

*Schedule to be  
annexed here.*

## STATEMENT OF CORRECTIONS.

| Serial<br>No. | Particulars of the<br>correction to be made<br>by reference to the<br>original affidavit<br>or account | VALUE                             |                           | Increase<br>\$ | Decrease<br>\$ |
|---------------|--------------------------------------------------------------------------------------------------------|-----------------------------------|---------------------------|----------------|----------------|
|               |                                                                                                        | As in original<br>affidavit<br>\$ | As now<br>corrected<br>\$ |                |                |
|               |                                                                                                        |                                   |                           |                |                |

.....  
*Signature of person making the affidavit.*

STATEMENT OF THE CIRCUMSTANCES NECESSITATING  
THE SEVERAL CORRECTIONS.

| Reference<br>Number to the<br>Statement<br>overleaf | Where any claim to refund is made <i>full particulars</i> relied on and any particulars which the Commissioner may be likely to need to enable him to decide on the claim should be set out.<br>Where any additions to the original affidavit are made the same particulars as required in the original should be given. |
|-----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                     |                                                                                                                                                                                                                                                                                                                          |

.....  
*Signature of person making the affidavit.*

Name of Solicitor (if any) .....  
If communications are to be sent to the Solicitor, the executor should sign here.

*This printed impression has been carefully compared  
by me with the Bill which passed the Legislative Council  
on the 10th day of July, 1968, and is found by me  
to be a true and correctly printed copy of the said Bill.*

*[Signature]*  
Deputy Clerk of Councils.

(Secretariat CR 10/2524/45II)

## HONG KONG

No. 28 OF 1968.



I assent.

*[Signature]*

Governor.

11th July, 1968.

An Ordinance to provide for commissions of inquiry and for purposes connected therewith.

[12th July, 1968.]

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 Commissions of Inquiry Short title. Ordinance 1968.

2. (1) The Governor in Council may appoint one or more Commissioners (hereinafter referred to as a Commission) to inquire into the conduct or management of any public body, the conduct of any public officer or into any matter whatsoever which is, in his opinion, of public importance. Appointment of Commission.

(2) When appointing a Commission under subsection (1) the Governor in Council may—

(a) nominate a Chairman if two or more Commissioners are appointed, and confer on such Chairman a second or casting

vote for use where the Commission shall, in any case, be equally divided on any question arising during the proceedings;

- (b) fix the quorum at meetings thereof if two or more Commissioners are appointed;
- (c) appoint a secretary to the Commission, assistant secretaries and other staff;
- (d) appoint a legal adviser to the Commission;
- (e) appoint additional Commissioners or persons in substitution for Commissioners who may die, resign, refuse to act, or become incapable of acting.

(3) Where a new Commissioner has been appointed under subsection (2), it shall not be necessary for any evidence which may have been taken before the Commission prior to such appointment to be retaken.

(4) The appointment of a Commission shall be published in the *Gazette*.

Directions to  
Commission.

3. The Governor in Council may specify the subject of the inquiry and may direct—

- (a) when and where the inquiry is to be held, to whom and by what time a report thereon is to be rendered, and may from time to time enlarge the time within which such inquiry is to be held and such report rendered;
- (b) without prejudice to the powers of the Commission to receive and consider such other evidence as it may think fit, what material should be received and considered by the Commission;
- (c) what matters should be outside the terms of reference of the Commission;
- (d) that the evidence of certain persons or classes of persons be taken, either orally or in writing, and that certain documents or classes of documents be inspected by the Commission;
- (e) without prejudice to the powers conferred upon the Commission by paragraph (i) of section 4, that the holding of the inquiry or parts thereof be in camera;
- (f) that the Commissioners take the oath or affirmation in the form set out in the Schedule; and
- (g) that the Commission shall have and exercise the powers conferred by section 9 to punish all or any of the contempts specified in section 8.

Schedule,  
Form 1.

4. The Commission may, for the purpose of complying with the directions issued under section 3 and for conducting the inquiry generally— Powers of Commission.

- (a) receive and consider any material whether by way of oral evidence, written statements, documents or otherwise, notwithstanding that such material would not be admissible as evidence in civil or criminal proceedings;
- (b) determine the manner in which such material shall be received and what persons or class of persons shall be permitted or required to give evidence:

Provided that the contents of any document submitted to the Commission, not being of a scurrilous or offensive nature, shall be considered by the Commission, notwithstanding that the person submitting such document is, in addition, permitted or required to give evidence;

- (c) require any person who wishes to give evidence before the Commission to submit a summary in writing of the evidence proposed to be given;
- (d) summon any person in the form set out in the Schedule to attend to give evidence or to produce any article or document; Schedule, Form 2.
- (e) issue warrants of arrest to compel the attendance of any person not complying with a summons issued under paragraph (d);
- (f) administer oaths and affirmations;
- (g) examine on oath, affirmation or otherwise any person attending before the Commission and require such person to answer all questions put by or with the consent of the Commission and produce any article or document in his possession or under his control;
- (h) award any person attending before the Commission such sum as in the opinion of the Commission represents the loss to that person occasioned by the time spent in such attendance;
- (i) hold in camera, or exclude any person (including any person implicated or concerned therein and his legal representatives) from, the whole or any part of the inquiry:

Provided that any legal representative entitled to appear by virtue of the provisions of section 6—

- (i) may only be excluded from such part of the inquiry as is held in camera;
- (ii) shall not in any event be so excluded while his client is giving evidence;
- (j) prohibit the publication to or disclosure by any person attending before the Commission of all or part of the material received by the Commission;

- (k) enter and inspect any premises;
- (l) issue warrants for the searching of premises and the seizure therein of any article or document or any class of articles or documents specified in the warrant (as being likely to be of evidential value for the purposes of the inquiry);
- (m) determine the procedure to be followed at the inquiry and the form of any summons, warrant, or other document made or issued by the Commission; and
- (n) exercise such other powers as may be necessary for the purposes of the inquiry.

Conduct of inquiry.

5. Without derogating from the generality of the power conferred under paragraph (m) of section 4 the Commission may—

- (a) order the manner in which any person shall give his oral evidence and may specify that this shall be by way of cross-examination without any examination-in-chief, and
- (b) determine who may address the Commission, on what matters and in what order.

Right to representation.

6. (1) Any person whose conduct is the subject of an inquiry, or who is implicated or concerned in the subject matter of the inquiry, shall, subject to the provisions of section 4, be entitled to be represented by a barrister or solicitor at the inquiry.

(2) For the purpose of subsection (1), the Commission shall determine whether the conduct of any person is the subject of the inquiry or whether a person is in any way implicated or concerned in the subject matter of the inquiry.

(3) The Governor, any Government department and any public officer shall, notwithstanding the provisions of subsections (1) and (2) but subject to the provisions of section 4, be entitled to be represented at the inquiry by a legal officer, or by a barrister or solicitor who may—

- (a) address the Commission on any matter on which he is so instructed by the Colonial Secretary or by the Attorney General, and
- (b) produce evidence in such form as the Commission may permit on any matter.

(4) The Commission may appoint a legal officer nominated by the Attorney General, a barrister or a solicitor to act as Counsel for the Commission.

Use of evidence in civil and criminal proceedings. (Cap. 214).

7. Evidence given by any person before the Commission shall not be admissible against him in any civil or criminal proceedings by or against him, except where he is charged with any offence under the Perjury Ordinance or is proceeded against under section 8 or 9.

8. (1) Any person who—

Contempts to be offences.

- (a) fails without reasonable excuse to attend at the time and place specified in a summons issued under section 4;
- (b) refuses to take an oath or make an affirmation on being required to do so under section 4;
- (c) refuses to answer any question put by or with the consent of the Commission or to produce any article or document in his possession or under his control on being required to do so under section 4;
- (d) wilfully interrupts the proceedings of the Commission or otherwise misbehaves during any hearing of the Commission;
- (e) having been summoned to attend, leaves the place in which a Commission is being held without the permission of the Commission.

shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for three months.

(2) Any person who—

- (a) wilfully hinders or deters any person from attending, giving evidence or producing any article or document;
- (b) threatens, insults or causes any loss to be suffered by any person who has attended before the Commission, on account of such attendance;
- (c) threatens, insults or causes a loss to be suffered by any Commissioner at any time on account of the performance of his duties as a Commissioner;
- (d) publishes or otherwise discloses any material which the Commission had prohibited him from publishing or disclosing;
- (e) publishes or otherwise discloses any material received by the Commission in camera.

shall be guilty of an offence and liable on conviction upon indictment to a fine of ten thousand dollars and to imprisonment for one year.

(3) It shall be a good defence in the case of a prosecution under paragraph (e) of subsection (2) for the person charged to prove to the satisfaction of the court that he did not know nor had any reason for knowing that the material published or disclosed had been received by the Commission in camera.

9. (1) The Commission may, if so empowered under section 3, deal summarily as a contempt with any offence specified in section 8 which is committed in its presence, and may impose the sentence prescribed by that section.

Contempts dealt with by Commission.

(2) In the case of contempts not committed in the presence of the Commission, it may, if so empowered under section 3, summon the offender to appear before it at the time and place specified in the summons, there to show cause why the offender should not be sentenced for the contempt, and may impose the sentence prescribed by section 8.

(3) The Commission may issue warrants of arrest to compel the attendance of any person not complying with a summons issued under subsection (2).

(4) Any sentence of imprisonment imposed under this section may be remitted where the Commission is of the opinion that the contempt has been purged.

(5) Any person aggrieved by any decision, order or sentence of the Commission in exercise of the powers conferred by subsection (1) or (2) may appeal to a judge of the Supreme Court, in the same manner as if it were an order of a magistrate in respect of which an appeal lies under section 113 of the Magistrates Ordinance, in accordance with rules made by the Chief Justice.

(Cap. 227.)

Commission to have powers of judge.

10. For the purposes of enforcing the payment of any fine imposed or giving effect to any warrant of arrest or sentence of imprisonment or for other like purposes, the Commission shall have the powers of a judge. In the exercise of such powers and for the purpose of issuing warrants, summoning persons and the exercise of other like powers the Chairman may do all necessary acts in the name of the Commission.

Inquiry to be a judicial proceeding.

11. (1) Every inquiry held under this Ordinance shall be deemed to be a judicial proceeding.

(2) Any conduct which would constitute contempt of the Supreme Court or of a judge, if it were committed towards the Supreme Court or a judge as the case may be, shall be a contempt of a Commission and may be dealt with and punished by a judge of the Supreme Court as a contempt of the Supreme Court.

Protection of Commission and witnesses.

12. (1) No Commissioner shall be liable to any suit or other proceeding for any act or thing done by him *bona fide* as such Commissioner:

Provided that nothing in this subsection shall be deemed to limit the power of the Supreme Court to make an order of *mandamus*, *certiorari* or prohibition in relation to proceedings before a Commission.

(2) All evidence given before a Commission shall be absolutely privileged, and no witness giving such evidence shall be liable to any suit or other civil proceeding in respect thereof.

13. Police officers and bailiffs of the court shall assist any Commission conducting an inquiry under this Ordinance for such purposes as the Commission may require and may do all such things as are necessary for the purpose of rendering such assistance. Police and bailiffs to assist Commission.

14. The cost of any inquiry conducted under this Ordinance, including any sums awarded under paragraph (h) of section 4, shall be a charge on the general revenue of the Colony. Cost of inquiry.

15. Subject to paragraph (d) of subsection (2) of section 8 no person shall be liable to any civil or criminal proceedings by reason of his publishing a true account of any evidence taken in public before a Commission or of any report of a Commission published by the authority of the Governor. Protection of person publishing true account.

16. The Commissioners Powers Ordinance is repealed.

Repeal of Cap. 86.

#### SCHEDULE.

##### FORM 1.

[sec. 3.]

*Form of oath or affirmation to be taken by a Commissioner.*

I, ..... swear by Almighty God (Solemnly promise and declare) that I will diligently inquire into the matters prescribed in the instrument appointing this Commission and will truly and faithfully execute the powers and trusts vested in me by the Commissions of Inquiry Ordinance 1968 according to the best of my knowledge and judgment.

##### FORM 2.

[sec. 4.]

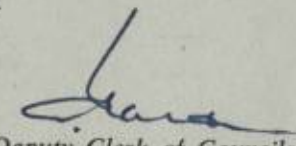
*Summons to a witness.*

To A.B. [name of person summoned and his address].

You are hereby summoned to appear before the Commission appointed by His Excellency the Governor to inquire [state subject matter of inquiry] ..... at [place] ..... upon the ..... day of ..... at ..... o'clock in the ..... noon and to give evidence respecting such inquiry, and you are required to bring with you [specify documents, etc.] .....

Given under the hand of ..... Commissioner, this ..... day of ..... 19.....

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 10th day of July, 1968, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

(Secretariat GR 6/3231/63 (TC 62/66))

**HONG KONG**

No. 29 OF 1968.



I assent.

*Amthor*

Governor.

25th July, 1968.

An Ordinance to amend the Criminal Procedure Ordinance.

[26th July, 1968.]

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 Criminal Procedure (Amendment) Ordinance 1968.

Short title.

2. The principal Ordinance is amended by adding after section 67 the following new section—

Addition of  
new section  
67A.  
(Cap. 221.)

"Time  
from which  
sentence  
to run.  
[cf. 10 & 11  
Edw. 2, c. 15.]

67A. (1) A sentence of imprisonment imposed by a court shall take effect from the beginning of the day on which it is imposed, unless the court otherwise directs.

(2) The length of any term of imprisonment imposed by a court shall be treated as reduced by any period during which the offender was in custody before the sentence by reason only of having been—

(a) committed for trial;

- (Cap. 227.) (b) remanded under section 90 of the Magistrates Ordinance;
- (c) remanded after arraignment;
- (d) remanded after being required to plead to the charge under Part II of the Second Schedule to the District Court Ordinance;
- (Cap. 5.) (e) remanded under section 108 of this Ordinance; or
- (Cap. 298.) (f) committed under section 5 or 6 of the Probation of Offenders Ordinance.

(3) In this section, "court" includes the District Court or a magistrate."

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of July, 1968, and is found by me to be a true and correctly printed copy of the said Bill.*

*Deputy Clerk of Councils.*

(Secretariat GR 11/3231/63)

# HONG KONG

No. 30 of 1968.



I assent.

*Herch*

Governor.

25th July, 1968.

An Ordinance to amend further the Stamp Ordinance.

[26th July, 1968.]

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

1. This Ordinance may be cited as the Stamp (Amendment) Ordinance 1968. Short title.
2. Section 3 of the principal Ordinance is amended— Amendment of section 3. (Cap. 117.)
  - (a) by deleting the definition of "contract note" and substituting the following—

"contract note" means the note sent by a broker or agent to his principal, or by any person being the vendor or purchaser, advising the principal, or the vendor or purchaser, as the case may be, of the sale or purchase of any shares or marketable securities;" and

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

“exchange contract cancellation note” includes any document whereby the use or delivery of any currency, other than the currency of the Colony, under an exchange contract, or the cancellation, setting off, termination or carrying out of an exchange contract, is evidenced;”;

“money changer” means a person licensed to carry on the business of a money changer in accordance with the Miscellaneous Licences Ordinance;”.

(Cap. 114.)

Addition of  
new section 5A.

3. The principal Ordinance is amended by adding the following new section after section 5—

“Relief from stamp duty on transfer of property from one associated company to another.  
[cf. 20 & 21 Geo. 5, c. 28, s. 42,  
1 & 2 Geo. 6, c. 46, s. 50.]  
Schedule.

5A. (1) Stamp duty under head 19 of the Schedule shall not be chargeable on an instrument to which this section applies.

(2) This section applies to any instrument as respects which it is shown to the satisfaction of the Collector that—

- (a) the effect of the instrument is to convey or transfer a beneficial interest in property from one associated company to another such company; and
- (b) the conveyance or transfer was not effected in pursuance of or in connexion with an arrangement under which—
  - (i) the consideration for the conveyance or transfer was to be provided directly or indirectly by a person other than a company which at the time of the execution of the instrument was associated with either the transferor or the transferee; or
  - (ii) the beneficial interest in the property was previously conveyed or transferred directly or indirectly by such a person as aforesaid.

(3) An instrument to which this section applies shall not be deemed to be duly stamped unless either it is stamped with the duty to which it would but for this section be liable or it has, in accordance with the provisions of section 17, been stamped either with the particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.

(4) For the purposes of this section a company shall be deemed to be associated with another company if, but not unless, both are companies with limited liability and either—

- (a) one of them is the beneficial owner of not less than ninety *per cent* of the issued share capital of the other; or
- (b) not less than ninety *per cent* of the issued share capital of each of them is in the beneficial ownership of a third company with limited liability.”.

4. Section 6 of the principal Ordinance is amended—

Amendment of  
section 6.

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

“Provided that such excess stamp duty shall not be payable in respect of the amount or value of the consideration of—

- (a) property comprised in a conveyance which has already borne the excess stamp duty imposed by this subsection or the Stamp (Amendment) Ordinance 1946; or
- (b) property comprised in a conveyance on sale of land granted in exchange for the surrender to the Crown (other than a surrender in accordance with the conditions of a grant of a new Crown lease for an extended term) of the same or another piece of land where—

(i) such exchange was initiated by the Crown and a certificate to this effect is endorsed by the Land Officer on the said conveyance on sale; and

(ii) the land surrendered to the Crown had been comprised in a conveyance on sale which had borne the excess stamp duty payable under the provisions of this subsection or the Stamp (Amendment) Ordinance 1946.”; and

(22 of 1946.)

(22 of 1946.)

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

“(4) Whenever a certificate is endorsed by the Land Officer on a conveyance on sale for the purpose

of paragraph (b) of the proviso to subsection (1) a fee of ten dollars shall be paid to the Land Officer therefor."

Addition of new section 6A.

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

"Power of Collector to ascertain value of property.

6A. (1) Whenever duty is payable under this Ordinance in respect of a conveyance or transfer of property, the Collector may ascertain the value of such property in such manner as he thinks fit.

(2) In this section "property" has the meaning assigned thereto in subsection (2) of section 6."

Amendment of section 10.

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

- (a) being renumbered as subsection (1) thereof; and
- (b) inserting the following new subsection—

"(2) The Collector may, before the commencement of criminal proceedings, compound an offence under this section upon payment of a penalty not exceeding ten times the amount of duty which was not paid by reason of the commission of that offence."

Amendment of section 14.

7. Section 14 of the principal Ordinance is amended—

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

"Schedule. Provided that where the Schedule specifies that an adhesive stamp may be used for stamping an instrument, then, in lieu of the method specified by such regulations, such an instrument may be stamped by means of an adhesive stamp or a franking machine used under and in accordance with the appropriate licence issued under the Stamp Duties Management Ordinance.";

- (b) in subsection (2)—

- (i) by deleting "subhead (1) of head 48" in paragraph (a) and substituting the following—

"head 18A";

- (ii) by deleting "and" where it occurs after the semicolon at the end of paragraph (b);

- (iii) by deleting the full stop in paragraph (c) and substituting the following—

"; and"; and

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

"(d) postage stamps to the value of three dollars may be used as adhesive stamps for the purposes of heads 2, 9 and 38 in the Schedule."; and

- (c) by deleting subsection (5).

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

"Agreement for composition of stamp duty on dividend warrants. Schedule.

15A. Where the Collector is of the opinion that it is impracticable or inexpedient to require that the stamp duty chargeable under head 24 in the Schedule should be charged and paid on each separate dividend warrant issued by a corporate body, the Collector may enter into an agreement with that corporate body for the composition, in accordance with the provisions of section 15E, of the stamp duty chargeable on such dividend warrants issued by that corporate body as may be specified in the agreement.

Agreement for composition of stamp duty on godown warrants. Schedule.

15B. Where the Collector is of the opinion that it is impracticable or inexpedient to require that the stamp duty chargeable under head 30 in the Schedule should be charged and paid on each separate godown warrant issued by any person in the course of any business carried on by him, the Collector may enter into an agreement with that person for the composition, in accordance with the provisions of section 15E, of the stamp duty chargeable on such godown warrants issued by that person in the course of that business as may be specified in the agreement.

Agreement for composition of stamp duty on policies of insurance other than life insurance. Schedule.

15C. (1) Where the Collector is of the opinion that it is impracticable or inexpedient to require that the stamp duty chargeable under subhead (2) of head 42 in the Schedule should be charged and paid on each separate policy of insurance or renewal thereof issued by any person, the Collector may enter into an agreement with that person for the composition, in accordance with the provisions of section 15E, of the stamp duty chargeable on such policies of insurance and renewals thereof executed by that person as may be specified in the agreement.

(2) This section shall not apply to policies of life insurance.

Addition of sections 15A, 15B, 15C, 15D and 15E.

Agreement  
for com-  
position of  
stamp duty  
on receipts.  
Schedule.

**15D.** Where the Collector is of the opinion that it is impracticable or inexpedient to require that the stamp duty chargeable under head 44 in the Schedule should be charged and paid on each separate receipt issued by any person in the course of any business carried on by him, the Collector may enter into an agreement with that person for the composition, in accordance with the provisions of section 15E, of the stamp duty chargeable on such receipts issued by that person in the course of that business as may be specified in the agreement.

Provisions  
as to agree-  
ments for  
composition  
of stamp  
duty under  
sections  
15A, 15B,  
15C and  
15D.

**15E.** (1) This section shall apply to any agreement entered into by the Collector with any corporate body or person under section 15A, 15B, 15C or 15D.

(2) Subject to the provisions of this section any such agreement shall be in such form and contain such terms as the Collector may think proper, and in particular—

- (a) shall specify the class of instruments to which the agreement relates; and
- (b) shall require the person with whom the Collector has entered into the agreement to deliver to the Collector periodical accounts giving such particulars of the instruments to which the agreement relates and otherwise as may be specified in the agreement.

(3) The number of instruments to be included in any composition of stamp duty under the agreement shall be determined by the Collector.

(4) Whenever composition of stamp duty is to be made under the agreement the person with whom the Collector has entered into the agreement shall deliver to the Collector in advance a statement of the number of instruments in respect of which composition of stamp duty is to be made and, on the delivery of such statement, shall pay to the Collector, in lieu of stamp duty and by way of composition thereof, the aggregate of such sums as would but for the provisions of this section be chargeable by way of stamp duty on the number of such instruments specified in the statement to be issued or executed, as the case may be, by that person under the agreement.

(5) While the agreement remains in force, any instrument to which the agreement relates, issued or

executed, as the case may be, by the person with whom the Collector has entered into the agreement in accordance therewith which contains such indication of the payment of the appropriate stamp duty as may be required by the agreement or by the Collector and in respect of which payment by way of composition has been made under subsection (4) shall not be chargeable with stamp duty.

(6) Any instrument to which the agreement relates issued or executed, as the case may be, during the continuance thereof by the person with whom the Collector has entered into the agreement in respect of which payment by way of composition has been made under this section shall, subject to the provisions of subsections (8) and (9), be deemed to be duly stamped notwithstanding any other provision of this Ordinance relating to the affixing and cancelling of stamps or the method of denoting payment of stamp duty.

(7) Where payment by way of composition of stamp duty has been made in respect of any instruments under an agreement to which this section applies and the number of such instruments issued or executed, as the case may be, under the composition by the person with whom the Collector has entered into the agreement is less than the number of instruments in respect of which the composition was made, the Collector, on application made not later than the delivery under subsection (4) of the next statement after the day upon which the payment was made or six months after the termination of the agreement, whichever is the earlier, may, if he thinks fit, refund to that person the value of the aggregate of the stamp duty that would be payable on the number of such instruments not so issued or executed, as the case may be.

(8) Any person who fails to deliver any account in accordance with any agreement to which this section applies shall be deemed to commit an offence.

(9) Nothing in this section shall be taken to permit composition of stamp duty under any agreement to which this section applies in respect of any instrument issued or executed before payment by way of that composition is made under subsection (4)."

Amendment of  
section 17.

- 9. Section 17 of the principal Ordinance is amended—**
- (a) in subsection (3), by deleting “the adjudication stamp” and substituting the following—  
“a particular stamp denoting that it is duly stamped”; and
  - (b) in subsection (4), by deleting “with the adjudication stamp” and substituting the following—  
“that it is duly stamped”.

Amendment of  
section 19.

- 10. Section 19 of the principal Ordinance is amended—**
- (a) by deleting “so exceptional” in sub-paragraph (ii) of paragraph (b) of subsection (1) and substituting the following—  
“such”;
  - (b) by inserting the following in subsection (5) after “such instrument shall”—  
“, subject to subsection (6).”; and
  - (c) by inserting the following new subsection after subsection (5)—  
“(6) No instrument in respect of which a penalty is payable under this section shall be deemed to be duly stamped unless it bears an endorsement by the Collector indicating—  
    - (a) that the penalty has been paid and the amount thereof; or
    - (b) that the whole of the penalty has been remitted.”.

Amendment of  
section 21.

- 11. Section 21 of the principal Ordinance is amended by—**
- (a) being renumbered as subsection (1) thereof; and
  - (b) by inserting the following new subsections—  
 “(2) In addition to the person or persons liable under subsection (4) of section 5 for stamping an instrument chargeable with stamp duty any person who uses, brings into force or registers an instrument chargeable with stamp duty under this section shall be liable for stamping such instrument.  
 (3) Where under this Ordinance more than one person is liable for stamping an instrument chargeable with stamp duty under this section, the liability shall be joint and several.  
 (4) If any instrument chargeable with stamp duty under this section is not duly stamped, the

person liable for stamping by virtue of this section shall be deemed to commit an offence.

(5) For the purposes of this section, a person who uses a copy of an instrument chargeable with stamp duty under this section in lieu of the original of such instrument shall be deemed to use the original thereof.”.

- 12. Section 24 of the principal Ordinance is amended by deleting “an adhesive stamp of fifteen cents” in the proviso to subsection (1) and substituting the following—**

“adhesive stamps to the value of the amount of duty chargeable on that instrument under head 11(1) in the Schedule”.

- 13. Section 25 of the principal Ordinance is amended by deleting subsection (4) and substituting the following—**

“(4) This section shall not apply to any person—

- (a) the whole or part of whose time is at the disposal of the Crown;
- (b) the whole or part of whose time is at the disposal of the University of Hong Kong;
- (c) the whole or part of whose time is at the disposal of The Chinese University of Hong Kong; or
- (d) the whole or part of whose time is at the disposal of a charitable institution and who is for the time being exempted by the Collector,

and who does not, otherwise than for any of the purposes set out in paragraphs (a), (b), (c) and (d), practise his profession.”.

- 14. Section 26 of the principal Ordinance is amended—**

- (a) in subsection (1)—  
 (i) by deleting “When” and substituting “Subject to the provisions of this section, when”; and  
 (ii) by deleting “by some transaction upon which neither bill of exchange nor telegraphic transfer duty is paid.”;
- (b) by deleting “, by a transaction on which neither bill of exchange nor telegraphic transfer duty is paid,” in subsection (3); and
- (c) by inserting the following new subsections after subsection (8)—

“(9) An exchange contract cancellation note shall not be necessary or be chargeable with duty in the case of an exchange contract made between—

- (a) one banker and another banker;

Amendment of  
section 24.

Amendment of  
section 25.

Amendment of  
section 26.

- (b) one money changer and another money changer;
- (c) a banker and a money changer.

(10) An exchange contract cancellation note shall not be necessary or be chargeable with duty where an exchange contract is, either wholly or in part, cancelled, or set off or otherwise terminated or carried out if *ad valorem* duty is paid on a relevant bill of exchange or telegraphic transfer advice note for the equivalent amount of currency so cancelled or set off or otherwise released.

(11) If, pursuant to an exchange contract, currency is remitted to or from the Colony and *ad valorem* duty has been paid under this Ordinance on a relevant exchange contract cancellation note, bill of exchange or telegraphic transfer advice for the equivalent amount of currency the instrument effecting such remittance shall not be chargeable with duty."

Amendment of  
section 27.

**15. Section 27 of the principal Ordinance is amended—**

- (a) by deleting "Any" in subsection (1) and substituting the following—

"Subject to subsection (1A), any";

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

"(1A) Any transfer operating as a voluntary disposition *inter vivos* of shares or marketable securities shall be chargeable with duty under head 48(1) in the Schedule."; and

Schedule.

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

"(6) For the purposes of this section, the value of property conveyed or transferred by an instrument chargeable with duty under this section shall be determined without regard to—

- (a) any power (whether or not contained in the instrument) on the exercise of which the property, or any part of or any interest in the property, may be revested in the person from whom it was conveyed or transferred or in any person on his behalf;
- (b) any annuity reserved out of the property or any part of it, or any life interest or other interest so reserved, being an interest which is subject to forfeiture."

**16. Section 30 of the principal Ordinance is amended—**

Amendment of  
section 30.

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

"(1) Any person who effects any sale or purchase of any shares or marketable securities as a broker or agent, or who as a principal buys or sells any shares or marketable securities, shall—

- (a) forthwith make and execute a contract note and transmit the note duly stamped to his principal or to the vendor or purchaser of the shares or marketable securities, as the case may be; and

- (b) cause an endorsement to be made on the instrument of transfer of such shares or marketable securities to the effect that *ad valorem* duty has been paid on the contract note under head 18A in the Schedule."; and

Schedule.

- (b) by inserting the following new subsections after subsection (7)—

"(8) If in the case of a sale or purchase of any shares or marketable securities the *ad valorem* duty specified in head 18A in the Schedule has not been paid on a bought note or a sold note or if a bought note or a sold note, as the case may be, has not been made and executed, there shall be payable on the instrument of transfer by way of stamp duty, in addition to the stamp duty otherwise payable thereon, an *ad valorem* duty equal to the *ad valorem* duty which would have been payable on the bought note or the sold note, as the case may be.

Schedule.

(9) Where any instrument of transfer has been stamped with *ad valorem* duty under subsection (8) the Collector shall make an endorsement on the instrument to that effect.

(10) No instrument of transfer of any shares or marketable securities shall be deemed to be duly stamped unless—

- (a) it has been endorsed in accordance with paragraph (b) of subsection (1) or subsection (9) in respect of both a sale and purchase; or

- (b) it has been endorsed by the Collector to the effect—

(i) that *ad valorem* duty has been paid thereon under head 48(1) in the Schedule; or

Schedule.

(ii) that no *ad valorem* duty is payable thereon; or

(c) the Collector has expressed his opinion thereon in accordance with section 17.

(11) An endorsement under paragraph (b) of subsection (1) shall be made by the Collector or by such person as may be authorized by the Collector, and in a manner approved by the Collector.

(12) Any person who makes an endorsement for the purposes of paragraph (b) of subsection (1) which is to his knowledge false in a material particular shall be deemed to commit an offence.

(13) In this section, "shares or marketable securities" means shares or marketable securities the transfer of which is required to be registered in the Colony."

Addition of  
new section  
33A.

17. The principal Ordinance is amended by adding the following new section after section 33—

"Special  
provisions  
as to leases.

33A. (1) An instrument whereby the rent reserved by any other instrument chargeable with duty and duly stamped as a lease is increased shall be chargeable with duty as a lease only in respect of the additional rent thereby made payable.

(2) Where the consideration or any part of the consideration for which a lease or an agreement for a lease is granted or made consists of a covenant or other undertaking by, or a condition requiring, the lessee to erect a building or otherwise to expend money on the subject matter of the lease the amount or value of the consideration shall be deemed to be a premium in respect of which the lease or agreement for the lease is chargeable with *ad valorem* duty in accordance with subhead (1) or (3) of head 32 in the Schedule.

Schedule.

(3) (a) Where the ownership of, or an entitlement to, shares in a company confers a right to a lease or an option to take a lease of any property, the consideration for any lease or agreement for the lease granted or entered into in pursuance of such right or of the exercise of such option shall be deemed to consist wholly or partly of a premium equal to the purchase price or value of the shares or the value of the property, whichever is the greatest, and the lease or agreement for

a lease shall be chargeable with stamp duty accordingly under subhead (1) or (3) of head 32 in the Schedule.

Schedule.

(b) Where any such shares are, or any entitlement to shares is, transferred and any such lease or agreement for a lease is assigned to the transferee of the shares or the entitlement to shares or his nominee, the consideration for such assignment shall be deemed to consist wholly or partly of an amount equal to the purchase price or value of the shares or the value of the property comprised in the lease or agreement for lease, whichever is the greatest, and the assignment shall be chargeable with stamp duty accordingly under section 6 and head 19 in the Schedule.

Schedule.

(4) Where a lease is granted or agreed to be granted without payment of a premium or fine and reserves no rent or in the opinion of the Collector reserves an inadequate or indeterminate rent the lease or agreement shall for the purposes of this Ordinance be deemed to reserve a rent equivalent to the amount of rent which in the opinion of the Commissioner for Rating and Valuation would in all the circumstances be reasonable having regard to the terms and conditions (other than the terms and conditions fixing the amount of rent, if any) on which the property is let or agreed to be let."

18. Section 37 of the principal Ordinance is amended in subsections (2) and (4) by deleting "one dollar" and substituting the following in each case—

Amendment of  
section 37.

"three dollars".

19. Section 40 of the principal Ordinance is amended—

Amendment of  
section 40.

(a) in subsection (4) by—

(i) deleting "other than shares and marketable securities," in paragraph (b); and

(ii) deleting paragraph (d) and substituting the following—

"(d) all grants by the Crown and all Crown leases and all surrenders of such grants and leases shall be wholly exempt from duty;" and

(b) by deleting subsection (5) and substituting the following—

"(5) Where the Government or an exempted person is a party to a lease or agreement for a lease,

other than a Crown lease, no duty in respect of such lease shall be payable by the Government or the exempted person.

(6) Every lease and every agreement for a lease, other than a Crown lease, executed between—

- (a) the Government, or any person acting on behalf of the Government, and any other person who is not an exempted person; or
- (b) an exempted person and any other person who is not an exempted person,

shall be deemed to contain a provision whereby the party thereto, other than the Government or the exempted person, undertakes to pay in respect of such lease or agreement for a lease fifty *per cent* of the duty payable under head 32 in the Schedule and duty thereon shall be chargeable accordingly.

Schedule.

(7) The Colonial Secretary may certify in relation to the representative of a foreign state which grants the like exemption to a British consular or trade representative that such representative or a member of the staff of such representative shall be exempt from the payment of duty chargeable under head 32 in the Schedule.

Schedule.

(8) In this section—  
“exempted person” means—

- (a) any person in relation to whom the Colonial Secretary certifies under subsection (7) that he is exempt from the payment of duty chargeable under head 32 in the Schedule; and

Schedule.

- (b) any person holding an office specified in the Second Schedule to the Commonwealth Countries and Republic of Ireland (Immunities and Privileges) Ordinance acting in his official capacity;

(Cap. 296.)

“Government” means the Government of Hong Kong and the Government of the United Kingdom.”

Amendment of section 48.

20. Section 48 of the principal Ordinance is amended by inserting the following after “stamp duty”—

“or penalty”.

21. Section 49 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 49.

“Limitation of time and consent of Collector.”

49. No criminal proceedings for an offence against this Ordinance shall be instituted except—

- (a) with the consent of the Collector; and
- (b) within two years from the discovery of the offence by the Collector or within six years from the commission of the offence whichever is the earlier.”

22. The Schedule to the principal Ordinance is amended—

Amendment of Schedule.

(a) in head 2—

(i) by inserting the following in the first column after “AUTHORIZED BY LAW TO ADMINISTER AN OATH.”—

“May be an adhesive stamp.”;

(ii) by deleting paragraph (b) in the second column and substituting the following—

“(b) Before making or within seven days after making.”; and

(iii) by inserting the following in paragraph (h) in the first column after “Inland Revenue Ordinance”—

“or the Business Registration Ordinance”;

(b) in head 3, by inserting the following new paragraph in the first column after paragraph (c)—

“(d) Contract of service between the Government and a Government employee.”;

(c) in head 7, by deleting paragraph (a) in the second column and substituting the following—

“(a) \$3.”;

(d) in head 9, by inserting the following in the first column after “chargeable with stamp duty.”—

“May be an adhesive stamp.”;

(e) in head 11—

(i) by inserting the following in the first column after the paragraph “BILLS OF EXCHANGE (including cheques, circular notes, letters of credit, and travellers cheques) and promissory notes, as beneath.”—

“See s. 23 as to bills in sets.”;

(ii) in subhead (1), by deleting paragraph (a) in the second column and substituting the following—

“(a) 25 cents for every \$1,000 or part thereof.”;

(iii) in subhead (2)—

A. by deleting paragraph (a) in the second column and substituting the following—

“(a) 20 cents.”; and

B. by inserting the following in the first column in the appropriate place after the paragraph “CHEQUE drawn within the Colony. May be an adhesive stamp.”—

*“Exemption.*

Cheque to be drawn on any account kept by any court.”;

(iv) by deleting subheads (3) to (8) and substituting the following—

11. (3) CIRCULAR NOTE, (a) 25 cents for every if issued within the Colony (on each separate note). May be an adhesive stamp.

(b) Before issue.  
(c) The person issuing.

11. (4) LETTER OF CREDIT, if issued within the Colony. May be an adhesive stamp.

(a) 25 cents.  
(b) Before issue.  
(c) The person issuing.

11. (5) TRAVELLERS CHEQUE—

(a) if issued within the Colony, on each separate cheque or note. May be an adhesive stamp.

(a) 25 cents for every \$1,000 or part thereof.  
(b) Before issue.  
(c) The person issuing.

(b) if issued out of the Colony and paid, endorsed or in any manner negotiated within the Colony. May be an adhesive stamp.

(a) 25 cents for every \$1,000 or part thereof.  
(b) Before being endorsed or negotiated.  
(c) Every person endorsing, negotiating or accepting the instrument.

11. (6) PROMISSORY NOTE of any kind whatsoever (except a bank note), if drawn, or expressed to be payable, or actually paid, or endorsed, or in any manner negotiated, within the Colony. If made out of the Colony, may be an adhesive stamp.

(a) 25 cents for every \$1,000 or part thereof.  
(b) If made within the Colony, 7 days after execution. If made out of the Colony, in accordance with s. 22.

(c) See sections 22 and 24.

11. (7) BILL OF EXCHANGE of any other kind whatsoever (except a bank note), if drawn, or expressed to be payable, or actually paid, or endorsed, or in any manner negotiated, within the Colony. May be an adhesive stamp.

(a) 25 cents for every \$1,000 or part thereof.  
(b) If drawn in the Colony, before execution. If drawn out of the Colony, in accordance with s. 22.

(c) See sections 22 and 24.”;

(f) (i) by deleting head 13; and

(ii) by deleting “See Shares” after “BROKERS NOTE:” and substituting the following—  
“See Contract Note”;

(g) in head 14, by deleting paragraph (b) in the second column and substituting the following—

“(b) 30 days after execution.”;

(h) in head 16, by deleting paragraph (a) in the second column and substituting the following—

“(a) \$20.”;

(i) in heads 17 and 18, by deleting paragraph (a) in the second column of each of them and substituting the following—  
“(a) 20 cents.”;

(j) by inserting the following new head after head 18 in the first and second columns and as shown hereunder—

“18A. CONTRACT NOTE, (a) 20 cents for every on every bought note and every sold note. May be an adhesive stamp.

(a) 20 cents for every \$100 or part thereof of the amount or value of the consideration.

(b) Before delivery.

(c) The broker or agent or where no broker or agent the principal delivering the note.

*Exemption.*

See section 40(4)(b).";

- (k) in head 22, by deleting paragraph (b) in the second column and substituting the following—  
“(b) 30 days after execution.”;
- (l) in head 24, by deleting paragraph (a) in the second column and substituting the following—  
“(a) 20 cents.”;
- (m) in head 26—
  - (i) by inserting the following in the first column after “EXCHANGE”—  
“(excluding shares and marketable securities)”; and
  - (ii) by deleting paragraph (a) in the second column and substituting the following—  
“(a) \$20 and *ad valorem* duty as on a conveyance on sale on any sum paid or agreed to be paid for equality.”;
- (n) in head 27—
  - (i) by deleting paragraph (a) in the second column and substituting the following—  
“(a) 25 cents for every \$1,000 or part thereof.”;
  - (ii) by deleting paragraph (c) in the second column and substituting the following—  
“(c) If one party to the contract was a banker or a money changer and the other party was not a banker or a money changer, the banker or the money changer. In every other case, the seller. See section 26(1).”;
- (o) in head 32—
  - (i) by deleting paragraph (a) in the second column of subhead (1) and substituting the following—  
“(a) \$2 for every \$100 or part thereof of the amount or value of the premium or fine.”;
  - (ii) by deleting subhead (2) and substituting the following—  
“(2) If granted in consideration of a rent—
    - (i) where the term is not defined or is uncertain.
    - (a) (i) 25 cents for every \$100 or part thereof of the rent for one year.

- (ii) where the term specified in the lease does not exceed one year.
- (iii) where the term specified in the lease exceeds one year but does not exceed three years.
- (iv) where the term specified in the lease exceeds three years.
- (ii) 25 cents for every \$100 or part thereof of the total rent payable over the term of the lease.
- (iii) 50 cents for every \$100 or part thereof of the rent for one year.
- (iv) \$1 for every \$100 or part thereof of the rent for one year. \*
- (b) 30 days after execution.
- (c) All persons executing.”;
- (iii) in subhead (4)—
  - A. by deleting “SURRENDER OF LEASE OR AGREEMENT FOR SURRENDER OF LEASE.” in the first column and substituting the following—  
“SURRENDER OR AGREEMENT FOR SURRENDER OF—
    - (i) LEASE
    - (ii) AGREEMENT FOR LEASE.”;
 and
  - B. by deleting paragraph (a) in the second column and substituting the following—  
“(a) \$3.”; and
- (iv) in subhead (7)—
  - A. by inserting the following after “TRANSFER” in the first column—  
“OR AGREEMENT FOR TRANSFER”; and
  - B. by deleting “See conveyance on sale” in the second column and substituting the following—  
“(a) \$2 for every \$100 or part thereof of the amount or value of the consideration.  
(b) 30 days after execution.  
(c) All persons executing.”;
- (p) by deleting head 36 and substituting the following—  
“MARKETABLE SECURITY: See Shares and Marketable Securities.”;

(q) in head 38—

(i) by inserting the following in the first paragraph in the first column after “promissory note.”—

“May be an adhesive stamp.”;

(ii) by deleting paragraph (b) in the second column and substituting the following—

“(b) Before execution.”;

(r) in head 42, in subhead (5)—

(i) by deleting “one month” in paragraph (b) in the first column and substituting the following—

“six months”; and

(ii) by inserting the following new paragraph in the first column after paragraph (c)—

“(d) Individual life policies taken out by an employer for a group of employees of such employer, provided that a group life policy has been issued to the employer and duly stamped.”;

(s) in head 43, by inserting the following in the first column after “any purpose whatsoever”—

“or revocation thereof”;

(t) in head 44—

(i) by deleting paragraph (k) in the first column and substituting the following—

“(k) Receipt given for a refund of tax or duty under the Inland Revenue Ordinance, the Estate Duty Ordinance, the Entertainments Tax Ordinance, the Business Registration Ordinance, the Stamp Duties Management Ordinance, this Ordinance and any other Ordinance specified by the Governor by notice in the *Gazette*.”; and

(ii) by inserting the following new paragraphs in the first column after paragraph (o)—

“(p) Receipt given for sums deposited in or withdrawn from any savings bank.

(q) Receipt given for repayment of duty under the Dutiable Commodities Ordinance.

(r) Receipt given in respect of the payment of money out of any account kept in any court.”;

(u) by inserting, after head 44, in the first and second columns as shown hereunder, the following new head—

“44A. RELEASE OR RENUNCIATION of any property or of any right or interest in any property—

- |                                                                      |                                                                            |
|----------------------------------------------------------------------|----------------------------------------------------------------------------|
| (i) Upon sale.                                                       | See conveyance on sale.                                                    |
| (ii) By way of security.                                             | See mortgage.                                                              |
| (iii) By way of gift.                                                | See voluntary disposition.                                                 |
| (iv) In any other case not otherwise specifically charged with duty. | (a) \$20.<br>(b) 30 days after execution.<br>(c) Every person executing.”; |

(v) by deleting head 48 and substituting the following in the first and second columns and as shown hereunder—

“SHARES, AND MARKETABLE SECURITIES, as beneath. See also contract note.

- |                                                                                                                                                                               |                                                                                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 48. (1) TRANSFER for the purpose of effectuating a transaction whereby the beneficial interest in shares or marketable securities passes otherwise than on purchase and sale. | (a) \$5 and 40 cents for every \$100 or part thereof of the value of the shares or marketable securities at the date of stamping.<br>(b) 7 days after execution.<br>(c) The transferor and the transferee. |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

*Exemption.*

Transfers of share warrants to bearer.

- |                                     |                                                                             |
|-------------------------------------|-----------------------------------------------------------------------------|
| 48. (2) TRANSFER of any other kind. | (a) \$5.<br>(b) Before execution.<br>(c) The transferor and the transferee. |
|-------------------------------------|-----------------------------------------------------------------------------|

*Exemption.*

Transfers of share warrants to bearer.

48. (3) SHARE WARRANT (a) \$1 for every \$100  
to bearer, issued in the Colony.

or part thereof of  
the nominal value  
of the share.

(b) Before issue.

(c) The company  
issuing.

48. (4) MARKETABLE SE- (a) 20 cents for every  
CURITY issued in the Colony, or  
made or issued by or on behalf of  
a corporate or incorporate body  
formed or established in the  
Colony.

\$100 or part  
thereof of the  
money secured.

(b) Before issue.

(c) The body  
issuing.”;

(w) in head 50, by deleting paragraph (a) in the second  
column and substituting the following—

“(a) 25 cents for every \$1,000 or part thereof.”.

*This printed impression has been carefully compared  
by me with the Bill which passed the Legislative Council  
on the 24th day of July, 1968, and is found by me to be  
a true and correctly printed copy of the said Bill.*

*Deputy Clerk of Councils.*

(Secretariat FIN 24/2961/46IV)

**HONG KONG**

No. 31 OF 1968.



I assent.

*Governor.*

25th July, 1968.

An Ordinance to amend further the Exchange Fund Ordinance.

[26th July, 1968.]

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 Exchange Fund (Amendment) Ordinance 1968.                                                                                                                                                                                                                                                                                                                  | Short title.                          |
| 2. Section 3 of the principal Ordinance is amended in the proviso to subsection (2) by deleting "thirty" and substituting—<br>"fifteen hundred".                                                                                                                                                                                                                                                 | Amendment of section 3.<br>(Cap. 66.) |
| 3. Section 8 of the principal Ordinance is amended by deleting—<br>"the aggregate of the face value of the certificates of indebtedness for the time being outstanding and may for such purpose realize any of the assets of the Fund."<br>and substituting the following—<br>"the total of—<br>(a) the aggregate of the borrowings made under section 3 and for the time being outstanding; and | Amendment of section 8.               |

- (b) the aggregate of the face value of the certificates of indebtedness issued under section 4 and for the time being outstanding,

and may for such purpose realize any of the assets of the Fund.”.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of July, 1968, and is found by me to be a true and correctly printed copy of the said Bill.*

*Deputy Clerk of Councils.*

(Secretariat SCR 9/2321/51)

# HONG KONG

No. 32 OF 1968.



I assent.

*French.*

*Governor.*

25th July, 1968.

An Ordinance to make provision for the use of parts of bodies of deceased persons for therapeutic purposes and for purposes of medical education and research.

[26th July, 1968.]

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 Medical (Therapy, Education and Research) Ordinance 1968.

Short title.

2. If any person, either in writing at any time or orally in the presence of two or more witnesses during his last illness, has expressed a request that his body or any specified part of his body be used after his death for therapeutic purposes or for purposes of medical education or research, the person who has lawful possession of his body after his death may, unless he has reason to believe that the request was subsequently withdrawn, authorize in writing the removal from the body of any part or, as the case may be, of the specified part, for use in accordance with the request.

Removal of parts of body or specified parts in accordance with a request.

Removal of parts of body where no request and deceased dies in hospital.

3. (1) Without prejudice to section 2, the person who has lawful possession of the body of a deceased person who has died in a hospital, nursing home or other similar institution, may authorize in writing the removal of any part from the body for use for therapeutic purposes or for purposes of medical education or research, if—

- (a) he has obtained the written consent of the registered next of kin of the deceased; and
- (b) having made such reasonable inquiries from the registered next of kin as may be practicable, he has no reason to believe—
  - (i) that the deceased had expressed an objection to his body being so dealt with after his death, and had not withdrawn it; or
  - (ii) that the surviving spouse or any surviving parent or child of the deceased objects to the body being so dealt with.

(2) For the purposes of this section, "registered next of kin", in relation to a person who dies in a hospital, nursing home or other similar institution, means the person who is recorded as the next of kin of the deceased in any form or document made out at the time of or after the admission of the deceased into such hospital, nursing home or other similar institution.

Authorized removal to be lawful.

4. (1) Subject to subsections (3) and (4), where an authorization has been given in respect of the body of a deceased person under section 2 or 3, the removal and use of any part of the body in accordance with such authorization shall be lawful.

(2) Such authorization shall not be questioned or challenged in any court.

(3) No such removal shall be effected except by a registered medical practitioner, who shall have satisfied himself by personal examination of the body that life is extinct.

(Cap. 14.)

(4) Where a person has reason to believe that under the Coroners Ordinance a coroner may hold an inquiry into the cause of the death of any person or order a post-mortem examination, he shall not, except with the consent of the coroner—

- (a) give an authorization in respect of the body of that person under section 2 or 3; or
- (b) act on such an authorization given by any other person.

Power to give authorization.

5. (1) No person who has been entrusted with the body of a deceased person for the purposes of its burial or cremation shall give an authorization under section 2 or 3.

(2) In the case of the body of a deceased person lying in a hospital, nursing home or other similar institution, any authorization under section 2 or 3 may be given on behalf of the person having the control and management of the hospital, nursing home or institution by any officer or other person designated for that purpose by the person having such control and management.

6. Nothing in this Ordinance shall be construed as rendering unlawful any dealing with, or with any part of, the body of a deceased person which would have been lawful if this Ordinance had not been enacted.

Saving.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 24th day of July, 1968, and is found by me to be a true and correctly printed copy of the said Bill.*

*Deputy Clerk of Councils.*

(Secretariat GR 39/3231/55 (TC 125/67))

**HONG KONG**

No. 33 OF 1968.



I assent.

*Hurch.*

*Governor.*

23rd August, 1968.

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

[24th August, 1968.]

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 1968.

Short title.

2. The principal Ordinance is amended by adding the following new section after section 34—

Addition of new section 34A.  
(Cap. 213.)

"Detention of child or young person in place of refuge.  
[cf. 23 Geo. 5, c. 12, s. 67, and 1963 c. 37, s. 23(2).]  
Schedule.

34A. (1) Any probation officer, any person authorized in writing by the Director of Social Welfare and any police officer of the rank of inspector or above may take to a place of refuge any child or young person in respect of whom any of the offences specified in items 3, 4 and 5 in the Schedule has been or is believed to have been committed, or who is about to be brought before a juvenile court under section 34, and a child or young person so taken to a place of

refuge, and any child or young person who has taken refuge in a place of refuge, may be detained there until he can be brought before a juvenile court.

(2) Within eight days after a child or young person is taken to, or takes refuge in, a place of refuge, an application in respect of that child or young person shall be made to a juvenile court under subsection (1) of section 34.

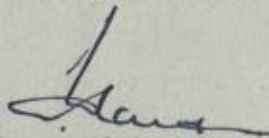
(3) Notwithstanding anything contained in subsection (1) of section 34, where an application is made to a juvenile court under that subsection the court may, whether or not the child or young person in respect of whom the application is made is before the court,—

- (a) make an order for the detention or continued detention of the child or young person in a place of refuge for a period not exceeding twenty-eight days in order that further inquiries may be made about him; and
- (b) at any time during the continuance in force of such order, renew the same for one further period not exceeding twenty-eight days.”.

Amendment of  
section 35.

3. Section 35 of the principal Ordinance is amended, in subsection (1), by deleting “being a female over fifteen”.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 23rd day of August, 1968, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

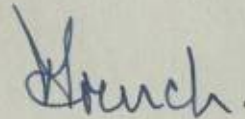
(Secretariat GR 25/3231/50)

# HONG KONG

NO. 34 OF 1968.



I assent.



Governor.

12th September, 1968.

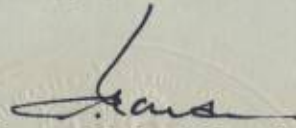
An Ordinance to amend further the Public Services Commission Ordinance.

[13th September, 1968.]

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 Services Commission (Amendment) Ordinance 1968.                                                                    | Short title.                       |
| 2. Section 6 of the principal Ordinance is amended in subsection (2) by deleting paragraph (e) and substituting the following—<br>“(e) the Director of Audit.”. | Amendment of section 6. (Cap. 93.) |
| 3. Section 8 of the principal Ordinance is amended by deleting “Second”.                                                                                        | Amendment of section 8.            |
| 4. The First Schedule to the principal Ordinance is deleted.                                                                                                    | Deletion of First Schedule.        |
| 5. The Second Schedule to the principal Ordinance is amended by deleting “SECOND SCHEDULE” and substituting the following—<br>“SCHEDULE”.                       | Amendment of Second Schedule.      |

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 11th day of September, 1968, and is found by me to be a true and correctly printed copy of the said Bill.*

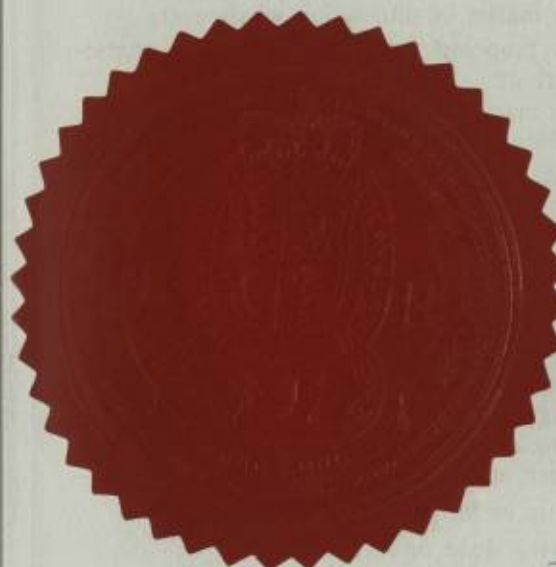
  
Deputy Clerk of Councils.

(Secretariat CR 4169/46IV)

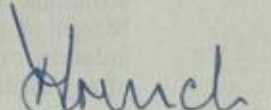


# **HONG KONG**

No. 35 OF 1968.



I assent.



Governor.

12th September, 1968.

An Ordinance to amend further the Prevention of Corruption Ordinance.

[13th September, 1968.]

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

1. This Ordinance may be cited as the Prevention of Corruption (Amendment) Ordinance 1968. Short title.

2. Section 3 of the principal Ordinance is repealed and replaced by the following—

"Corruption in office an offence.  
52 & 53 Vict.  
c. 69, s. 1.

3. (1) Any person who by himself, or by or in conjunction with any other person, corruptly solicits or receives or agrees to receive, for himself, or for any other person, any gift, loan, fee, reward or advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer or servant of a public body—

(a) doing or forbearing to do;

Repeal and replacement of section 3.  
(Cap. 215.)

- (b) having done or forborne to do; or
- (c) agreeing expressly or by implication to do or forbear to do,

anything in respect of—

- (i) any matter or transaction whatsoever;
- (ii) any proposed matter or transaction whatsoever; or
- (iii) any matter or transaction whatsoever which will or may take place,

being a matter or transaction in or with which the said public body is concerned or in or with which the said public body will be concerned in the event of the same taking place, shall be guilty of an offence.

(2) Any person who by himself or by or in conjunction with any other person, corruptly gives, promises, or offers any gift, loan, fee, reward, or advantage whatsoever to any person, whether for the benefit of that person or of any other person, as an inducement to, or reward for, or otherwise on account of any member, officer or servant of any public body—

- (a) doing or forbearing to do;
- (b) having done or forborne to do; or
- (c) agreeing expressly or by implication to do or forbear to do,

anything in respect of—

- (i) any matter or transaction whatsoever;
- (ii) any proposed matter or transaction whatsoever; or
- (iii) any matter or transaction whatsoever which will or may take place,

being a matter or transaction in or with which the said public body is concerned or in or with which the said public body will be concerned in the event of the same taking place, shall be guilty of an offence.”.

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 11th day of September, 1968, and is found by me to be a true and correctly printed copy of the said Bill.*

*[Signature]*  
Deputy Clerk of Councils.

(Secretariat CR L/M 97/68)

## HONG KONG

No. 36 OF 1968.



I assent.

*[Signature]*

Governor.

12th September, 1968.

An Ordinance to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March 1968.

[13th September, 1968.]

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 1968, in addition to the charge upon the revenue and other funds of the Colony authorized by the Appropriation (1967-68) Ordinance 1967:

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 Short title.  
Appropriation (1967-68) Ordinance 1968.

Appropriation  
from general  
revenue and  
other funds.

Schedule.

2. A sum of forty-six million, one hundred and eight thousand seven hundred and nineteen dollars is hereby charged upon the revenue and other funds of the Colony for the service of the financial year ended the 31st day of March 1968, the appropriation of the sum so charged being approved as specified in the Schedule.

#### SCHEDULE.

| Number<br>of Vote. | Head of Expenditure.                                             | Amount of<br>Vote.  |
|--------------------|------------------------------------------------------------------|---------------------|
|                    |                                                                  | \$                  |
| 29.                | Defence: Hong Kong Auxiliary Air Force .....                     | 179,943             |
| 35.                | Defence: Miscellaneous Measures .....                            | 5,206,743           |
| 39.                | Information Services Department .....                            | 510,947             |
| 40.                | Inland Revenue Department .....                                  | 245,741             |
| 45.                | Legal Department .....                                           | 8,597               |
| 48.                | Miscellaneous Services .....                                     | 29,334,408          |
| 49.                | New Territories Administration .....                             | 339,345             |
| 50.                | Pensions .....                                                   | 4,992,149           |
| 53.                | Post Office .....                                                | 3,267,529           |
| 67.                | Registry of Trade Unions .....                                   | 52,000              |
| 71.                | Secretariat for Chinese Affairs: Public Enquiry<br>Service ..... | 1,189               |
| 72.                | Social Welfare Department .....                                  | 380,978             |
| 76.                | Subventions: Miscellaneous .....                                 | 849,756             |
| 84.                | Colonial Development and Welfare Schemes .....                   | 12,938              |
| 85.                | Department of Census and Statistics .....                        | 726,456             |
|                    | <b>TOTAL .....</b>                                               | <b>\$46,108,719</b> |

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 11th day of September, 1968, and is found by me to be a true and correctly printed copy of the said Bill.*

*[Signature]*  
Deputy Clerk of Councils.

(Secretariat FIN 3/2311/67)

#### HONG KONG

No. 37 OF 1968.

I assent.

*[Signature]*

Governor.

26th September, 1968.

An Ordinance to amend further the Criminal Procedure 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 Criminal Procedure (Amendment) (No. 2) Ordinance 1968 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 121, the following new sections—

Addition of  
new sections  
122 and 123.  
(Cap. 221.)

"Power to  
exclude  
public from  
criminal  
courts.

122. (1) Any judge, District Judge or magistrate may, if he considers it necessary in the interests of justice or public order or security, direct that, save as provided in subsection (3) or with the permission of a public officer acting under his direction, no person shall be in the court in which such judge, District Judge or magistrate sits in the exercise of his criminal jurisdiction or in the building, or within the curtilage of the building, in which that court sits.

(2) The Chief Justice may, if he considers it necessary in the interests of justice or public order or security, direct that, save as provided in subsection (3) or with the permission of a public officer acting under his direction, no person shall be in any court hearing any criminal proceedings or in any building, or within the curtilage of any building, in which that court sits.

(3) Subsections (1) and (2) shall not apply to a person who is required to be in any such court or any such building by virtue of his office or profession or an order of a court or who is otherwise required for the purposes of any proceedings, whether civil or criminal, to be in any such court or any such building or to any one person representing a newspaper or news agency.

(4) Any person who contravenes any direction of a judge, District Judge or magistrate under subsection (1) or of the Chief Justice under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for six months and may be forcibly removed by any police officer from the court or building or the curtilage of the building, as the case may be.

(5) Notwithstanding any other law, the exclusion of persons from any court or any building by or in accordance with a direction of a judge, District Judge or magistrate under subsection (1) or of the Chief Justice under subsection (2) shall not affect the validity of the proceedings of that court or of any court which sits in that building as the case may be.

(6) Nothing in subsection (1) or (2) shall derogate from or affect the power of any judge, District Judge or magistrate to order the exclusion from the court in which he sits of members of the public where the proper administration of justice so requires.

(7) In this section "court" includes any District Court and any magistrate's court.

Criminal proceedings may be held *in camera* and non-disclosure of identity of witnesses in certain cases.

123. (1) Notwithstanding any other law—

- (a) if it appears to a court that it is or may be expedient so to do in the interests of justice or public order or security or for the safety or well-being of a witness or any other person; or
- (b) if a court is satisfied on the information of any person or otherwise that a witness is

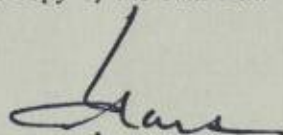
apprehensive as to what may happen to him or to any member of his family or a friend or to his property or business if he gives evidence in open court.

the court may order that the whole of the proceedings before it in respect of any offence shall take place in a closed court.

(2) In any case, whether or not proceedings are taking place in a closed court pursuant to an order under subsection (1), if the court is satisfied that a witness is apprehensive as to what may happen to him or to any member of his family or a friend or to his property or business in consequence of his giving evidence, the court shall not permit any question to be put to the witness or any other witness if the answer thereto would lead, or would tend to lead, to disclosure of the name or address of the first mentioned witness, but the court may require such witness to record his name and address in writing and deliver the same into the custody of the court.

(3) In this section "court" includes any District Court or any magistrate's court."

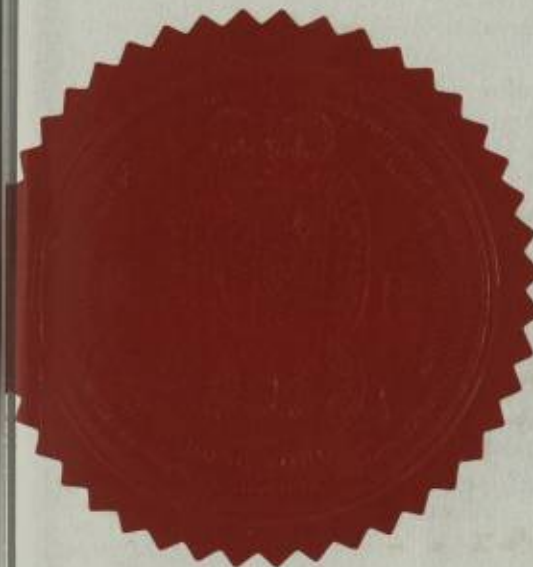
*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 25th day of September, 1968, and is found by me to be a true and correctly printed copy of the said Bill.*

  
Deputy Clerk of Councils.

(Secretariat CR 9/6/3231/59)

**HONG KONG**

No. 38 OF 1968.



I assent.

*Hurch.*

Governor.

26th September, 1968.

An Ordinance to repeal and re-enact with certain amendments the Employers and Servants Ordinance, to provide for the protection of the wages of employees, to regulate employment agencies, and for matters connected therewith; and to make consequential amendments to the Contracts for Overseas Employment Ordinance.

[27th September, 1968.]

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 Employment Ordinance 1968. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.  
“Commissioner” means the Commissioner of Labour;  
“contract of employment” means any agreement, whether in writing or oral, express or implied, whereby one person agrees

to employ another and that other agrees to serve his employer as an employee and also a contract of apprenticeship;

(Cap. 134.)

"dangerous drug" has the meaning assigned to it in the Dangerous Drugs Ordinance;

"employee" means an employee to whom, by virtue of section 3, this Ordinance applies;

"employer" means any person who has entered into a contract of employment to employ any other person as an employee and the duly authorized agent, manager or factor of such first mentioned person;

"wage period" means the period in respect of which wages are payable under a contract of employment or under section 12;

"wages" means all remuneration, earnings or allowances, however designated or calculated, capable of being expressed in terms of money, payable to an employee in respect of work done or to be done under his contract of employment, but does not include—

- (a) the value of any accommodation, education, food, fuel, light, medical care or water provided by the employer;
- (b) any contribution paid by the employer on his own account to any pension fund or provident fund;
- (c) any travelling allowance or the value of any travelling concession;
- (d) any sum payable to the employee to defray special expenses incurred by him by the nature of his employment;
- (e) any gratuity payable on completion or termination of a contract of employment; or
- (f) any annual bonus, or any proportion thereof, which is of a gratuitous nature or which is payable only at the discretion of the employer.

Application of Ordinance.

3. (1) Subject to subsection (2) and section 35, this Ordinance applies to every employee engaged under a contract of employment, to an employer of such employee and to a contract of employment between such employer and employee.

(2) This Ordinance does not apply—

- (a) to a person employed otherwise than by way of manual labour whose wages exceed fifteen hundred dollars per month;
- (b) to a person who is a member of the family of the proprietor of the business in which he is employed and who dwells in the same dwelling as the proprietor;
- (c) to a worker as defined in the Contracts for Overseas Employment Ordinance;

(Cap. 78.)

(d) to a person who is serving under articles entered into pursuant to subsection (1) of section 10 of the Merchant Shipping Ordinance, or on board a ship registered in a country which is represented by a consular officer resident in the Colony;

(Cap. 281.)

(e) to a contract of apprenticeship made on or after the 1st day of April 1965, if, within one month after it has been made, the contract is attested by the Commissioner.

(3) For the avoidance of doubt it is hereby declared that the provisions of subsection (3) of section 4 shall not apply to any contract of employment made before the 1st day of April 1965.

## PART II.

### CONTRACTS OF EMPLOYMENT.

4. (1) Every contract of employment, which is a continuous contract, shall, in the absence of any express agreement to the contrary, be deemed to be a contract for one month renewable from month to month.

Duration of contracts of employment.

(2) Notwithstanding that it is proved that a contract of employment is for a period in excess of one month such contract shall be deemed to be a contract for one month renewable from month to month unless the contract is evidenced in writing signed by each of the parties thereto.

(3) Notwithstanding any other provision of this section, a contract of employment entered into by a manual worker for a period of six months or more or for a number of working days equivalent to six months or more shall be deemed to be a contract for one month renewable from month to month.

(4) Where any contract of employment for a period in excess of one month is deemed by virtue of the provisions of subsection (2) or (3) to be a contract from month to month the wages per month shall be such proportion of the total wages agreed under the contract as one month bears to the agreed duration of the contract.

5. (1) Subject to subsections (2) and (3), either party to a contract of employment may at any time terminate the contract by giving to the other party notice, orally or in writing, of his intention to do so.

Termination of contract by notice.

(2) The length of notice required to terminate a contract of employment shall be—

- (a) in the case of a contract which is deemed by virtue of the provisions of section 4 to be a contract for one month renewable from month to month, not less than one month;

- (b) in every other case, the agreed period, but not less than seven days in the case of a continuous contract.
- (3) Where in any contract of employment, whether in writing or oral, it has been expressly agreed that the employment is on probation such contract may be terminated—
- (a) by either party at any time during the first month of such employment without notice or payment in lieu;
- (b) by either party at any time during the two months immediately following the first month of such employment by giving to the other party notice of not less than seven days.
- (4) For the purposes of this section the expression "month" means a period of time commencing on the day when notice of termination of a contract of employment is given or when employment begins, as the case may be, and ending at the end of the day before the corresponding date in the following month or, where there is no corresponding date in the following month or where the commencing day is the last day of a month, at the end of the last day of the following month.

Termination  
of contract  
by payment  
in lieu of  
notice.

6. (1) Either party to a contract of employment may at any time terminate the contract without notice by paying to the other party a sum equal to the amount of wages which would have accrued to the employee during the period of notice required under subsection (2) or paragraph (b) of subsection (3) of section 5, whichever period is appropriate in the case.

(2) Either party to a contract of employment, having given proper notice in accordance with section 5, may at any time thereafter terminate the contract by paying to the other party such proportion of the sum referred to in subsection (1) as is proportionate to the period between the termination of the contract and the time when the notice given would have expired.

(3) In the case of an employee whose remuneration is calculated by the piece or task the amount of wages which would have accrued to such employee during the period of notice referred to in subsection (1) shall be deemed to be the amount of wages earned by the employee during the equivalent period immediately prior to the giving of the notice or, if for any reason it is impracticable to compute the amount in this manner, it may be calculated by reference to the amount earned during such equivalent period by a person in the same trade or occupation at the same work in the same district.

(4) Notwithstanding any other provision of this Ordinance the term "wages" shall, for the purposes of this section, be deemed not to include overtime pay.

7. Nothing in section 5 or 6 shall be taken—

Saving of  
rights.

- (a) to prevent either party to a contract of employment from waiving, at the time notice is required to be given for the purposes of subsection (2) or (3) of section 5, his right to notice or to payment in lieu of notice;
- (b) to affect the right of a party to a contract of employment to terminate the contract without notice or payment in lieu under section 8 or 9 or under subsection (2) of section 10.

8. An employer may terminate a contract of employment without notice or payment in lieu—

Termination  
of contract  
without  
notice by  
employer.

- (a) if an employee, in relation to his employment—
- (i) wilfully disobeys a lawful and reasonable order;
  - (ii) misconducts himself, such conduct being inconsistent with the due and faithful discharge of his duties;
  - (iii) is guilty of fraud or dishonesty; or
  - (iv) is habitually neglectful in his duties; or
- (b) on any other ground on which he would be entitled to terminate the contract without notice at common law.

9. An employee may terminate his contract of employment without notice or payment in lieu—

Termination  
of contract  
without  
notice by  
employee.

- (a) if he reasonably fears physical danger by violence or disease such as was not contemplated by his contract of employment expressly or by necessary implication;
- (b) if he is subjected to ill-treatment by the employer; or
- (c) on any other ground on which he would be entitled to terminate the contract without notice at common law.

10. (1) Notwithstanding any other provision of this Ordinance or of any other law, an employer may without notice or payment in lieu suspend from employment any employee for a period not exceeding fourteen days—

Suspension  
from employ-  
ment in  
certain cases.

- (a) as a disciplinary measure for any reason for which the employer could have terminated the contract of employment under section 8;
- (b) pending a decision by the employer as to whether or not he will exercise his right to terminate the contract of employment under section 8; or
- (c) pending the outcome of any criminal proceedings against the employee arising out of or connected with his employment:

Provided that where such criminal proceedings are not concluded within the period of fourteen days such

suspension may be extended till the conclusion of the criminal proceedings.

(2) An employee who is suspended from employment under subsection (1) may at any time during the period of his suspension, notwithstanding sections 5 and 6, terminate his contract of employment without notice or payment in lieu.

(3) Without prejudice to the provisions of subsection (1), an employer may lay-off an employee for such periods as are expressly agreed in, or may be implied from, the contract of employment:

Provided that the period of lay-off shall in no case exceed three normal working days in any one calendar week.

11. (1) In this Part, "continuous contract" means a contract of employment under which an employee is deemed by virtue of the provisions of the Schedule to be in continuous employment.

(2) In any dispute as to whether a contract of employment is a continuous contract the onus of proving that it is not a continuous contract shall be on the employer.

### PART III.

#### PAYMENT OF WAGES.

12. The wage period in respect of which wages are payable under a contract of employment shall, until the contrary is proved, be deemed to be one month.

13. Wages shall become due on the expiry of the last day of the wage period and shall be paid as soon as is practicable but in any case not later than seven days thereafter.

14. Wages of an employee on completion of his contract of employment and any other sum payable in respect of his contract shall be due to him on the day of the completion of the contract and shall be paid as soon as is practicable but in any case not later than seven days thereafter.

15. (1) Where a contract of employment is terminated any sum due to the employee at the time of the termination shall be paid to him as soon as is practicable and in any case not later than seven days after the day of termination.

(2) The sum referred to in subsection (1) shall be—

- (a) the equivalent of the amount earned by the employee for work done over the period commencing on the expiry of his wage period next preceding the time of termination up to that time;
- (b) the sum (if any) payable under section 6; and

(c) any other sum due to the employee in respect of his contract of employment.

(3) In addition to any deductions which may be made under section 21, and subject to any order made by a court, an employer may deduct from any sum payable to the employee under subsection (1), such sum as the employee is liable to pay under section 6.

16. (1) Subject to this Ordinance, wages shall be paid on a working day directly to an employee in legal tender at his place of employment or at any office or other place customarily used by the employer for the purpose of payment of wages or at any other place mutually agreed.

(2) With the consent of an employee wages may be paid—

- (a) by cheque, money order or postal order;
- (b) into an account in his name with any bank licensed under the Banking Ordinance; or
- (c) to his duly appointed agent.

17. Wages, or any sum due to an employee in respect of his contract of employment on the completion or termination thereof, shall not be paid—

- (a) in any place of amusement;
- (b) in any place where totalizator or *pari-mutuel* betting is conducted or where cash-sweeps are organized as authorized under the Betting Duty Ordinance;
- (c) in any place where intoxicating liquor or any dangerous drug is sold; or
- (d) in any shop or store for the retail sale of merchandise, except where the employee is employed in such place, shop or store.

18. (1) A contract of employment may provide for giving to an employee food, accommodation or other allowances or privileges in addition to wages as remuneration for his services.

(2) No employer shall give to an employee any intoxicating liquor, dangerous drug, or any ticket or other substitute for ticket for any cash-sweep, totalizator or *pari-mutuel* authorized under the Betting Duty Ordinance as remuneration for his services.

19. No employer shall in any contract of employment or agreement in consideration of a contract of employment make any provision as to the place at which, the manner in which, or the person with whom, wages paid to an employee are to be expended.

Manner and place of payment of wages.

(Cap. 155.)

Payment not to be made in certain places.

(Cap. 108.)

Remuneration other than wages.

(Cap. 108.)

Prohibition of agreements as to manner of spending.

Meaning of continuous contract and onus of proof thereof. Schedule.

Wage period.

Time of payment of wages.

Payment on completion.

Payment on termination.

Provision of shops etc. by employers for sale of commodities to employees.

20. An employer may establish shops, stores or places for the sale of commodities to his employees, but no employer shall bind any employee by contract, agreement or other obligation, written or oral, express or implied, to make use of any such shop, store or place for the purchase of commodities.

#### PART IV.

##### DEDUCTIONS FROM WAGES.

Restriction on deductions from wages.

21. (1) No deductions shall be made by an employer from the wages of his employee or from any other sum due to the employee otherwise than in accordance with this Ordinance.

(2) The following deductions may be made by an employer from the wages of his employee—

(a) deductions for absence from work:

Provided that, in the case of a contract of employment under which wages are calculated on a basis of time, no such deduction shall exceed a sum proportionate to the period of time during which the employee was absent from work;

(b) deductions for damage to or loss of goods, equipment or property belonging to or in the possession or control of the employer or expressly entrusted to an employee for custody, or for loss of money for which an employee is required to account, where such damage or loss is directly attributable to his neglect or default:

Provided that—

(i) the total amount recoverable by deduction in any one case shall not exceed the equivalent in value of the damage or loss suffered by the employer or three hundred dollars, whichever is the less; and

(ii) the total of such deductions in any one wage period shall not exceed one quarter of the wages payable to the employee in respect of that wage period;

(c) deductions in respect of meals supplied by the employer at the request of the employee not exceeding the cost to the employer of such meals including expenses of production and service;

(d) deduction for accommodation provided by the employer for the employee or his family made in respect of the period such accommodation has been in the occupation of the employee or his family;

(e) deductions for the recovery of any advance or over-payment of wages made by the employer to the employee:

Provided that—

(i) except with the approval in writing of the Commissioner, no such deductions shall be made by way of discount, interest or any similar charge in consideration of such advance or over-payment; and

(ii) the total of such deductions in any one wage period shall not exceed one quarter of the wages payable to the employee in respect of that wage period;

(f) deductions, with the written consent of an employee, for the recovery of any loan made by the employer to the employee;

(g) deductions made at the request in writing of the employee in respect of contributions to be paid by him through the employer for the purpose of any medical benefit scheme, superannuation scheme, provident fund or thrift scheme lawfully established for the benefit of the employee or his dependants;

(h) deductions which are required or authorized under any enactment to be made from the wages of an employee;

(i) other deductions made at the request in writing of the employee and with the approval of the Commissioner, which may be signified in respect of any particular case in writing or in general by notice in the *Gazette*.

(3) Except with the approval in writing of the Commissioner, the total of all deductions, excluding deductions in respect of absence from work, made under this section from the wages of an employee in any one wage period shall not exceed one half of the wages payable to the employee in respect of the wage period.

(4) Nothing in this section shall be construed as preventing an employer from paying to an employee at any time before the due date the amount of wages and other remuneration proportionate to work done and adjusting any amount so paid against the total amount payable at the end of the wage period.

#### PART V.

##### INFORMATION RESPECTING WAGES.

22. (1) Every employer shall inform each person before such person enters his employment, in a manner intelligible to him, of the conditions with regard to wages under which he is to be employed.

Information to persons entering employment.

(2) Upon receipt, before such employment is entered into, of a written request therefor from such person the employer shall forthwith deliver to him a notice in writing containing such conditions.

Information to employees.

23. (1) Every employer shall inform his employee, in a manner intelligible to the employee,—

- (a) whenever any change takes place in the conditions referred to in section 22 or the conditions in force at any time, of such change;
- (b) at the time of each payment to him of his wages, in so far as such particulars may be subject to change, of the particulars of his wages for the wage period concerned.

(2) Upon receipt of a written request from his employee the employer shall deliver to him—

- (a) where the request relates to changes in the conditions referred to in paragraph (a) of subsection (1), forthwith; or
- (b) where it relates to the particulars referred to in paragraph (b) of subsection (1), at the time of the payment to him of his wages for the wage period concerned,

a notice in writing containing such changes in conditions or particulars, as the case may be.

Details of conditions and particulars of wages.

24. (1) The conditions referred to in sections 22 and 23 shall include the rate of wages, the overtime rate and any allowances, whether calculated by the piece, job, hour, day, week or otherwise, of the person or employee concerned.

(2) The particulars referred to in section 23 shall include—

- (a) particulars of the amount earned, including overtime earnings (if any), by the employee; and
- (b) particulars of any deductions made from the wages of the employee and the reasons therefor.

## PART VI.

### RECORDS, FORMS AND RETURNS.

Records to be kept by employers.

25. (1) Every employer who is a member of a class specified under subsection (2) shall in respect of—

- (a) each of his employees; or
- (b) any class of them,

keep records in such form as may be specified to enable him to comply with Part V.

(2) For the purposes of subsection (1), the Commissioner may, by notice in the *Gazette*, specify any class of employers.

26. (1) For the purposes of this Ordinance the Commissioner may, either by notice in writing served by registered post or by notice in the *Gazette*, require any employer or class of employers to make returns in such form and at such times as he may in any such notice direct:

Returns to be made to Commissioner.

Provided that the Commissioner shall not require in any return information or particulars in respect of a time or period more than six months immediately preceding the date of the notice.

(2) Copies of any such form shall be supplied to an employer free of charge on application to the Commissioner.

27. (1) The Commissioner may specify the form of any consent, request, notice in writing, record or return required for the purposes of this Ordinance.

Form of notices, records, etc.

(2) The Commissioner may publish in the *Gazette* any forms specified by him under subsection (1).

## PART VII.

### EMPLOYMENT AGENCIES.

28. No person, other than an employment agency registered with the Commissioner, shall procure, obtain or supply, or purport to procure, obtain or supply, the labour of persons, manual or otherwise, for or on behalf of any employer, actual or prospective, other than himself, for employment within the Colony or under an overseas contract.

Obtaining or supplying labour.

29. The Governor in Council may make regulations—

- (a) prescribing the manner in which employment agencies shall be registered with the Commissioner;
- (b) prescribing the conditions under which registration of employment agencies may be refused or cancelled;
- (c) prescribing the nature of the services in respect of which employment agencies may charge fees and expenses and the amounts thereof;
- (d) providing for the exemption, subject to such conditions as may be prescribed, of any class of employment agency from the provisions of this Part;

Regulations in respect of employment agencies.

- (e) prescribing the records to be kept and returns to be made to the Commissioner by employment agencies.

Interpretation.

30. In this Part—

“employment agency” means any person who acts as an intermediary for the purpose of procuring or obtaining employment for another person or supplying the labour of another person, manual or otherwise, to an employer whether or not with a view to deriving either directly or indirectly any pecuniary or other material advantage from either the employer or any such other person, but does not mean a contractor who employs any person on work for another person;

(Cap. 78.)

“overseas contract” has the meaning assigned to it in the Contracts for Overseas Employment Ordinance.

### PART VIII.

#### OFFENCES AND PENALTIES.

Offences and penalty.

31. (1) Any employer who wilfully and without reasonable excuse contravenes any of the provisions of section 13, 14 or 15 shall be guilty of an offence.

(2) Any person who contravenes any of the provisions of section 16, 17, subsection (2) of section 18, section 19, 20, 21, 22, 23, subsection (1) of section 25 or section 28 shall be guilty of an offence.

(3) Any person who fails to comply with the requirements of a notice in writing or a notice published in the *Gazette* under subsection (1) of section 26 shall be guilty of an offence.

(4) A person who is guilty of an offence under this section shall be liable on conviction to a fine of five thousand dollars.

Prosecution of offences.

32. (1) No prosecution for an offence under subsection (1) of section 31 shall be commenced without the consent in writing of the Commissioner.

(2) Before the Commissioner gives his consent to prosecute under subsection (1) he shall hear the person against whom the allegation is made, or give him an opportunity of being heard.

(3) A prosecution for any offence under section 31 may be conducted by an officer of the Labour Department authorized in that behalf in writing by the Commissioner.

(4) Nothing in this section shall derogate from the powers of the Attorney General in respect of the prosecution of criminal offences.

33. (1) An employer convicted of an offence under this Ordinance shall, in addition to any fine imposed under section 31, if the court before which the conviction was obtained so orders, pay any wages or other sum outstanding at the time of the conviction and in respect of which the offence was committed.

Liability for outstanding wages.

(2) Where the employer is acquitted of an offence under subsection (1) of section 31 on grounds that his default was not wilful or not without reasonable excuse, the court may, if it finds that any wages or other sums in respect of which the charge was brought are due, order the employer to pay such wages or other sums.

### PART IX.

#### MISCELLANEOUS.

34. No order for the attachment of wages of an employee shall be made by any court:

Wages not to be attached.

Provided that a civil debt due to the Crown under any enactment may be recovered from the wages of an employee by attachment or otherwise.

35. Save as is otherwise provided in this section, any agreement or contract of employment entered into between an employer and an employee, which is valid and in force at the commencement of this Ordinance, shall continue to be in force and, subject to any express conditions contained in any such agreement or contract, the parties thereto shall be subject to and entitled to the benefit of the provisions of this Ordinance:

Saving as to existing contracts of service.

Provided that where any express condition in the agreement or contract is contrary to the provisions of this Ordinance, the express condition shall be void.

36. The Employers and Servants Ordinance is repealed.

Repeal.  
(Cap. 57.)

37. The Contracts for Overseas Employment Ordinance is amended—

Consequential amendment of Cap. 78.

(a) by deleting, in paragraph (d) of subsection (1) of section 10, “subsection (1) of section 14” and substituting therefor the following—

“section 28 of the Employment Ordinance 1968”; and

(b) by repealing Part III.

## SCHEDULE.

[s. 11.]

## CONTINUOUS EMPLOYMENT.

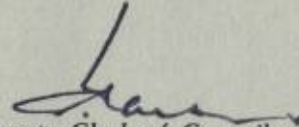
1. (a) The provisions of this Schedule are to ascertain whether or not any contract of employment is a "continuous contract" for the purposes of Part II.
- (b) In the case of a contract of employment existing at the commencement of this Ordinance, such period of employment next preceding the date of commencement of the Ordinance as may be necessary shall be taken into account in order to ascertain whether or not the contract of employment is a continuous contract.
2. Subject to the following provisions, where at any time an employee has been employed under a contract of employment during the period of four or more weeks next preceding such time he shall be deemed to have been in continuous employment during that period.
3. (1) For the purposes of paragraph 2, no week shall count unless the employee has worked on three days or more in that week, and in determining whether he has worked on any day the provisions of subparagraph (2) shall apply.
- (2) If on any day the employee is, for the whole or part of the day—
  - (a) incapable of work in consequence of sickness or injury; provided that any such incapability in excess of forty-eight hours is supported by a certificate issued by a registered medical practitioner; or
  - (b) absent from work in circumstances such that, by law, mutual arrangement or the custom of the trade, business or undertaking, he is regarded as continuing in the employment of his employer for any purpose,
 then, save as provided in paragraph 4, that day shall count as a day on which he has worked.
4. Where an employee is absent from work for the whole or part of any day—
  - (a) because of a strike (which is not illegal) in which he takes part; or
  - (b) because of a lock-out by his employer,
 that day shall not count as a day on which he has worked, but the continuity of his period of employment shall not be treated as broken by any such absence.
5. If a trade, business or undertaking is transferred from one person to another, the period of employment of an employee in the trade, business or undertaking at the time of the transfer shall count as a period of employment with the transferee, and the transfer shall not break the continuity of the period of employment.
6. For the purposes of this Schedule—
  - (a) any reference to days on which an employee has worked shall mean days on which he has worked for his employer whether or not the days were worked under the same or another contract

of employment with that employer and whether or not they were consecutive days; and

- (b) an employee shall be treated as having worked for an employer on any day on which the employee worked for that employer for not less than six hours, whether or not continuously.
7. In this Schedule, unless the context otherwise requires—  
 "lock-out" and "strike", respectively, have the meanings assigned to them in the Trade Union Registration Ordinance;  
 "week" means a week ending with Saturday.

(Cap. 332.)

*This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 25th day of September, 1968, and is found by me to be a true and correctly printed copy of the said Bill.*

  
 Deputy Clerk of Councils.

(Secretariat GR 6/3231/50II)

**HONG KONG**

No. 39 OF 1968.



I assent.

*N. S. Tung*  
Acting Governor.

7th November, 1968.

An Ordinance to incorporate and regulate credit unions and the Credit Union League of Hong Kong, and to provide for matters incidental thereto.

[ ]

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 Credit Unions Ordinance 1968, and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and  
commencement.

## Interpretation.

2. In this Ordinance, unless the context otherwise requires—
- “board” means a board of directors of a credit union constituted under section 28;
- “by-laws” means the by-laws made in accordance with Part VII and approved by the Registrar under subsection (3) of section 5 or the by-laws (if any) prescribed under section 85;
- “credit union” means a credit union registered under this Ordinance;
- “director” means a director of a board;
- “financial year” means the twelve months ending on the 31st day of March in any year or on such other annual date as may be provided in the by-laws;
- “League” means the Credit Union League of Hong Kong incorporated under Part XI;
- “officer” and “officer of a credit union” mean any of the persons specified in section 30;
- “Registrar” means the Registrar of Credit Unions appointed under section 82;
- “share” means, in relation to a credit union, each sum of five dollars standing to the credit of a member in the accounts of that credit union;
- “share balance” means the total value of all—
- (a) fully paid up shares; and
  - (b) instalments paid in respect of other shares, appearing for the time being in the accounts of a credit union;
- “treasurer” means the person appointed under section 29 as treasurer or as treasurer and secretary of a board.

## PART II.

## FORMATION AND POWERS OF CREDIT UNIONS.

## Conditions of registration.

3. (1) Any fifteen or more persons—
- (a) each of whom is not less than sixteen years of age;
  - (b) at least three of whom are not less than twenty-one years of age;

- (c) who satisfy the requirements of section 15;
- (d) who wish to associate themselves together as a credit union for the objects set forth in subsection (2),

may be registered as a credit union.

- (2) The objects of a credit union shall be—
- (a) to promote thrift among its members;
  - (b) to receive the savings of its members either as payment on shares or as deposits; and
  - (c) to make loans to its members, exclusively for provident or productive purposes.

4. (1) The persons referred to in section 3 may apply for the registration of a credit union to the Registrar.

Memorandum of association.

(2) Such persons shall sign in duplicate before two witnesses (who shall not be subscribers to the memorandum) a memorandum of association in the prescribed form and cause both copies thereof to be filed in the office of the Registrar.

(3) There shall be attached to the memorandum of association two copies of the by-laws by which it is proposed that the credit union shall be governed.

(4) The persons signing the memorandum of association shall appoint a provisional secretary, who shall hold office until a secretary of the board is appointed under section 29.

5. (1) When the memorandum of association is duly filed, the Registrar shall consider whether the application complies with this Ordinance and may make such inquiries as he deems necessary for that purpose.

Registration.

(2) The Registrar, after making such inquiries, may register the credit union, if he is satisfied—

- (a) that the proposed by-laws do not conflict with any provision of this Ordinance;
- (b) that the proposed by-laws are sufficient to enable the credit union to carry out its objects;
- (c) that the body to which membership is limited is such as to ensure reasonable personal association amongst the members;

- (d) that the applicants have reasonable prospects of carrying out the objects of a credit union;
- (e) that the applicants and the application comply with the requirements of this Ordinance.

(3) On such registration the Registrar shall send to the provisional secretary of the credit union—

- (a) one copy of the memorandum of association;
- (b) one copy of the by-laws, with his approval endorsed thereon; and
- (c) a certificate of registration, in the prescribed form.

Incorporation with limited liability; and effect thereof.

6. (1) Upon its registration, a credit union shall be a body corporate with perpetual succession and shall be capable of suing and being sued in its registered name and, subject to this Ordinance, of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.

(2) In addition, upon such registration—

- (a) all the movable property for the time being vested in any person in trust for the credit union shall vest in it;
- (b) all liabilities incurred by any person as trustee of the credit union shall become its liabilities; and
- (c) all legal proceedings pending by or against any such trustee may be prosecuted by or against the credit union in its registered name.

(3) The liability of a member of a credit union shall be limited to the amount of the shares held by him.

Restriction on name.

7. No credit union shall be registered under a name identical with that by which any other existing credit union has been registered, or so nearly resembling the same as to be likely to deceive, and the expression "credit union", or the Chinese expression "儲蓄互助社", shall be the last words of the name of every credit union.

Amendment of memorandum of association.

8. (1) Subject to this Ordinance, a credit union may, by resolution passed by two-thirds of the members, present and qualified to vote, at an annual meeting, or at a special meeting called for the purpose, amend its memorandum of association.

(2) No such amendment shall be of any effect until approved by the Registrar and his approval is endorsed by him on the memorandum of association.

9. Every credit union shall have a registered office in the Colony to which all communications and notices shall be sent. The credit union shall send to the Registrar written notice of the address of its registered office and of every change of the address thereof. Registered office.

10. For the purpose of carrying out its objects, a credit union may— Powers.

- (a) deposit money in any bank in the Colony approved by the Registrar;
- (b) invest in any stock, debenture stock, funds or securities in which a trustee may invest by virtue of the Trustee Ordinance; (Cap. 29.)
- (c) become a member of any other credit union;
- (d) subject to section 43, borrow money;
- (e) insure its loans, funds and property against loss;
- (f) subject to this Ordinance, under the hands of its president and treasurer, or vice-president and treasurer, draw, make, accept, endorse, execute and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments;
- (g) hold, purchase, take on lease, sell, exchange, lease or otherwise dispose of any land;
- (h) do all such other acts and things as are incidental or conducive to or consequential upon the attainment of the objects mentioned in section 3.

### PART III.

#### CAPITAL, SHARES AND MEMBERSHIP.

11. The capital of a credit union shall be unlimited in amount and shall be divided into shares of a value of five dollars each. Capital divided into shares.

12. (1) Subject to this Ordinance, shares in a credit union may be allotted, subscribed and paid for in the manner provided in the by-laws. Allotment and subscription for shares.

(2) Shares in a credit union shall be allotted only to the members thereof.

(3) No share shall be allotted to a member until he has paid for it in cash in full without any premium or discount.

(4) A credit union shall not issue to a member a certificate denoting ownership of a share.

Disposal of shares.

13. (1) Subject to this Ordinance, shares in a credit union may be transferred or withdrawn by the holder thereof in the manner provided in the by-laws.

(2) No transfer or withdrawal of shares in a credit union shall be valid unless approved by the board, which approval shall be withheld if the transfer or withdrawal would reduce the total number of members of the credit union to less than fifteen.

(3) A transfer of shares in a credit union may take place only between the members thereof and no charge in respect of any transfer shall be imposed by the credit union.

(4) A member of a credit union may not transfer or withdraw any shares if the transfer or withdrawal would make the total value of his shares less than his total liability to the credit union, whether as borrower, pledgor, guarantor or otherwise.

Restriction on disposal of shares by officers, etc.

14. (1) No officer or member of a credit union, whilst entrusted with or participating in the management of the affairs of the credit union, shall pledge, transfer, withdraw or otherwise dispose of his shares except in accordance with this Ordinance and the by-laws.

(2) If a credit union is wound up under Part IX, any disposition of shares by way of pledge, transfer, withdrawal or otherwise made by an officer or member thereof within the four months preceding the commencement of the winding-up shall be invalid and the officer or member shall remain liable to the creditors of the credit union to the extent of any shares so disposed of.

Membership limited to persons with common occupation, etc.

15. The membership of a credit union shall be limited to persons having a common bond of occupation, employment, association, or residence within a defined neighbourhood, community, or rural or urban area:

Provided that a member of a credit union who ceases to have the common bond to which membership of the credit union is limited may retain his membership thereof but may not obtain the grant of any loan therefrom exceeding the value of his shares in the credit union.

Admission to and conditions of membership.

16. (1) A person shall not be admitted to membership of a credit union unless—

- (a) his application for membership has been approved by the board;
- (b) he has paid such entrance fee, not exceeding one dollar, as may be provided in the by-laws; and
- (c) he has subscribed to at least one share and has paid an amount thereon not less than such initial instalment as may be provided in the by-laws.

(2) Subject to subsection (1), the conditions of membership of a credit union shall be in accordance with the by-laws.

17. (1) A minor may be admitted to membership of a credit union but shall not be qualified to vote at the annual or special meetings thereof until he has attained the age of sixteen years.

Minors.

(2) The minority of any person duly admitted as a member of any credit union shall not debar that person from executing any document necessary to be executed or given under this Ordinance, and shall not be a ground for invalidating or avoiding any contract entered into by any such person with the credit union; and any such contract entered into by any such person with the credit union, whether as principal or as surety, shall be enforceable at law by or against such person notwithstanding his minority.

18. (1) A member of the credit union who contravenes any provision of this Ordinance or acts in any way detrimental to the interests of the credit union may be expelled therefrom upon a resolution passed by two-thirds of the members present and qualified to vote, at an annual meeting, or at a special meeting called for the purpose.

Expulsion of member.

(2) The grounds on which his expulsion is being considered shall be communicated to the member in writing by the board not less than seven days before the resolution for his expulsion is to be moved and he shall be given the opportunity to answer, either in writing before the meeting or orally thereat.

(3) The by-laws of a credit union may make provision in respect of the expulsion of members therefrom.

19. Subject to this Ordinance, a member of a credit union who transfers or withdraws all his shares therein or who is expelled therefrom shall, from the date of such transfer, withdrawal or expulsion, cease to be a member of the credit union.

Cessation of membership.

20. (1) Subject to this section, any money owed in respect of shares by a credit union to a past member thereof shall, after deduction of any money owed by him to the credit union, be paid to him.

Payment on cessation of membership.

(2) A credit union may, if it thinks fit, postpone the payment of any money owed to a past member for not more than ninety days after his membership ends.

(3) No payment shall be made by a credit union to a past member unless all his liabilities to the credit union, whether as borrower, pledgor, guarantor or otherwise, have been fully discharged or otherwise fully provided for by a person other than the credit union.

Liability on  
cessation of  
membership.

21. A past member of a credit union shall have no further rights therein but shall not thereby be released from any remaining liability to the credit union.

Debts owed by  
members or  
past members.

22. (1) Any money owed to a credit union by a member or a past member shall be a civil debt and recoverable as such in a court of competent jurisdiction.

(2) A credit union shall have a lien on the shares of a member for any debt owed to it by him, and may set off any sum standing to the credit of such member in the accounts of the credit union towards the payment of such debt.

Payment to  
nominee or  
person entitled  
upon death  
of member.

23. (1) Subject to this section, any money owed in respect of shares by a credit union to a member thereof who dies shall be paid to the person nominated in accordance with this section, or, if there is no person so nominated, to such person as may appear to the board, on such evidence as it deems satisfactory, to be entitled by law to receive the same, after deducting such amounts as may be owed by the deceased member to the credit union.

(2) A member of a credit union over the age of sixteen years may in writing, signed by him in the presence of two attesting witnesses and deposited during his lifetime with the treasurer of the credit union, nominate any person (hereinafter in this section referred to as a nominee) to receive in the event of his death any money owed to him in respect of shares by the credit union.

(3) A member of a credit union shall be entitled to appoint only one nominee unless he holds more than one share.

(4) If more than one nominee is appointed by a member the exact proportion of the amount available which is to be payable to each nominee shall be specified at the time of nomination.

(5) If any payment is made under this section to a nominee who is a minor, a receipt given either by the minor or by his guardian shall be sufficient discharge to the credit union.

Record of  
members and  
shares.

24. A record of members and shares shall be kept by every credit union and shall contain and be *prima facie* evidence of—

- (a) the name, address and occupation of each member;
- (b) the number of shares (with the dates of allotment thereof) held by each member;
- (c) the total number of shares and the amount paid up in respect thereof;
- (d) the date on which each member was admitted to membership;

- (e) the date on which a member ceased to be such;
- (f) every appointment of a nominee under section 23.

## PART IV.

### MEETINGS AND ELECTION OF BOARD AND COMMITTEES.

25. (1) There shall be an annual meeting of the members of a credit union within sixty days after the end of the financial year within which the first meeting of the credit union is held pursuant to section 27 and thereafter within sixty days after the end of each subsequent financial year.

Annual and  
special  
meetings.

(2) Subject to this Ordinance, special meetings of the members may be called at the times and in the manner provided in the by-laws.

(3) Where in any case, due to the nature of the common occupation or employment of the persons forming a credit union, it is not practicable for all the members thereof to be present at the same instance at its annual or special meetings, substitute meetings of members may be held on two separate occasions in the manner provided in the by-laws, and meetings so held shall together be deemed to be annual or special meetings, whichever is appropriate.

(4) Subject to section 26, the voting and the procedure at annual and special meetings shall be in accordance with the by-laws.

26. (1) No member shall have more than one vote at any annual or special meeting and no voting by proxy shall be allowed thereat.

Voting.

(2) Voting at an election of members to the board, the supervisory committee or the credit committee of a credit union shall be by secret ballot.

27. (1) The provisional secretary of a credit union shall, within ten days after the receipt by him of the certificate of registration issued in accordance with section 5, notify each of the members of the credit union that he has received it and shall summon the first meeting of the members, which shall be held within fourteen days of the date of his receipt of the certificate.

First meeting.

(2) For the purposes of subsection (1), the body of persons which has been registered as a credit union under section 5 shall be deemed to be the members of the credit union.

Election and tenure of office of board of directors and committees.

28. (1) At its first meeting after registration, a credit union shall elect from among its members—

- (a) a board consisting of five directors or of such greater number, not exceeding fifteen, as may be provided in the by-laws;
- (b) a supervisory committee consisting of three members; and
- (c) a credit committee consisting of three members.

(2) At the annual meeting in every subsequent financial year there shall retire from office the number nearest one-third of the directors, one member of the supervisory committee and one member of the credit committee.

(3) The directors and committee members who shall retire in any year shall be those who have been longest in office since their last election; as between persons who became directors or committee members on the same day, those who shall retire shall (unless they otherwise agree among themselves) be determined by lot.

(4) A retiring director or committee member shall be eligible for re-election.

(5) At the annual meeting at which a director or committee member retires under subsection (2) the credit union shall fill the vacated office by electing a person thereto from among its members.

(6) Any vacancy occurring—

- (a) on the board or the credit committee, shall be filled by appointment by the board within fourteen days of the occurrence of such vacancy; or
- (b) on the supervisory committee, shall be filled by appointment by that committee within fourteen days of the occurrence of such vacancy.

(7) Where an appointment is made under subsection (6) other than for the purpose of filling a temporary vacancy caused through illness, absence from the Colony or any other cause, the person so appointed shall retire at the same time as if he had become a director or committee member, as the case may be, on the day on which the person in whose place he is appointed was last elected.

Meetings of board and committees, and appointment of officers and procedure.

29. (1) Immediately following its election the board shall hold its first meeting and thereat shall appoint from among its members a president, a vice-president, a treasurer and a secretary:

Provided that the board may appoint one person to perform the functions of both treasurer and secretary.

(2) The supervisory committee and the credit committee shall hold their first meetings immediately after election and shall appoint for each committee—

- (a) a chairman, who shall preside at the meetings of the committee; and
- (b) a secretary.

(3) Subsequent meetings of the board and of each committee shall be held at least once in every month and at such other times as may be considered necessary by the president, in the case of the board, or by the chairman, in the case of each committee, or as may be provided in the by-laws.

(4) If the president and vice-president are both absent from any meeting of the board, the members present may appoint one of themselves to preside at the meeting.

(5) If the chairman is absent from any meeting of the supervisory committee or the credit committee, the members present may appoint one of themselves to preside at the meeting.

(6) The number of members which shall constitute a quorum at a meeting of the board, the credit committee or the supervisory committee shall be as provided by the by-laws.

30. The persons for the time being appointed to the offices referred to in section 29 shall be the officers of the credit union concerned.

Officers of a credit union.

31. (1) No member of the supervisory committee may be a director of the board or a member of the credit committee.

Composition of the committees.

(2) Neither the president nor the treasurer of the board nor more than one director of a credit union may be a member of the credit committee thereof.

32. No director or member of either committee of a credit union shall, as such, receive remuneration from that credit union:

Remuneration.

Provided that the treasurer may be paid such remuneration as may be determined at an annual meeting of the credit union.

## PART V. MANAGEMENT.

### *Powers and duties of board.*

33. (1) The board of a credit union shall have the general management of the affairs, funds and records of the credit union and, except where a contrary intention appears, shall exercise and

Powers and duties of the board.

perform all the powers and duties conferred and imposed by this Ordinance and in particular shall—

- (a) act and make decisions upon all applications for membership of the credit union;
  - (b) determine the maximum number of shares which may be held by any one member, which shall not without the permission of the board exceed twenty *per cent* of the shares of the credit union and which shall apply to all members;
  - (c) determine the length of notice (which shall not exceed ninety days) required from a member of his intention to transfer or withdraw shares;
  - (d) determine the maximum length of time in respect of which loans made by the credit union to its members may remain outstanding, in whole or in part;
  - (e) subject to subsection (2) of section 40, determine the maximum amount of loans which may be made to a member, with security or without security;
  - (f) subject to section 41, determine the rates of interest payable during any specified period on such loans;
  - (g) fix from time to time the amount of any surety bond which shall be required in respect of any officer or member concerned with the receipt, management or expenditure of money for or on behalf of the credit union, and for such purposes may authorize the payment of any premium on such bonds by the credit union;
  - (h) appoint persons to act, under the direction of the board, in the furtherance of the education of persons in the objects and practices of credit unions.
- (2) The board shall exercise and perform such other powers and duties as may be conferred or imposed upon it by the by-laws.

*Powers and duties of supervisory committee.*

34. In addition to such powers and duties as may be conferred or imposed by the by-laws, the supervisory committee—
- (a) shall carry out an examination of the affairs and audit the accounts of the credit union and prepare a balance sheet on the accounts at least once in each quarter of every financial year;
  - (b) shall make or provide for an annual audit of the accounts of the credit union and submit a report thereon together with a balance sheet to the annual meeting of the credit union for its approval;

Powers and duties of supervisory committee.

- (c) may, if it deems it to be necessary in the interests of the credit union, by the unanimous vote of all its members suspend any director of the board or any member of the credit committee from the functions of his office and call a special meeting of the credit union to consider a report of the committee on such suspension;
- (d) may call a special meeting of the credit union to consider any matter which in the opinion of the committee ought to receive such consideration.

*Powers and duties of credit committee.*

35. In addition to such powers and duties as may be conferred or imposed by the by-laws, the credit committee shall have general supervision over all loans made to the members of the credit union and, subject to paragraphs (d), (e) and (f) of subsection (1) of section 33, shall, in respect of every such loan—

Powers and duties of credit committee.

- (a) fix the amount thereof;
- (b) decide on the security (if any) required therefor; and
- (c) determine the conditions for repayment thereof.

36. Save as provided in section 38, no loan shall be made to a member of the credit union except with the prior and unanimous approval of the members of the credit committee.

Approval of loans.

37. In addition to or in lieu of any other form of security, the credit committee may in its discretion accept an endorsement of a note by a member as guarantor or a pledge of shares by a member as security for a loan.

Acceptable security for loans.

38. (1) The credit committee, with the prior approval of the board, may appoint members of the credit committee as loan officers to act under the committee's supervision.

Loan officers.

(2) Notwithstanding anything contained in section 36, a loan officer may make loans to members of the credit union in the manner provided in the by-laws.

**PART VI.**

**LOANS, BORROWING, RESERVE FUND AND DIVIDENDS.**

*Loans to members.*

39. No loan shall be made to a member of a credit union under this Ordinance other than for provident or productive purposes.

Purposes of loans.

Restrictions  
on loans.

40. (1) Save as is provided in paragraphs (a) and (b) of section 10, no credit union shall make a loan to any person who is not a member thereof.

(2) A loan shall not be made by a credit union to a member thereof if this would cause the member to owe the credit union more than ten *per cent* of the aggregate amount of the share balance, the reserve fund and any other funds of the credit union.

Rates of  
interest.

41. (1) The interest rate on any loan made by a credit union to a member thereof shall not exceed one *per cent* per month on the total of the unpaid balance of any such loan plus all charges (if any) made by the credit union in making the loan.

(2) The interest rate determined in respect of loans made to members of a credit union during any specified period shall be the same for all such loans.

Unanimous  
vote required  
for loans to  
directors or  
committee  
members.

42. No director or member of the supervisory committee or the credit committee may obtain a loan from the credit union in excess of the value of his shares except upon the unanimous vote of a majority of the board, the supervisory committee and the credit committee, sitting together, such director or member not being present at the taking of the vote.

#### *Borrowing powers.*

Borrowing  
powers.

43. (1) Subject to this section, a credit union may borrow money for the carrying out of its objects.

(2) No money shall be borrowed by a credit union save upon a resolution of its board.

(3) A credit union may not borrow money so that its total indebtedness would in consequence exceed fifty *per cent* of its share balance.

(4) A credit union may not borrow money so that its total indebtedness would in consequence exceed twenty-five *per cent* of its share balance, except in addition to the board's resolution, upon a resolution passed by not less than three-fourths of the members, present and qualified to vote, at a special meeting of the credit union called for the purpose or if sanctioned in writing by not less than two-thirds of the total number of the members of the credit union qualified to vote.

Power to mort-  
gage, etc. as  
security for  
borrowed  
money.

44. A credit union may mortgage, charge or pledge any of its property to secure any liability for the repayment of money borrowed in accordance with section 43.

#### *Reserve fund.*

45. (1) The board shall set aside a reserve fund, into which shall be paid— Reserve fund.

(a) all entrance fees and fines collected from members; and

(b) during each financial year, not less than twenty *per cent* of the net earnings for the previous financial year, before the declaration or payment of any dividend in relation to the previous financial year,

until the reserve fund is equal to at least ten *per cent* of the share balance of the credit union, and such further amounts of the net earnings shall be paid into the fund in every year as may be necessary to maintain that percentage.

(2) The reserve fund shall not be used in making loans to members of the credit union.

(3) Any income received from any part of the reserve fund which is deposited or invested shall be paid to the general revenue of the credit union.

(4) The reserve fund shall be kept as a reserve against losses incurred from loans made by the credit union which remain outstanding after the time for their repayment in full has expired and other losses, other than excess expenditure over income, incurred by the credit union, and shall not be used for any other purpose except upon the winding-up of the credit union or with the prior approval in writing of the Registrar:

Provided that during the twelve months next following the date of its registration, an amount not exceeding the total of the entrance fees collected from members may be drawn from the reserve fund to meet any expenses incurred in the formation and organization of a credit union.

#### *Dividends.*

46. (1) After provision is made for the reserve fund, in accordance with section 45, and before the holding of the annual meeting of the credit union for that year, the board may by resolution recommend that a dividend, not exceeding six *per cent* per annum, shall be paid from the remainder of the net earnings and shall present any such resolution to that annual meeting.

(2) The annual meeting may declare a dividend for that year, which shall not exceed the amount recommended by the board.

(3) A dividend so declared shall be paid on all shares fully paid up and registered in the name of the same member throughout the previous financial year:

Declaration,  
limit and  
payment of  
dividend.

Provided that a member who is registered as owner at the end of a financial year of shares which became fully paid up during that year shall be entitled to the proportional part of such dividend calculated from the fifth day of the month following the date upon which such shares became fully paid up.

(4) Subject to subsection (3), payment of the dividend (if any) so declared may be made in such manner and amounts and at such times as may be provided in the by-laws.

## PART VII.

### BY-LAWS.

By-laws.

47. (1) The by-laws of every credit union shall be in a form approved by the Registrar.

(2) The by-laws of a credit union may, and, if so directed by the Registrar, shall, include provision for all or any of the following—

- (a) the depositing of all or any specified funds or money of a credit union in a bank in the Colony approved by the Registrar;
- (b) the imposition of charges on any member whose account remains inactive for a specified period;
- (c) the imposition of fines upon members for failure to meet their obligations to the credit union;
- (d) specifying the purposes for which the profits of the credit union may be used.

(3) Any by-laws which are prescribed under paragraph (a) of section 85 shall, subject to such modification as may be approved by the Registrar, be deemed to be the by-laws of a credit union.

(Cap. 1.)

(4) Notwithstanding anything contained in section 20 of the Interpretation and General Clauses Ordinance, it shall not be necessary to publish the by-laws of a credit union in the *Gazette*.

Amendment of by-laws.

48. (1) By-laws may be amended only by a resolution of two-thirds of the members present and qualified to vote, at the annual meeting of the credit union or at a special meeting thereof called for the purpose.

(2) No such amendment shall be of any effect until the same has been approved in writing by the Registrar.

Binding effect of the by-laws.

49. The by-laws of a credit union shall bind the credit union and the members thereof to the same extent as if each member had subscribed his name and affixed his seal thereto and there were in

such by-laws a covenant on the part of himself, his executors, administrators and assigns to conform to such by-laws, subject to the provisions of this Ordinance.

## PART VIII.

### RETURNS, AUDIT, INFORMATION AND INQUIRY.

50. A record of the name, occupation and address of each officer of a credit union shall be furnished to the Registrar not later than ten days after the appointment of the officer.

Return of names of officers.

51. A copy of the audit report and balance sheet, submitted to the annual meeting in accordance with paragraph (b) of section 34 and approved thereat, shall be furnished to the Registrar not later than thirty days after the date of such meeting.

Return of supervisory annual audit.

52. (1) The accounts of a credit union shall be examined at least once in every year by or under the direction of the Registrar and a credit union undergoing such examination shall produce all cash in hand, books, records and other documents required by the person conducting the examination.

Registrar's annual examination.

(2) Every such examination shall include an inquiry into overdue debts (if any) and a valuation of the assets and liabilities of the credit union.

(3) A copy of the report of the last examination carried out under this section and a copy of the audit report and balance sheet referred to in section 51 shall be posted in a conspicuous place at the registered office of the credit union for not less than one month.

53. (1) A credit union shall furnish the Registrar with such statements with respect to its business, finances and other affairs and with such other information as he may from time to time require.

Information for Registrar and verification thereof.

(2) Any statement and other information and any record and report required to be furnished by a credit union to the Registrar under this Ordinance or the by-laws shall be certified by the supervisory committee and verified by the president and the treasurer of the credit union.

54. (1) The Registrar and any person authorized by him may inquire into the condition and affairs of a credit union and for this purpose shall be given access to all books, records and other documents of the credit union and may make such inquiries as are in his opinion necessary to ascertain its financial condition, its ability to provide for the payment of its liabilities as they become due and whether or not it has complied with this Ordinance.

Inquiry, examination and suspension.

(2) The Registrar may, if he is satisfied, from an inquiry into the condition and affairs of a credit union, that any of its funds, securities or other property may have been misappropriated or improperly used or that the books, records or other documents do not show its true financial position, appoint an auditor to make such inquiry and audit of the affairs of the credit union as the Registrar considers necessary.

(3) The Registrar may, after an inquiry under this section, if he is satisfied that the continuance in business of such credit union would not be in the interests of its members or of the public, order the credit union to suspend business for such time as he may decide.

### PART IX.

#### WINDING-UP.

Winding-up of  
credit unions.

Application of  
Companies  
Ordinance.  
(Cap. 32.)

Credit union  
may resolve  
to be wound  
up by the court.

55. No credit union shall be wound up otherwise than in accordance with this Part.

56. (1) Save as is otherwise provided in this Part, the provisions of the Companies Ordinance relating to the winding-up of a company shall, to the extent that such provisions are applicable in the case, apply to the winding-up of a credit union.

(2) For the purposes of such winding-up, the term "Registrar" in the Companies Ordinance shall have the meaning assigned to it by this Ordinance.

(3) The Colonial Secretary shall appoint a person to discharge the duties of Official Receiver in any such winding-up.

57. (1) Subject to this section, a credit union may—

- (a) by instrument in writing signed by three-quarters of its members qualified to vote at its meetings; or
- (b) by resolution passed by three-quarters of its members qualified to vote and voting at a special meeting called for the purpose,

resolve that it be wound up by the court.

(2) Every credit union shall give at least ten days prior notice in writing to the Registrar of its intention to issue any such instrument for the signature of its members or to hold any such meeting, as the case may be.

(3) Where a credit union resolves under subsection (1) that it be wound up by the court, a copy of the instrument or a record of the resolution, certified by the president and treasurer of the credit union, shall be delivered forthwith to the Registrar who shall, as soon as practicable thereafter, petition the court for an order to wind up the credit union.

58. (1) The Registrar may, if he thinks fit, petition the court for an order to wind up a credit union if he is satisfied that—

- (a) the number of members qualified to vote at meetings of the credit union has been reduced to less than fifteen;
- (b) the registration of the credit union was obtained by fraud or mistake;
- (c) it is not a *bona fide* credit union;
- (d) it exists for an illegal purpose;
- (e) it is not carrying on business or is not in operation; or
- (f) it has wilfully, after notice from the Registrar, contravened any of the provisions of this Ordinance.

(2) The Registrar may, if he thinks fit, give notice to a credit union of his intention to petition the court under this section, setting out the grounds therefor and stating that, unless cause is shown to the contrary within a specified period, he will petition the court accordingly.

(3) The Registrar may, if he has given notice under subsection (2), and unless in his opinion sufficient cause to the contrary is shown by the credit union within the specified period, proceed with the petition.

59. Rule 22A of the Companies (Winding-up) Rules shall not apply in respect of a petition under section 57 or 58.

60. Notwithstanding anything contained in section 58, a credit union may be wound up by the court if—

- (a) the credit union is unable to pay its debts;
- (b) the court is of opinion that it is just and equitable that the credit union should be wound up.

61. In its application to the winding-up of a credit union subsection (1) of section 170 of the Companies Ordinance shall be so construed that a person shall be deemed to have ceased to be a member of the credit union, in respect of any share validly withdrawn or transferred before the commencement of the winding-up, with effect from the date of the receipt by the board of the notice of intention to withdraw or transfer such share.

### PART X.

#### APPEALS.

62. (1) If the Registrar—

- (a) refuses to register a credit union under section 5;

Petition by  
Registrar for  
winding-up in  
other cases.

Application of  
rule 22A of  
Companies  
(Winding-up)  
Rules.  
(Cap. 32, sub. leg.)

Winding-up  
for insolvency  
or on equitable  
grounds.

Qualification  
as to contribu-  
tion in  
winding-up.  
(Cap. 32.)

Appeal against  
action of  
Registrar.

- (b) fails to register a credit union within thirty days of the receipt of a memorandum of association duly filed for the purpose;
  - (c) refuses or fails to give his approval, within thirty days of the receipt, of any written application therefor, when his approval is required for any purpose under this Ordinance;
  - (d) under section 54, orders a credit union to suspend business,
- any person aggrieved thereby may, subject to this section, appeal against such refusal, failure or order to the District Court.
- (2) An appeal under this section shall be entered within fourteen days—
- (a) after the date of any refusal to register or of any suspension order, in the case of an appeal under paragraph (a) or (d) of subsection (1); or
  - (b) after the date of the expiry of the period of thirty days mentioned therein, in the case of an appeal under paragraph (b) or (c) of subsection (1).
- (3) The decision of the District Court on any such appeal shall be final.

## PART XI.

### THE CREDIT UNION LEAGUE OF HONG KONG.

Incorporation  
of league of  
credit unions.

63. (1) The body known as the Credit Union League of Hong Kong (hereinafter in this Part referred to as the former League) shall, on the date of commencement of this Ordinance, become a body corporate with perpetual succession and shall be capable of suing and being sued in the name of the Credit Union League of Hong Kong and, subject to this Ordinance, of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.

(2) The League shall have and may use a common seal.

Objects of  
League.

64. The objects of the League are—

- (a) to protect and assist the credit unions which are members of the League;
- (b) to provide educational and advisory services for credit unions;
- (c) to encourage and assist in the organization of credit unions;

- (d) to arrange for bonds and insurance on behalf of credit unions and their employees;
- (e) to set up a stabilization fund in accordance with section 72;
- (f) to undertake such other services for credit unions and the credit union movement as shall be consistent with this Ordinance.

65. On the date of commencement of this Ordinance— Vesting.

- (a) all movable property vested before that date in any person in trust for the former League shall vest in the League;
- (b) all liabilities lawfully incurred before that date by any person as trustee of the former League shall become liabilities of the League; and
- (c) all legal proceedings pending by or against any such trustee may be prosecuted by or against the League.

66. (1) There shall be a board of the League consisting of five directors or of such greater number not exceeding fifteen as may be provided by the by-laws of the League.

Board of  
directors and  
officers.

(2) The first board of directors shall consist of the persons—

- (a) whose names appear in the first column of the Schedule;
- (b) whose residential addresses are specified in the second column of the Schedule; and
- (c) each of whom shall hold the office, if any, specified opposite each name in the third column of the Schedule.

Schedule.

(3) The first directors of the board shall hold office until either a board of directors is elected in accordance with the by-laws of the League or the 1st day of July 1970, whichever is the earlier.

(4) The board of the League shall have the general direction and management of the affairs, funds and records of the League.

67. (1) The League may make by-laws, which shall be subject to the approval of the Registrar, for the carrying out of its objects.

League by-laws.

(2) Such by-laws shall be consistent with this Ordinance and shall include provision for membership of the League and for the composition of and elections to the board.

(3) Notwithstanding anything contained in subsection (1), any by-laws which are prescribed under paragraph (a) of section 85 shall, subject to such modification as may be approved by the Registrar, be deemed to be the by-laws of the League.

(4) The by-laws of the League may, subject to the approval of the Registrar, be amended from time to time in the manner provided therein.

(Cap. 1.)

(5) Notwithstanding anything contained in section 20 of the Interpretation and General Clauses Ordinance, it shall not be necessary to publish the by-laws of the League in the *Gazette*.

Registration  
with Registrar.

68. (1) The League shall forward to the Registrar for registration the following—

- (a) notice of the address of the principal office of the League and any change thereof;
- (b) a copy of the by-laws of the League and any amendment thereto, certified as correct by two members of the board of the League; and
- (c) a list of the name, occupation and address of each member of the board and each officer of the League and any change therein, certified as correct by two members of the board of the League.

(2) A document required to be registered under subsection (1) shall be forwarded to the Registrar within twenty-eight days of the commencement of this Ordinance or within twenty-eight days of any change or amendment, as the case may be.

Sealing and  
signing of  
documents.

69. (1) The common seal of the League shall not be affixed to any instrument except by the authority of a resolution of the board and in the presence of the president of the board and either the treasurer thereof or such other person as the board may appoint for the purpose.

(2) The president and the treasurer, or such other person, shall sign every instrument to which the seal is so affixed.

(3) The board shall be responsible for the safe custody of the common seal of the League.

Membership.

70. Subject to this Part, a credit union may become a member of the League.

Levy.

71. (1) A credit union which is a member of the League may, for the purpose of financing the League, provide in its by-laws for a yearly levy on each of its members.

(2) The amount of such levy and the time and manner of payment thereof to the League shall be as provided in the by-laws of the League.

72. (1) The League may set up a fund, to be known as the stabilization fund, which shall be used in the manner set out in this section.

Stabilization  
fund.

(2) The stabilization fund may be used in providing interest free loans to a member credit union for the purpose of avoiding a liquidation thereof or for assisting in any matter connected with such liquidation.

(3) No such loan shall be provided except—

- (a) where the League is satisfied that such provision is in the best interests of the credit union movement; and
- (b) on a resolution, passed by at least two-thirds of the members of the board of the League, determining the amount of the loan and the conditions under which it is to be provided.

(4) Section 43 shall not apply in respect of any such loan.

73. Save in so far as is otherwise provided in this Part, sections 10, 49, 52, 53, 54, 76, 77, 80 and 81 shall, to the extent that they are applicable, apply to the League as though it were a credit union.

Application of  
other sections  
to League.

74. Nothing in this Part shall affect or be deemed to affect the rights of Her Majesty the Queen, Her Heirs or Successors, or the rights of any body politic or corporate or of any other persons except such as are mentioned in this Part and those claiming by, from or under them.

Saving.

## PART XII.

### OFFENCES AND PENALTIES.

75. (1) Save as is provided in paragraphs (a) and (b) of section 10, any director or any member of the supervisory committee or of the credit committee of a credit union, or any loan officer thereof, who knowingly makes or permits the making of a loan from any fund of the credit union to any person who is not a member of the credit union shall be guilty of an offence and shall be liable on conviction to a fine of three thousand dollars and to imprisonment for one year.

Illegal loans.

(2) A person who is convicted of an offence under subsection (1) shall be liable to the credit union for the amount so loaned, and the illegality of such a loan shall be no defence in any proceedings by the credit union for the recovery of that amount.

False returns  
to Registrar.

76. Any person who makes any return or furnishes any information, statement, record, or other document required by this Ordinance to be made or furnished to the Registrar knowing the same to be in any respect false or insufficient shall be guilty of an offence.

Prohibition  
of disclosure  
of certain  
information.

77. Any officer of a credit union, or any person entrusted with or participating in the management thereof, who discloses to any person any information regarding a transaction of a member of that credit union therewith, save in so far as may be necessary for the proper conduct of the business of that credit union, shall be guilty of an offence.

Failure to  
report  
resolution for  
winding-up.

78. Any person who—

- (a) contravenes the provisions of subsection (2) of section 57; or
- (b) being a president or treasurer of a credit union, fails to deliver to the Registrar a copy of the instrument or record of the resolution in accordance with subsection (3) of section 57,

shall be guilty of an offence.

Restriction  
on use of  
expression  
"credit union"  
or in Chinese  
"儲蓄互助社".

79. Any person, other than a credit union or the League, who trades or carries on any business under any name or title of which the expression "credit union", or the Chinese expression "儲蓄互助社", is part shall be guilty of an offence:

Provided that nothing in this section shall apply to the use by any person or his successors in interest of any name or title under which he traded or carried on business at the commencement of this Ordinance.

Penalty.

80. Any person guilty of an offence against this Ordinance for which no penalty is provided shall be liable on conviction to a fine of two thousand dollars and, in the case of a continuing offence, to an additional daily penalty of fifty dollars.

Criminal  
liability of  
officers of  
credit union.

81. Every offence committed by a credit union shall be deemed to have been also committed by each officer of the credit union who is bound by this Ordinance or the by-laws of the credit union to fulfill the duties whereof such an offence is a breach or, if there is no such officer, then by each of the directors and members of the supervisory committee and credit committee, unless such officer, director or member is proved to have been ignorant of, or to have attempted to prevent, the commission of such offence.

### PART XIII.

#### REGISTRAR.

82. (1) The Governor may appoint a public officer to be the Registrar of Credit Unions and may appoint other public officers to assist the Registrar.

Appointment  
of Registrar.

(2) The Registrar may delegate to any public officer appointed to assist him under subsection (1) all or any of the powers and duties conferred or imposed on him by this Ordinance.

83. (1) The Registrar shall keep at his office a register, to be known as the Register of Credit Unions, in which shall be entered particulars of the registration of every credit union.

Register of  
Credit Unions  
to be kept.

(2) The Registrar shall keep such other records relating to credit unions as may be prescribed.

84. A credit union shall keep accounts, balance sheets, forms, records and books in such form as may be approved by the Registrar.

Forms of  
records, etc.

### PART XIV.

#### REGULATIONS.

85. The Governor in Council may make regulations for all or any of the following matters—

Regulations.

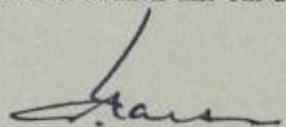
- (a) the adoption by all or some credit unions or the League of such by-laws as may be prescribed hereunder;
- (b) the procedure to be followed under this Ordinance;
- (c) the examination of the accounts of credit unions by the Registrar or under his direction;
- (d) the qualifications required of any person carrying out an audit under subsection (2) of section 54;
- (e) the fees payable on the registration of a credit union under this Ordinance;
- (f) the scale of fees payable to the Registrar for services rendered under this Ordinance;
- (g) the form of a memorandum of association required under subsection (2) of section 4 and of a certificate of registration issued under subsection (3) of section 5;
- (h) the records relating to credit unions which are to be kept by the Registrar;
- (i) prescribing anything which is to be or may be prescribed under this Ordinance;
- (j) any other matter necessary or expedient to carry out effectively the intent and purpose of this Ordinance.

## SCHEDULE.

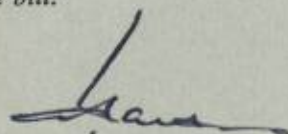
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| CHU Hau-chak (朱厚澤)         | 222, Tai Kok Tsui Road, Yaumati Ferry Workers' Hostel, Room 114, Kowloon                    | Vice-President       |
| CHAN Kei-yuen (陳啟源)        | 174, Pokfulam Road (Lo Tak Wai), Hong Kong                                                  | Vice-President       |
| So Kwok-wing, Andrew (蘇國榮) | 12, Tai Po Road, 5th floor, Kowloon                                                         | Treasurer            |
| KWOK Tack-pui (郭德培)        | 32, Ching On Street, 4th floor, Lo Fu Ngam, Kowloon City                                    | Secretary            |
| CHAN Hoi (陳海)              | c/o San Miguel Credit Union, Hong Kong Breweries, Sham Tseng, New Territories               | —                    |
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Passed by the Hong Kong Legislative Council this 6th day of November, 1968.

  
Deputy Clerk of Councils.

*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.*

  
Deputy Clerk of Councils.

(Secretariat ECON 30/2321/63)