notice is sent by registered post to his registered address requiring him to renew his registration within thirty days from the date of the notice.

(3) The order of the Council to remove the name of any professional accountant from the register under subsection (1)(c) shall be served forthwith by the Registrar upon the professional accountant concerned either personally or by registered post addressed to his registered address.

(4) The Registrar shall not remove the name of a professional accountant from the register—

- (a) before the expiry of thirty days after the date of service of the order under subsection (3); or
- (b) in the case of an appeal under section 41, before a decision of the Full Court affirming the order.

(5) When the name of a professional accountant is removed from the register, under subsection (1)(c) or (d), the Registrar shall, as soon as practicable thereafter, cause to be published in the *Gazette* a notice to that effect.

(6) If the name of a professional accountant is removed from the register under this section or section 35—

- (a) the certificate of registration and the practising certificate, if any, issued to the professional accountant shall be deemed to be cancelled with effect from the date on which his name is so removed; and
- (b) no refund of the registration fee or any part thereof shall be made.

**28.** (1) Registration of a person as a professional accountant shall—

Expiry of registration and renewal.

- (a) remain in force until the 1st day of January in the year following the year in which he was so registered; and
- (b) be renewable annually.

(2) An application for renewal of registration as a professional accountant—

- (a) shall be made to the Registrar in such form as the Council may specify; and
- (b) shall not be granted except on payment of the registration fee fixed by the Council.

**29.** (1) No person shall practise as a certified public accountant or public accountant unless he is registered as a professional accountant and holds a practising certificate.

Requirements to practise as certified public accountant or public accountant.

(2) No person other than a professional accountant holding a practising certificate shall hold any appointment or render any services, whether unpaid or otherwise—

- (a) as an auditor of a company within the meaning of the Companies Ordinance; or

(Cap. 32.)

- (b) as an auditor of accounts for the purpose of any other Ordinance.
- (3) Nothing in this Ordinance shall prevent—
- (a) a person from—
- (i) practising publicly and describing himself as an accountant, secretary, book-keeper, tax-agent, tax-consultant or cost-consultant; or
  - (ii) describing himself by any other designation, initials or characters not conveying the impression that he is entitled to practise as a certified public accountant or public accountant; or
  - (iii) acting as an auditor of a registered trade union with the approval of the Registrar of Trade Unions; or
- (b) a member of a club, institution or association, which is not carried on with a view to profit, from acting as auditor of the club, institution or association; or
- (c) the Council, upon application, from exempting any person from the provisions of subsection (2)(b).

**30.** (1) A professional accountant may apply to the Registrar in the month of November in any year, for a practising certificate, in the form specified by the Council.

(2) If the Council is satisfied that the applicant has had the prescribed practical experience, the Registrar shall, on payment of the fee fixed by the Council issue to the professional accountant a practising certificate in the form specified by the Council for the period of one calendar year from the 1st day of January next following the date of the application.

(3) The Council may permit the application for a practising certificate to be made under subsection (1) at any time and upon such application the Registrar may issue to the applicant a practising certificate for any period not exceeding one calendar year and ending on the 31st day of December in any year.

(4) Notwithstanding subsection (2), a person whose name was at the commencement of this Ordinance entered in the authorized list of auditors kept under section 131(3) of the Companies Ordinance shall be entitled to be issued with a practising certificate.

(5) If the Council refuses an application under subsection (1), the Registrar shall forthwith inform the applicant by notice in writing, served either personally or by registered post, of the decision of the Council and of the reasons for refusing to issue the practising certificate.

Practising  
certificates.

(Cap. 32.)

**31.** (1) Every professional accountant who practises as a certified public accountant or public accountant shall have a registered office in Hong Kong to which all communications and notices may be addressed.

Registered  
office.

(2) The address of the registered office shall be given in the application for a practising certificate.

(3) Any change in such address shall be notified to the Registrar within fourteen days thereof and shall be entered in the register by the Registrar.

(4) Any professional accountant who practises as a certified public accountant or public accountant in contravention of this section shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars.

**32.** (1) As soon as practicable after the 1st day of January in every year, the Registrar shall cause to be published in the *Gazette* a list of professional accountants holding practising certificates for the period specified in such list and the addresses of their registered offices.

Publication  
of list of  
professional  
accountants  
holding  
practising  
certificates  
and evidence  
of same.

(2) As soon as practicable after the 1st day of July in every year, the Registrar shall cause to be published in the *Gazette* a list of amendments to the list referred to in subsection (1).

(3) The list of professional accountants published under subsection (1), and any amendments under subsection (2), shall be evidence that any person whose name appears therein is a professional accountant holding a practising certificate for the period specified therein.

(4) A certificate purporting to be signed by the Registrar that the name of a person has or has not been entered in or has been removed from the register, or that a person registered holds or does not hold a practising certificate, shall be evidence of the facts stated therein.

## PART V

### DISCIPLINARY PROCEEDINGS

**33.** The Council shall—

- (a) appoint from among its elected members a Disciplinary Committee which shall consist of three members; and
- (b) designate one of the members of the Disciplinary Committee to be chairman of the Committee.

Disciplinary  
Committee.

Disciplinary provisions.  
(Cap. 214.)

- 34.** (1) A complaint that a professional accountant—
- (a) has been convicted of any offence under the Perjury Ordinance;
  - (b) has been convicted in Hong Kong or elsewhere of any offence involving dishonesty;
  - (c) has whether or not as a professional accountant—
    - (i) falsified or caused to be falsified any document;
    - (ii) made any statement which is material and which he knows to be false or does not believe to be true; in respect of any document;
  - (d) has been negligent in the conduct of his profession;
  - (e) has been guilty of professional misconduct;
  - (f) has wilfully refused or neglected to comply with the provisions of any by-law made or any direction lawfully given by the Council;
  - (g) has been guilty of dishonourable conduct as a professional accountant,

shall be made to the Registrar who shall submit the complaint to the Council which may, in its discretion, refer the complaint to the Disciplinary Committee.

(2) For the purposes of subsection (1)(g), “dishonourable conduct” means an act or omission of a professional accountant which would be reasonably regarded as dishonourable by accountants of good repute and competency.

Disciplinary powers of Disciplinary Committee.

**35.** (1) If, after due inquiry, the Disciplinary Committee is satisfied that a complaint referred to it under section 34 is proved, the Disciplinary Committee may, in its discretion—

- (a) order the name of the professional accountant to be removed from the register, either permanently or for such period as it may think fit;
- (b) order the professional accountant to be reprimanded; or
- (c) postpone judgment on the case for a period or periods, in the aggregate, not exceeding two years,

and may in any case make such order as the Disciplinary Committee thinks fit with regard to the payment of the costs of the Society and of any complainant and of the professional accountant, and any costs awarded may be recovered as a civil debt.

(2) Nothing in this section shall be deemed to require the Disciplinary Committee to inquire into the question whether a

professional accountant was properly convicted but the Committee may consider the record of a case in which such conviction was recorded and such other evidence as may show the nature and gravity of the offence.

(3) The Disciplinary Committee shall cause a copy of any order made under subsection (1)(a), or of any such order as varied on appeal by the Full Court, as the case may be, to be published in the *Gazette* together with a summary of the nature of the complaint to which the order relates:

Provided that no order shall be so published before the expiry of thirty days after the date of service of the order on the professional accountant under section 38(1) or, in the case of an appeal under section 41, before the decision of the Full Court on such appeal.

**36.** (1) For the purposes of an inquiry under section 35 the Disciplinary Committee shall have the following powers—

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

(2) A summons to a witness shall be in the prescribed form and shall be signed by the chairman of the Disciplinary Committee.

**37.** (1) At the hearing of a complaint—

- (a) the complainant, or his solicitor or counsel; or
- (b) the Registrar; or
- (c) if the Council so directs, the solicitor or counsel for the Registrar,

shall present the case against the accountant whose conduct is the subject of an inquiry under section 35.

(2) A professional accountant whose conduct is the subject of such an inquiry shall be entitled to be represented by counsel or a solicitor throughout the inquiry.

Powers of Disciplinary Committee with regard to obtaining evidence and the conduct of proceedings.

Conduct of inquiry and legal representation.

Provisions relating to orders of the Disciplinary Committee.

**38.** (1) The Registrar shall cause a copy of any order made under paragraph (a) or (b) of section 35(1) to be served forthwith upon the professional accountant concerned, either personally or by registered post addressed to his registered address.

(2) The Registrar shall not remove the name of a professional accountant from the register by virtue of an order made under subsection (1)(a) of section 35 or record a reprimand in the register by virtue of an order made under subsection (1)(b) of that section before the expiry of thirty days after the date of service of the order on the accountant or in the case of an appeal under section 41 before the decision of the Full Court on such appeal.

Restoration of name of professional accountant to register.

**39.** (1) A person whose name has been removed from the register under the provisions of this Ordinance may apply to the Council for the restoration of his name to the register.

(2) The Council may, after making such inquiry as it may consider necessary, reject an application under subsection (1) or allow it, subject to such conditions if any as it may think fit to impose.

(3) The Council shall, if it allows an application under subsection (1), order the Registrar to restore the name of the applicant to the register and thereupon the Registrar shall restore the name accordingly.

Restriction on removal of name of professional accountant from register.

**40.** The name of a professional accountant shall not be removed from the register by reason of any conviction involving dishonesty if prior to the date of his registration the Council was aware of the conviction.

Appeals.

**41.** (1) An appeal shall lie to the Full Court by—

(a) any person whose application for registration has been rejected by an order under section 26(1);

(b) a professional accountant—

(i) whose name the Council has ordered under paragraph (c) or (d) of section 27(1) to be removed from the register;

(ii) whose application under section 30 for a practising certificate is refused; or

(iii) who is aggrieved by an order made in respect of him under paragraph (a) or (b) of section 35(1),

and the Full Court may confirm, vary or reverse the order or decision appealed against.

(2) The decision of the Full Court upon such appeal shall be final.

(3) The practice and procedure in relation to any such appeal shall be in accordance with rules of court made under the Supreme Court Ordinance:

(Cap. 4.)

Provided that the Full Court shall not hear any such appeal unless notice of the appeal has been given by the appellant within thirty days after service upon him of—

(a) a copy of an order under section 26(1);

(b) a copy of an order under paragraph (a), (c) or (d) of section 27(1);

(c) a copy of a decision under section 30; or

(d) a copy of an order under paragraph (a) or (b) of section 35(1).

## PART VI

### OFFENCES

**42.** (1) Subject to this section, any person who—

Offences and penalties.

(a) being summoned to attend as a witness or to produce a document or other thing under section 36(1)(b), refuses or fails to do or to answer any question put to him by the Disciplinary Committee;

(b) fraudulently procures himself or any other person to be registered by means of any misleading, false or fraudulent representation or statement, either oral or in writing;

(c) makes or causes to be made any falsification in the register or in any matter relating to the register;

(d) personates or represents himself as being the person referred to in any certificate or document presented to the Council or the Disciplinary Committee;

(e) falsely pretends to be qualified to practise as a certified public accountant or public accountant;

(f) falsely takes or uses any name, initials, title, addition or description implying that he is qualified to be registered as a professional accountant or to practise as a certified public accountant or public accountant;

(g) not being a professional accountant, either directly or indirectly, practises as a certified public accountant or public accountant;

- (h) not being a professional accountant, knowingly permits the use of or uses in connexion with his business, trade, calling or profession the description "professional accountant", or the characters "會計師", or any written words, initials or abbreviations of words intended to cause, or which may reasonably cause, any person to believe that the person using the same is a professional accountant;
- (i) not being a professional accountant holding a practising certificate—
- (i) advertises, publishes or represents himself as qualified to practise as a certified public accountant or public accountant or knowingly permits himself to be so advertised, published or represented; or
- (ii) takes or uses in conjunction with his name, or any name which he may have assumed or by which he may describe himself, the description "certified public accountant" or "public accountant" or uses the initials "C.P.A." or "P.A." or the characters "執業會計師", "核數師" or "審計師", or knowingly permits the use of or uses such description, initials or characters in connexion with his business, trade, calling or profession.

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

(2) Subsection (1) shall not apply in relation to the use by any member of an overseas body or institute of accountants, not being a professional accountant, of any description or initials which he is entitled to use under the constitution of that body or institute if by such use he does not represent that he is a professional accountant or is entitled to practise as a certified public accountant or public accountant.

(3) No person shall be required to answer any question or produce any document or other thing which, in the opinion of the Disciplinary Committee, may tend to incriminate him; and a witness shall, in respect of any evidence given by him before the Disciplinary Committee, be entitled to the same privileges to which he would be entitled if he were giving evidence before a court.

## PART VII MISCELLANEOUS

43. Subject to paragraphs (a)(iii) and (c) of section 29(3), any reference in any Ordinance to an auditor or an auditor whose name is in the authorized list of auditors kept under section 131(3)

Construction  
of references  
to auditors,  
(Cap. 32.)

of the Companies Ordinance shall be construed as a reference to a professional accountant holding a practising certificate.

44. This Ordinance shall not apply to the Director of Audit or to any other public officer in connexion with his duties as such.

Ordinance not to apply to public officers in connexion with their duties.

45. Subject to the provisions of this Ordinance, no person shall be entitled to recover any fees, remuneration or expenses for or in respect of any appointment held or services rendered by him as a certified public accountant or public accountant unless he is a professional accountant holding a practising certificate.

Fees and expenses.

46. There shall be paid to the Registrar General for the registration of any document required by this Ordinance to be registered or to be delivered, sent or forwarded to the Registrar General such fees as the Governor may prescribe by notice in the *Gazette*.

Fees payable to Registrar General.

47. The Governor may by order published in the *Gazette* amend the Schedule.

Amendment of Schedule.

48. The omission to give notice of any meeting of the Council or any general meeting of the Society, or the failure by a member of the Council or a professional accountant to receive such a notice shall not invalidate the proceedings at the meeting or any resolution passed thereat.

Omission to give notice of meetings.

49. (1) A professional accountant may, by notice in writing under his hand, tender to the Council his resignation from the Society.

Resignation from the Society.

(2) The resignation shall take effect upon the deletion from the register, with the approval of the Council, of the professional accountant's name.

(3) The Council may refuse to accept the resignation of a professional accountant if—

- (a) it has reason to believe that such accountant has been guilty of conduct, or that circumstances exist, which could justify the removal of his name from the register under section 35(1)(a);
- (b) it is aware that a complaint concerning such accountant has been preferred and is before the Council or the Disciplinary Committee; or

(c) the professional accountant is indebted to the Society.

Transitional provisions.

**50.** Notwithstanding the provisions of this Ordinance a person whose name appears, at the commencement of this Ordinance, in the authorized list of auditors kept under section 131(3) of the Companies Ordinance, may for six months from the commencement of this Ordinance perform the duties required by the Companies Ordinance to be performed by an auditor.

(Cap. 32.)

Appointment of first Council members.

**51.** (1) Notwithstanding section 10(2)(c), on the commencement of this Ordinance the Governor shall appoint as the first members of the Council ten persons who are members of an approved institute and whose names then appear in the authorized list kept under section 131(3) of the Companies Ordinance.

(Cap. 32.)

(2) The members appointed under subsection (1) shall hold office until the election of members of the Council at the first annual general meeting of the Society, and shall be eligible for election at that meeting.

(3) The members appointed under subsection (1) shall elect from their number a President and a Vice-President.

(4) The first meeting of the first Council shall be held on a date at a time appointed by the Governor by notice in the *Gazette*.

Consequential amendments to Cap. 32.

**52.** (1) Sections 131(3), 132, 133, 134, 135, 136, 137, 138 and 139 of the Companies Ordinance are repealed.

(2) The Authorized Auditors List (Admission) Rules, the Authorized Auditors (Disciplinary Inquiry Proceedings) Rules and the Authorized Auditors (Appeals) Rules are revoked.

(3) Notwithstanding subsections (1) and (2), the provisions of the Companies Ordinance referred to in subsection (1) and the Authorized Auditors (Disciplinary) Inquiry Proceedings Rules and the Authorized Auditors (Appeals) Rules shall continue to apply in respect of anything done or suffered or omitted to be done, before the commencement of this Ordinance, by any person whose name appears at the commencement of this Ordinance in Part I or Part II of the authorized list kept under section 131(3) of the Companies Ordinance as if this Ordinance had not been enacted.

#### SCHEDULE

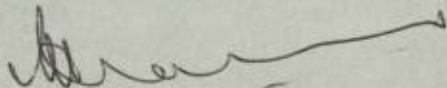
[ss. 2 & 47.]

##### APPROVED INSTITUTES

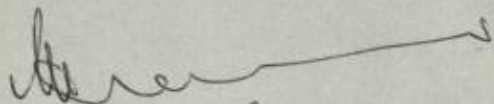
The Association of Certified Accountants  
The Australian Society of Accountants  
The Institute of Chartered Accountants in Australia

The Institute of Chartered Accountants in England and Wales  
The Institute of Chartered Accountants in Ireland  
The Institute of Chartered Accountants of Scotland  
The Institute of Cost and Management Accountants  
The Institute of Municipal Treasurers and Accountants.

Passed by the Hong Kong Legislative Council this 15th day of November, 1972.

  
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. 69 of 1972



I assent.

*Governor.*

*16th November, 1972.*

An Ordinance to amend the Magistrates Ordinance.

[17th November, 1972.]

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 Magistrates (Amendment) (No. 2) Ordinance 1972. Short title.
2. Section 104 of the principal Ordinance is amended in subsections (1) and (5) by deleting "seven", wherever it occurs, and substituting the following— Amendment of section 104. (Cap. 227.)  
"fourteen".
3. Section 105 of the principal Ordinance is amended by deleting "seven" and substituting the following— Amendment of section 105.  
"fourteen".

Passed by the Hong Kong Legislative Council this 15th day of November, 1972.

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. 70 OF 1972



I assent.

Governor.

16th November, 1972.

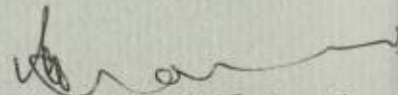
An Ordinance to amend the Probate and Administration Ordinance.

[17th November, 1972.]


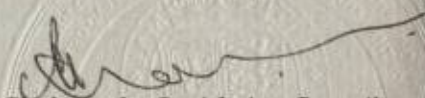
Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

- |  |                                      |
|--|--------------------------------------|
| 1. This Ordinance may be cited as the Probate and Administration (Amendment) Ordinance 1972.           | Short title.                         |
| 2. Section 23A of the principal Ordinance is amended—  | Amendment of section 23A. (Cap. 10.) |
| (a) in subsection (1) by deleting "under section 16"; and  |                                      |
| (b) by deleting subsection (2).  |                                      |
| 3. Section 23B of the principal Ordinance is amended in subsection (1) by deleting "under section 16". | Amendment of section 23B.            |

Passed by the Hong Kong Legislative Council this 15th day  
of November, 1972.

  
Clerk to the Legislative Council.

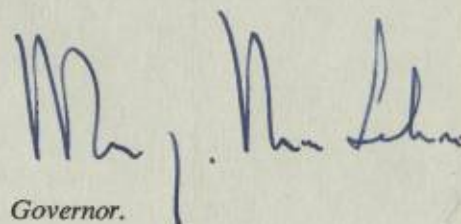
*This printed impression has been carefully compared  
by me with the bill, and is found by me to be a true and  
correctly printed copy of the said bill.*

  
  
Clerk to the Legislative Council.

**HONG KONG**

No. 71 OF 1972

I assent.

  
Governor.

30th November, 1972.

An Ordinance to amend further the Buildings Ordinance.

[1st December, 1972]

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

- |  |   |
|--|---|
| <p>1. This Ordinance may be cited as the Buildings (Amendment) (No. 2) Ordinance 1972.</p>   | <p>Short title.</p>                             |
| <p>2. Section 13 of the principal Ordinance is amended in subsection (2)(b) by deleting "two" and substituting the following—<br/><br/>"fifty".</p>    | <p>Amendment of section 13.<br/>(Cap. 123.)</p> |
| <p>3. The principal Ordinance is amended by adding after section 24 the following new section—<br/><br/>"Order to cease or remedy dangerous works.</p> | <p>Addition of section 24A.</p>                 |

**24A.** (1) Where any building works, street works, lift works or escalator works have been or are being, carried out in such a manner as, in the opinion of the Building Authority, will cause, or will be likely

to cause, a risk of injury to any person or damage to any property, the Building Authority may, by order in writing, require that such work as he may specify therein be carried out, to ensure that the works will cease to constitute such a risk.

(2) An order made under subsection (1)—

(a) may specify—

(i) the manner in which the work specified in the order shall be carried out;

(ii) the time before which the work shall be commenced and the time by which it shall be completed;

(iii) that the work shall be carried out with due diligence to the satisfaction of the Building Authority; and

(b) shall be addressed to and served on—

(i) in the case of completed works, the owner thereof; and

(ii) in any other case, the person for whom the works are being carried out or his agent.

(3) If a person fails to comply with an order served on him under subsection (1), the Building Authority may, without any further notice, carry out, or cause to be carried out, such work as may be necessary to ensure that the order will be complied with.

(4) The cost of any work carried out, or caused to be carried out, by the Building Authority under subsection (3) may be recovered by the Building Authority from the person upon whom the order was served under subsection (2)."

Amendment of section 30A.

4. Section 30A of the principal Ordinance is amended in subsection (1) by deleting paragraph (b).

Amendment of section 40.

5. Section 40 of the principal Ordinance is amended—

(a) in subsection (2) by deleting items (5), (7) and (9) from the table;

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

"(2A) Any person for whom any building works, street works, lift works or escalator works are being carried out and any authorized architect,

registered contractor, registered lift contractor or registered escalator contractor directly concerned with any such works who—

(a) permits or authorizes to be incorporated in or used in the carrying out of any such works any materials which—

(i) are defective or do not comply with the provisions of this Ordinance;

(ii) have not been mixed, prepared, applied, used, erected, constructed, placed or fixed in the manner required for such materials under this Ordinance;

(b) diverges or deviates in any material way from any work shown in a plan approved by the Building Authority under this Ordinance; or

(c) being an authorized architect or a registered contractor, fails to notify the Building Authority of the contravention of any regulation which would result from the carrying out of any work shown in a plan approved by the Building Authority under this Ordinance.

shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years:

Provided that it shall be a defence in any prosecution for the contravention of paragraph (c) for the person charged to prove to the satisfaction of the court that he did not know, nor could reasonably have discovered, the contravention referred to in the charge.

(2B) Any person being an authorized architect or a registered contractor directly concerned with any site formation works, piling works, foundation works or other form of building works who carries out such works, or authorizes or permits such works to be carried out, in such a manner as, in the opinion of the Building Authority, will cause, or will be likely to cause, a risk of injury to any person or damage to any property, shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000 and to imprisonment for 2 years.

(2C) Any person who, without reasonable excuse, fails to comply with an order served on him under section 24A, shall be guilty of an offence and shall be liable on conviction—

- (a) to a fine of \$50,000 and to imprisonment for 2 years; and
- (b) to a fine of \$10,000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the order has continued.”.

Passed by the Hong Kong Legislative Council this 29th day of November, 1972.



*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.*



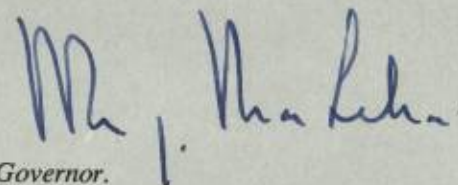
*Clerk to the Legislative Council.*

**HONG KONG**

No. 72 OF 1972



I assent.



*Governor.*

14th December, 1972.

An Ordinance to amend the Law Amendment and Reform (Consolidation) Ordinance.

[15th December, 1972]

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 Law Amendment and Reform (Consolidation) (Amendment) Ordinance 1972.

Short title.

2. Section 12 of the principal Ordinance is repealed.

Repeal of section 12. (Cap. 23.)

3. The principal Ordinance is amended by inserting, after section 13, the following new section—

Addition of new section 13A.

“Part performance and damages.

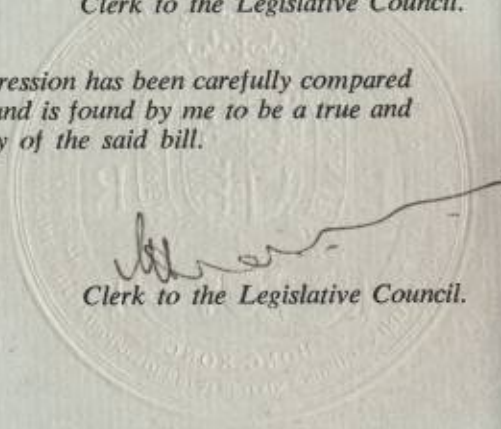
**13A.** (1) A court may award damages for breach of a contract of which there has been part performance notwithstanding that an order for specific performance could not, in the circumstances of the case, be made by the court.

(2) This section shall not apply to any contract made before the thirty-first day of December 1972."

Passed by the Hong Kong Legislative Council this 13th day of December, 1972.

*[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.

HONG KONG

No. 73 OF 1972



I assent.

*[Handwritten signature]*  
Governor.

14th December, 1972.

An Ordinance to repeal certain Ordinances and to make provisions incidental thereto.

[15th December, 1972]

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 Law Revision (Miscellaneous Amendments) Ordinance 1972. Short title.
- 2. The Ordinances specified in the First Schedule are repealed. Repeals.  
First Schedule.
- 3. The Ordinances specified in the Second Schedule are amended in the manner specified therein. Amendments.  
Second Schedule.

FIRST SCHEDULE [s. 2.]

REPEALS

Item	Ordinance
(Cap. 82.)	1. Ships (Prohibition of Sale of Liquor) Ordinance.
(Cap. 247.)	2. Bank Notes and Certificates of Indebtedness Ordinance.

SECOND SCHEDULE [s. 3.]

AMENDMENTS

Item	Ordinance	Amendment
(Cap. 133 sub. leg.)	1. Cremation and Gardens of Remembrance Regulations.	Form 2 in the Second Schedule is amended— (a) by deleting the asterisk before paragraph (a); (b) by deleting the following— “*May be deleted where the Registrar General is the signatory.”.
(Cap. 224.)	2. Police Supervision Ordinance.	The Second Schedule is amended— (a) by deleting Form 1 and substituting the following—

“FORM 1  
POLICE SUPERVISION  
ORDER  
POLICE SUPERVISION  
ORDINANCE  
(Chapter 224)

Council Chamber, Victoria, in the Colony of Hong Kong, the            day of            19            .

WHEREAS the Governor in Council is satisfied that a deportation order may be made against .....

AND WHEREAS it appears to the Governor in Council that the said person should, in lieu of being deported, be subject to police supervision:

Item	Ordinance	Amendment
		The Governor in Council, in exercise of the powers vested in him by section 3(1) of the Police Supervision Ordinance, hereby orders that the said person be subject to police supervision for a period of .....

*Clerk of Councils.”;*

(b) by deleting Form 3 and substituting the following—

“FORM 3  
POLICE SUPERVISION  
ORDER  
POLICE SUPERVISION  
ORDINANCE  
(Chapter 224)

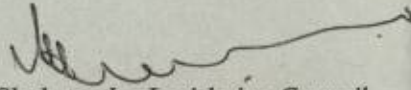
Council Chamber, Victoria, in the Colony of Hong Kong, the            day of            19            .

In exercise of the powers vested in him by section 3(2) of the Police Supervision Ordinance, the Governor in Council hereby, upon the suspension, under the provisions of section 54 of the Immigration Ordinance, of a deportation order made against ..... on the ..... day of ..... 19....., orders that the said person be subject to police supervision for a period of .....

*Clerk of Councils.”.*

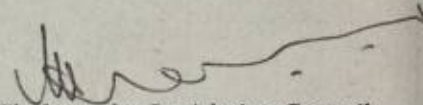
3.	Preventive Service Ordinance.	The Second Schedule is amended by deleting the following— “(Cap. 82.) Ships (Prohibition of Sale of Liquor) Ordinance.”.	(Cap. 342.)
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Passed by the Hong Kong Legislative Council this 13th day  
of December, 1972.



*Clerk to the Legislative Council.*

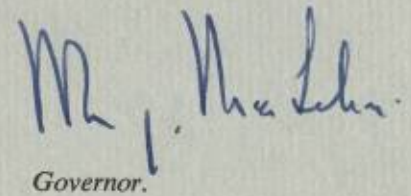
*This printed impression has been carefully compared  
by me with the bill, and is found by me to be a true and  
correctly printed copy of the said bill.*




*Clerk to the Legislative Council.*



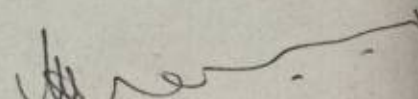
I assent.

Governor.

  
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.*

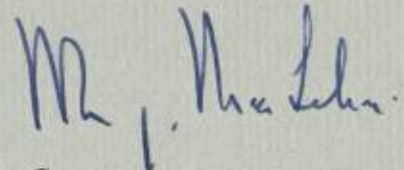
  
Clerk to the Legislative Council.

**HONG KONG**

No. 74 OF 1972



I assent.

  
Governor.

14th December, 1972.

An Ordinance to amend the Protection of Women and Juveniles  
Ordinance.

[15th December, 1972]

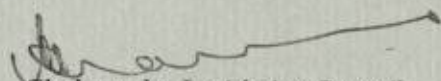
Enacted by the Governor of Hong Kong, with the advice and  
consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Protection of Women and Juveniles (Amendment) Ordinance 1972. Short title.

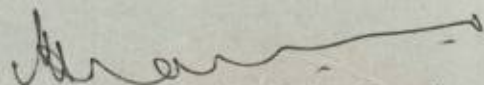
2. Section 34A of the principal Ordinance is amended in subsection (1) by deleting "inspector" and substituting the following— Amendment of section 34A.  
(Cap. 213.)

"station sergeant".

Passed by the Hong Kong Legislative Council this 13th day  
of December, 1972.

  
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.

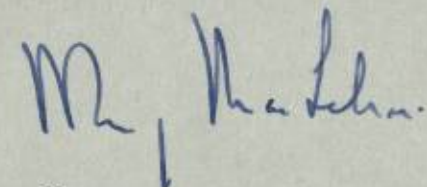


**HONG KONG**

No. 75 OF 1972



I assent.

  
Governor.

14th December, 1972.

An Ordinance to amend the Public Order Ordinance.

[15th December, 1972]


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

1. This Ordinance may be cited as the Public Order (Amendment) (No. 2) Ordinance 1972. Short title.
2. Section 33 of the principal Ordinance is amended— Amendment of section 33. (Cap. 245.)
- (a) in subsection (1) by deleting "liable on summary conviction to a fine of five thousand dollars and to imprisonment for two years." and substituting the following—
- "sentenced on summary conviction to imprisonment for not less than six months nor more than three years or (subject to the provisions of the Detention Centres Ordinance 1972) to a detention order under that Ordinance.";

(b) by inserting after subsection (2) the following new subsection—

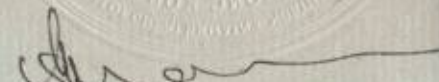
“(3) Any police officer may stop and search any person in a public place in order to ascertain whether or not that person has been guilty of an offence against this section.”.

Passed by the Hong Kong Legislative Council this 13th day of December, 1972.



*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.*

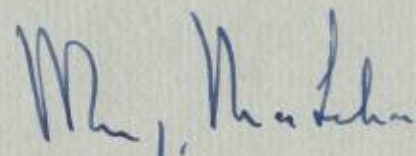


*Clerk to the Legislative Council.*

**HONG KONG**

No. 76 OF 1972

I assent.



*Governor.*

14th December, 1972.

An Ordinance to amend the Wild Birds and Wild Mammals Protection Ordinance.

[15th December, 1972]

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

1. This Ordinance may be cited as the Wild Birds and Wild Mammals Protection (Amendment) Ordinance 1972. Short title.

2. Section 2 of the principal Ordinance is amended by inserting, after the definition of “hunt”, the following new definition— Amendment of section 2. (Cap. 170.)

“rodent” means any animal of the order Rodentia except the Chinese porcupine;”.

3. Section 16 of the principal Ordinance is amended in subsections (1) and (2) by inserting, after “justice of the peace,” the following— Amendment of section 16.

“police officer,”.

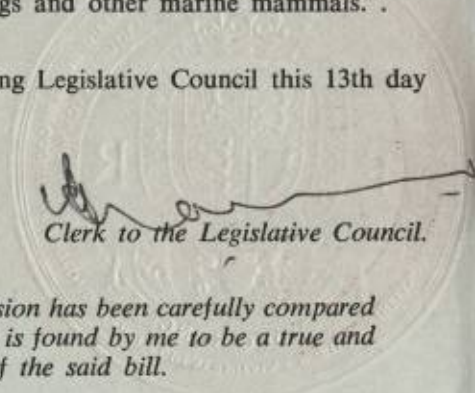
Amendment of section 18.

4. Section 18 of the principal Ordinance is amended in subsection (1) by inserting, after "justice of the peace," wherever it occurs, the following—  
"police officer,".

Amendment of Second Schedule.

5. The Second Schedule to the principal Ordinance is amended in the heading of mammals, by inserting, after "Leopard Cat—*Felis bengalensis*", the following—  
"Chinese Porcupine—*Hystrix hodgsoni*.  
Dolphins, whales, dugongs and other marine mammals."

Passed by the Hong Kong Legislative Council this 13th day of December, 1972.



*[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.

HONG KONG

No. 77 OF 1972



I assent.

*[Signature]*  
Governor.

14th December, 1972.

An Ordinance to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March 1972.

[15th December, 1972]

WHEREAS it has become necessary to make further provision for the public service of the Colony for the financial year ended the 31st day of March 1972, in addition to the charge upon the revenue and other funds of the Colony authorized by the Appropriation Ordinance 1971:

Preamble.

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

1. This Ordinance may be cited as the Supplementary Appropriation (1971-72) Ordinance 1972.

Short title.

2. A sum of one hundred and fifty-two million, one hundred and sixty-six thousand two hundred and thirty-nine dollars is hereby charged upon the revenue and other funds of the Colony

Appropriation from general revenue and other funds.

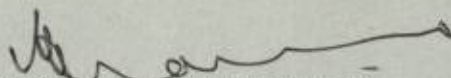
for the service of the financial year ended the 31st day of March 1972, the appropriation of the sum so charged being approved as specified in the Schedule.

Schedule.

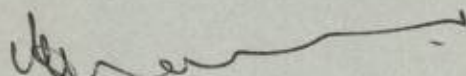
SCHEDULE

Number of Vote	Head of Expenditure	Amount of Vote
		\$
21.	H.E. The Governor's Establishment .....	296,966
25.	Civil Aviation Department .....	12,875
26.	Colonial Secretariat .....	346,197
27.	Colonial Secretariat: London Office .....	3,551
29.	Defence: Royal Hong Kong Regiment (The Volunteers) .....	66,247
30.	Defence: Royal Hong Kong Auxiliary Air Force .....	1,349,396
36.	Defence: Miscellaneous Measures .....	77,659,560
38.	Fire Services Department .....	411,857
44.	Kowloon-Canton Railway .....	1,341,046
48.	Legal Aid Department .....	265,830
51.	Miscellaneous Services .....	5,809,677
52.	New Territories Administration .....	463,712
54.	Pensions .....	3,195,626
55.	Police: Royal Hong Kong Police Force .....	6,819,735
56.	Police: Royal Hong Kong Auxiliary Police Force .....	831,438
57.	Post Office .....	1,711,423
58.	Printing Department .....	1,111,706
62.	Public Works Department .....	823,250
63.	Public Works Recurrent .....	2,202,133
66.	Public Works Non-recurrent: Engineering .....	4,475,044
67.	Public Works Non-recurrent: Waterworks .....	24,703,574
68.	Radio Hong Kong .....	208,833
71.	Registry of Trade Unions .....	9,358
72.	Resettlement Department .....	175,156
77.	Subventions: Social Welfare .....	161,174
78.	Subventions: Miscellaneous .....	562,762
79.	Transport Department .....	4,963,414
81.	Universities .....	12,184,699
	TOTAL .....	<u>\$152,166,239</u>

Passed by the Hong Kong Legislative Council this 13th day of December, 1972.

  
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. 78 OF 1972



I assent.

Governor.

14th December, 1972.

An Ordinance to amend the Companies 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 Companies (Amendment) Ordinance 1972 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 in subsection (1)—

Amendment of section 2. (Cap. 32.)

(a) by inserting after the definition of "general rules" the following new definition—

"issued generally", in relation to a prospectus, means issued to persons who are not existing members or debenture holders of the company;"

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

"prospectus" means any prospectus, notice, circular, brochure, advertisement, or other document,—

- (a) offering any shares or debentures of a company to the public for subscription or purchase for cash or other consideration; or
- (b) calculated to invite offers by the public to subscribe for or purchase for cash or other consideration any shares or debentures of a company;”.

Amendment of section 30.

3. Section 30 of the principal Ordinance is amended—

- (a) in subsection (1), by deleting “the Second Schedule” and substituting the following—

“Part I of the Second Schedule and, in the cases mentioned in Part II of that Schedule setting out the reports specified therein, and the said Parts I and II shall have effect subject to the provisions contained in Part III of that Schedule”;

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

“(1A) Every statement in lieu of prospectus delivered under subsection (1) shall, where the persons making any report required by Part II of the Second Schedule have made therein or have, without giving the reasons, indicated therein any such adjustments as are mentioned in paragraph 5 of the Second Schedule, have endorsed thereon or attached thereto a written statement signed by those persons setting out the adjustments and giving the reasons therefor.”;

- (c) in subsection (2)—

- (i) by inserting after “subsection (1)” the following—  
“or (1A)”;

- (ii) by deleting “five hundred” and substituting the following—

“ten thousand”;

- (d) by inserting after subsection (2) the following new subsections—

“(2A) Where a statement in lieu of prospectus delivered to the Registrar under subsection (1) includes any untrue statement, any person who authorized the delivery of the statement, in lieu of prospectus for registration shall be liable—

- (a) on conviction on indictment, to a fine of fifty thousand dollars and to imprisonment for two years; or

- (b) on summary conviction, to a fine of ten thousand dollars and to imprisonment for six months,

unless he proves either that the untrue statement was immaterial or that he had reasonable ground to believe and did up to the time of the delivery for registration of the statement in lieu of prospectus believe that the untrue statement was true.

- (2B) For the purposes of this section—

- (a) a statement included in a statement in lieu of prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included; and

- (b) a statement shall be deemed to be included in a statement in lieu of prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein.

(2C) The Governor in Council may by regulation amend the Second Schedule.”.

4. Section 37 of the principal Ordinance is amended—

- (a) in subsection (1), by deleting “or in relation to an intended company”;

- (b) by deleting subsections (2) to (5).

5. Section 38 of the principal Ordinance is amended—

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

“(1) Subject to the provisions of section 38A, every prospectus issued by or on behalf of a company must be in the English language and contain a Chinese translation and must state the matters specified in Part I of the Third Schedule and set out the reports specified in Part II of that Schedule, and the said Parts I and II shall have effect subject to the provisions contained in Part III of the said Schedule.”;

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

“(1A) Every prospectus to which subsection (1) applies must contain in a prominent position in the English version a statement in the following form—

Amendment of section 37.

Amendment of section 38.

**"IMPORTANT**

If you are in any doubt about this prospectus you should consult your stockbroker, bank manager, solicitor, professional accountant or other professional adviser.”;

and in the Chinese version a statement in the following form—

**“重要提示**

如對此招股章程有任何疑問，應向股票經紀、銀行經理、律師、會計師或其他專家請教。”。

(1B) If any prospectus is issued which does not comply with or contravenes the requirements of subsections (1) and (1A), the company and every person who is knowingly a party to the issue thereof shall be liable to a fine of ten thousand dollars.”;

(c) by inserting at the beginning of subsection (3) the following—

“Subject to the provisions of section 38A.”;

(d) in the proviso to subsection (4), by deleting “15” and substituting the following—

“19”;

(e) by deleting subsection (5) and substituting the following new subsection—

“(5) This section shall not apply—

(a) to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons; or

(b) to the issue of a prospectus or form of application relating to shares or debentures which are or are to be in all respects uniform with shares or debentures previously issued and for the time being dealt in or quoted on a recognized stock exchange in the Colony;

but, subject as aforesaid, this section shall apply to a prospectus or a form of application whether issued on the formation of a company or subsequently.”;

(f) by adding after subsection (6) the following—

“(7) The Governor in Council may by regulation amend the Third Schedule.”.

6. The principal Ordinance is amended by adding after section 38 the following new sections—

“Exclusion of section 38 and relaxation of Third Schedule in case of certain prospectuses. *cf.* 1948 c. 38, s. 39.

Third Schedule.

**38A.** (1) Where it is proposed to offer any shares in or debentures of a company to the public by a prospectus issued generally, there may, on the request of the applicant, be given by the Registrar a certificate of exemption, that is to say, a certificate that, having regard to the proposals (as stated in the request) as to the size and other circumstances of the issue of shares or debentures and as to any limitations on the number and class of persons to whom the offer is to be made, compliance with the requirements of the Third Schedule would be either irrelevant or unduly burdensome.

(2) A certificate of exemption given under subsection (1) shall be expressed to have effect with regard to all of the requirements of the Third Schedule or to such of them as are specified in the certificate.

(3) If a certificate of exemption is given, and if the proposals referred to in subsection (1) are adhered to and every form of application issued is accompanied by a document containing the particulars and information required to be published as a condition of the granting of a certificate of exemption, then—

(a) a prospectus giving the particulars and information aforesaid in the form in which they are so required to be published shall be deemed to comply with the requirements of the Third Schedule; and

(b) section 38 shall not apply to any issue of a prospectus or form of application relating to the shares or debentures.

Advertisements concerning prospectuses.

**38B.** (1) Subject to subsection (2), it shall not be lawful for any person to publish or cause to be published by way of newspaper, radio, television or cinematograph advertisement, or advertisement in any other manner, any extract from or abridged version of a prospectus whether in English or in any other language in relation to shares or debentures of a company whether incorporated in or outside the Colony.

(2) Notwithstanding subsection (1)—

Addition of new sections 38A, 38B, 38C and 38D.

- (a) a notice which refers to the publication of a prospectus and is in accordance with the prescribed form;
- (b) the publication of the English version only of a prospectus in an English language newspaper or the Chinese version only in a Chinese language newspaper.

shall not contravene this section.

(3) If any person acts in contravention of subsection (1), he shall be liable to a fine of ten thousand dollars.

**38C.** (1) A prospectus inviting persons to subscribe for shares in or debentures of a company and including a statement purporting to be made by an expert shall not be issued unless—

- (a) he has given and has not, before delivery of a copy of the prospectus for registration, withdrawn his written consent to the issue thereof with the statement included in the form and context in which it is included; and
- (b) a statement that he has given and has not withdrawn his consent as aforesaid appears in the prospectus.

(2) If any prospectus is issued in contravention of this section the company and every person who is knowingly a party to the issue thereof shall be liable to a fine of ten thousand dollars.

(3) In this section the expression "expert" includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him.

**38D.** (1) No prospectus shall be issued by or on behalf of a company unless, on or before the date of its publication, there has been delivered to the Registrar for registration a copy thereof signed by every person who is named therein as a director or proposed director of the company, or by his agent authorized in writing, and having endorsed thereon or attached thereto—

- (a) any consent to the issue of the prospectus required by section 38C from any person as an expert; and

Expert's consent to issue of prospectus containing statement by him.  
1948 c. 38,  
s. 40.

Registration of prospectus.  
1948 c. 38,  
s. 41.

- (b) in the case of a prospectus issued generally, also—

(i) a copy of any contract required by paragraph 17 of the Third Schedule to be stated in the prospectus or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof or, if in the case of a prospectus deemed by virtue of a certificate granted under section 38A to comply with the requirements of that Schedule a contract or a copy thereof or a memorandum of a contract is required to be available for inspection in connexion with the application made under that section to the Registrar, a copy or, as the case may be, a memorandum of that contract;

(ii) where the prospectus offers shares in the company for sale to the public, a list of the names, addresses and descriptions of the vendor or vendors of the shares; and

(iii) where the persons making any report required by Part II of that Schedule have made therein, or have, without giving the reasons, indicated therein, any such adjustments as are mentioned in paragraph 42 of that Schedule, a written statement signed by those persons setting out the adjustments and giving the reasons therefor.

Third Schedule.

The references in sub-paragraph (i) of paragraph (b) to the copy of a contract required thereby to be endorsed on or attached to a copy of the prospectus shall, in the case of a contract wholly or partly in a language other than English, be taken as references to a copy of a translation of the contract in English or a copy embodying a translation in English of the parts not in English, as the case may be, being a translation certified in the prescribed manner to be a correct translation, and the reference to a copy of a contract required to be available for inspection shall include a reference to a copy of a translation thereof or a copy embodying a translation of parts thereof.