

(5) Notwithstanding subsection (4), the Commanding Officer may direct any officer or member, who has been called out,—

- (a) to stand down from active service; and
- (b) to report back for active service at such place and at such time as may be directed.

(6) On receipt of a direction under paragraph (a) of subsection (5), the officer or member shall be deemed to have ceased to be on active service and, if a direction is made under paragraph (b) of that subsection, the officer or member shall, on reporting back in accordance with such direction, be deemed to have been called out on active service in pursuance of a new order under subsection (1).

15. (1) An officer or member who, when on active service or under training, sustains an injury or contracts an illness which, in the opinion of the board constituted for the purpose of this section, is attributable to or aggravated by such service, may be awarded a disability pension, which shall be paid in accordance with the provisions of the Royal Warrant applicable to his rank and appropriate to the Regiment.

(2) If an officer or member loses his life, whilst on active service or under training and his death is, in the opinion of the board constituted for the purpose of this section, attributable to an injury sustained during, or an illness caused or aggravated by, such service, his dependants may be awarded a pension which shall be paid in accordance with the provisions of the Royal Warrant applicable to the deceased's rank and appropriate to the Regiment.

(3) A pension payable in accordance with the provisions of subsection (1) or (2) shall be calculated in accordance with the provisions of the Royal Warrant in force at the date of the service in respect of which the pension is payable, irrespective of whether the officer or member, at such time, was on active service or under training.

(4) For the purpose of this section, the expression "dependant" shall have the meaning assigned to it in the Royal Warrant:

Provided that the expressions "wife", "widow" and "child" shall have the meanings assigned to them in subsection (3) of section 18 of the Pensions Ordinance.

(5) The Governor in Council may, for the better carrying out of the provisions of this section, make regulations providing for—

- (a) the manner in which pensions may be granted in respect of the death, disablement or illness of any officer or member;

- (b) establishing a board for the purpose of exercising and performing such powers and duties, privileges and functions as may be imposed upon it by this Ordinance;
 - (c) establishing a Pensions Appeal Tribunal, to which an appeal may be made by, or on behalf of, an officer or member, or any of his dependants, as the case may be, who has been granted or refused a pension, or whose pension has been varied and who is aggrieved by such grant, refusal or variation;
 - (d) the manner in which and the time within which appeals shall be made to and the manner in which appeals shall be heard by a Pensions Appeal Tribunal;
 - (e) the mode of proof and the admissibility of evidence before a Pensions Appeal Tribunal, including the disclosure of documents in the possession of a Government department;
 - (f) the representation of an appellant or any other party to the proceedings at the hearing of an appeal and, in particular, for cases where an applicant owing to illness or any other cause is unable to be present at the hearing of an appeal;
 - (g) the payment of travelling expenses and allowances to members of a Pensions Appeal Tribunal, to appellants or to their representatives or attendants, and of medical expenses reasonably incurred by an appellant for the purpose of an appeal;
 - (h) the recording and proving of the decisions of a Pensions Appeal Tribunal;
 - (i) the appointment of such staff as may be necessary to enable a Pensions Appeal Tribunal properly to fulfil its functions;
 - (j) any other matter, whether similar to or of the same nature as the foregoing or not, relating to the powers, duties and procedure of a Pensions Appeal Tribunal.
- (6) The decision of a Pensions Appeal Tribunal upon an appeal made under the provisions of any regulations made under this section shall be final.
- (7) No pension granted under this section shall be assignable or transferable or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever, other than a debt due to the Government.
- (8) Any pension payable under this Ordinance shall be met from moneys provided by the Legislative Council.

Pensions for disabled officers or members or for their dependants.

Hospital
treatment and
pay.

16. An officer or member who sustains injuries or contracts an illness, when on active service or in training, shall—

- (a) be granted such free medical and hospital treatment as may be prescribed or, if it is not prescribed, as may be directed by the Commanding Officer in Routine Orders;
- (b) during the period of disability or illness, receive the full pay which he is eligible to receive while undergoing training, until he is granted a pension under section 15.

PART IV.

GOVERNMENT AND DISCIPLINE.

Army Act and
Queen's
Regulations.

17. The Army Act and the Queen's Regulations shall, in so far as this Ordinance does not so provide, apply in relation to the administration, discipline, trial and punishment of—

- (a) officers and members on the permanent staff at all times; and
- (b) other officers and members when on active service or under training,

as it applies to persons subject to military law under that Act and holding a corresponding rank.

Courts-
martial.

18. (1) An officer or member who is to be tried by court-martial may be brought before a court-martial convened by the Service Commander.

(2) The Commanding Officer may order an officer or member to attend at any time and place in the Colony for the purpose of any court-martial or any board of inquiry or for any other purpose which may seem proper to the Commanding Officer.

(3) The Commanding Officer may in writing authorize a police officer not below the rank of inspector to arrest and hand over to the Commanding Officer, or to such person as may be authorized by him to act on his behalf, any officer or member who refuses or neglects to comply with an order given under subsection (2).

Appeals from
courts-martial.

19. An officer or member convicted by court-martial may, whether or not he has pleaded guilty at his trial, appeal to the Full Court against conviction and sentence as if he had been convicted by the District Court.

Discipline
when not
called out.

20. (1) The Commanding Officer may discharge from the Regiment an officer or member, who is not on active service, for any offence, misconduct or other cause.

(2) An officer or member who is aggrieved by his discharge under subsection (1) may appeal to the Governor, who may cancel or confirm the discharge or give such other directions with reference thereto as he may think fit.

(3) The Commanding Officer may deal summarily with a charge in respect of any offence for which he may award any summary punishment.

(4) An officer or member who, when on duty with the Regiment or when wearing the uniform of the Regiment, commits any offence against this Ordinance, may be placed under arrest by an officer or member of equal or superior rank.

(5) An officer or member shall not be kept under arrest under subsection (4) for a period longer than that during which he would have been on duty with the Regiment or would have been in uniform.

(6) The release of an officer or member from arrest under this section shall not prejudice any subsequent disciplinary proceedings under this section.

(7) An arrest under this section shall be forthwith reported to the Commanding Officer.

21. Any officer or member who without reasonable excuse (the proof whereof shall lie upon him) fails to report for duty at any time or place when lawfully ordered so to do, or leaves such duty before he is permitted to do so, shall be guilty of an offence.

Failure to
perform duty.

22. (1) Without prejudice to the powers of the Commanding Officer to deal summarily with offences, any officer or member who—

- (a) fails without reasonable excuse to attend the training which he is required to attend; or
- (b) fails to carry out his training diligently or to discharge any duty lawfully assigned to him in the course of such training,

Failure to
attend training.

shall be guilty of an offence.

(2) No prosecution for an offence against this section shall be commenced without the consent of the Commanding Officer.

(3) An officer or member shall not be liable to prosecution for an offence against this section if the offence is committed in the year during which he attains the prescribed age of compulsory retirement.

(4) A volunteer, other than a person referred to in subsection (3), who quits the Regiment without completing the prescribed training in any year shall forfeit the sum of one hundred dollars:

Provided that the Commanding Officer may exempt from liability any volunteer who in his opinion has quit the Regiment for a reasonable and *bona fide* cause and used reasonable diligence in his training before he quit the Regiment.

Complaints.

23. (1) An officer or member shall have a right to present his complaint with regard to any matter concerning the Regiment to the Service Commander through the Commanding Officer.

(2) An officer or member who is not satisfied with the manner in which a complaint made by him under subsection (1) has been dealt with, may require the Service Commander to forward his complaint to the Governor.

Obstructing officers or members.

24. (1) Any person who wilfully obstructs an officer or member in the performance of his duty under this Ordinance shall be guilty of an offence.

(2) Any employer who, without reasonable excuse—

(a) prevents an officer or member who is his employee from performing any duty required of the officer or member under this Ordinance;

(b) reduces, or makes any deduction from, the salary or wages of such an employee by reason of the performance by the employee of any such duty, otherwise than as is permitted by subsection (3);

(c) dismisses the employee, by reason of the performance by the employee of any such duty, otherwise than in accordance with the conditions of his contract of employment,

shall be guilty of an offence.

(3) Notwithstanding subsection (2) an employer may make deductions from the salary or wages of an employee in respect of any period when the employee is absent from his employment on active service or under training.

Penalty.

25. Any person who is guilty of an offence against section 21, 22 or 24 shall be liable on conviction to a fine of one thousand dollars.

PART V.

SERVICE PROPERTY.

26. (1) Without prejudice to the provisions of section 44 of the Army Act, any officer or member who fraudulently misapplies any public or service property shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars.

Fraudulent misapplication of public or service property.

(2) The court may order a person convicted of an offence under this section to pay to the Regiment the value of the public or service property in respect of which he is convicted, as assessed by the Commanding Officer.

27. (1) Without prejudice to the provisions of section 46 of the Army Act, any officer or member who fails to deliver up in good condition (fair wear and tear excepted) any public or service property in his possession when lawfully required to do so shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars.

Return of public or service property.

(2) The court may order a person convicted of an offence under this section to pay to the Regiment the value of the public or service property in respect of which he is convicted, as assessed by the Commanding Officer.

28. (1) The ownership of all service property, and the administration thereof, shall vest in the Commanding Officer, who shall be deemed to be a corporation sole with perpetual succession for this purpose.

Vesting and administration of service property.

(2) For the purposes of subsection (1), the Commander Officer may—

(a) recover, under section 30, any subscription or other money due from an officer or member; and

(b) enter into a contract or execute a conveyance of property.

PART VI.

MISCELLANEOUS.

29. The Army Act and the Queen's Regulations, in so far as they apply to the Regiment and to officers and members, shall be construed—

Application of Army Act and Queen's Regulations.

(a) so that any power or duty vested in or imposed upon the Army Board of the Defence Council by the Army Act or the Queen's Regulations shall be vested in, exercised or performed by, the Governor;

- (b) so that references in the Army Act or the Queen's Regulations to the Secretary of State or the Defence Council shall be references to the Governor; and
- (c) with such adaptations, modifications or exceptions consistent with this Ordinance as may be necessary.

Summary remedies.

30. (1) Any money due from an officer or member under this Ordinance may be recovered summarily as a civil debt.

(2) In proceedings under subsection (1) the complaint may be in the name of the Commanding Officer, who may appoint any person to conduct the proceedings.

Oath to be taken.

31. (1) An officer or member shall, on his enlistment in the Regiment, or as soon afterwards as may be, whether or not he was a member of the former Hong Kong Volunteer Defence Corps or the former Royal Hong Kong Defence Force, make the appropriate form of oath or declaration prescribed in subsection (2).

(2) The form of oath or declaration shall be—

(a) for an officer or member who is a British subject—

“I ^{swear}/_{declare} that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law, and that I will faithfully serve as an officer (or a member) in accordance with the provisions of the Royal Hong Kong Regiment Ordinance 1970.”; and

(b) for an officer or member who is not a British subject—

“I ^{swear}/_{declare} that I will faithfully serve as an officer (or a member) in accordance with the provisions of the Royal Hong Kong Regiment Ordinance 1970.”.

(3) An oath or declaration under this section shall be made before an officer or a justice of the peace.

Power to make regulations.

32. (1) The Governor in Council may make regulations providing for the constitution, general government, discipline and training of the Regiment and in particular, but without prejudice to the generality hereof, may make regulations providing for—

- (a) the terms of service, the appointment, duties, rank, promotion, seniority, transfer, leave, resignation and release from service of officers;
- (b) the enlistment, rank, posting, transfer, leave, promotion, reduction, discharge, dismissal and terms of service of members;
- (c) the establishment of a reserve of officers and members and matters relating thereto;

- (d) standards of efficiency of officers and members;
- (e) offences and the officers who may deal with offenders and award punishment;
- (f) the hospital and medical treatment of officers and members;
- (g) anything which under this Ordinance is to be or may be prescribed; and
- (h) generally for the better carrying out of the provisions of this Ordinance.

(2) Notwithstanding subsection (1), the Service Commander may, with the approval of the Governor, make regulations for the Regiment for the purposes of this Ordinance, provided that such regulations are not inconsistent with any regulations made under subsection (1).

33. The Commanding Officer may, with the approval of the Service Commander, make such standing orders of a routine nature as are necessary for the purposes of this Ordinance.

Power to make standing orders.

34. The Hong Kong Regiment, raised and maintained as a military unit of the Royal Hong Kong Defence Force under the Royal Hong Kong Defence Force Ordinance repealed by section 35, shall be deemed to be the Royal Hong Kong Regiment for the purposes of this Ordinance as if it were raised and maintained under this Ordinance.

Transitional provisions.
(Cap. 199.)

35. (1) The Royal Hong Kong Defence Force Ordinance and all regulations made thereunder are repealed.

Repeal.
(Cap. 199.)

(2) For the avoidance of any doubt, paragraph (c) of section 23 of the Interpretation and General Clauses Ordinance shall apply to section 37 of the Royal Hong Kong Defence Force Ordinance repealed by subsection (1).

(Cap. 1.)

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

Consequential amendments.
Schedule.

SCHEDULE.

[s. 36.]

CONSEQUENTIAL AMENDMENTS.

Short Title or Citation.

Amendment.

Pensions Ordinance.

Section 19 is amended—

(Cap. 89.)

- (a) in subsection (1), by deleting “Royal Hong Kong Defence Force under the

Short Title or Citation.

Amendment.

provisions of the Royal Hong Kong Defence Force Ordinance" and substituting the following—

"Royal Hong Kong Regiment under the provisions of the Royal Hong Kong Regiment Ordinance 1970 or the Royal Hong Kong Auxiliary Air Force under the provisions of the Royal Hong Kong Auxiliary Air Force Ordinance 1970"; and

(b) in subsection (2)—

(i) by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment, the Royal Hong Kong Auxiliary Air Force"; and

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

“, Regiment”.

(Cap. 197, sub. leg.)

Essential Services Corps (General) Regulations.

1. Regulation 17 is amended by deleting "section 18 of the Royal Hong Kong Defence Force Ordinance" and substituting the following—

"section 15 of the Royal Hong Kong Regiment Ordinance 1970".

2. The First Schedule is amended—

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

"(b) "Corps Pay and Pensions Code" shall be substituted for "Royal Warrant"; and

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

"(da) "Corps" shall be substituted for "Regiment";".

(Cap. 228.)

Summary Offences Ordinance.

Section 21 is amended, in subsection (2), by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment or of the Royal Hong Kong Auxiliary Air Force".

(Cap. 238.)

Arms and Ammunition Ordinance.

Section 2 is amended, in the definition of "exempted person" in subsection (1), by

Short Title or Citation.

Amendment.

deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment or of the Royal Hong Kong Auxiliary Air Force".

Public Order Ordinance.

1. Section 14 is amended, in subsection (2)— (Cap. 245.)

(a) in paragraph (e), by deleting "or"; and

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

"(f) an officer or member of the Royal Hong Kong Regiment when on active service under the Royal Hong Kong Regiment Ordinance 1970; or

(g) an officer or member of the Royal Hong Kong Auxiliary Air Force when on active service under the Royal Hong Kong Auxiliary Air Force Ordinance 1970."

2. Section 31 is amended, in subsection (6), by deleting paragraph (g) and substituting the following—

"(g) an officer or member of the Royal Hong Kong Regiment when on active service under the Royal Hong Kong Regiment Ordinance 1970;

(ga) an officer or member of the Royal Hong Kong Auxiliary Air Force when on active service under the Royal Hong Kong Auxiliary Air Force Ordinance 1970;".

3. Section 50 is amended by deleting subsection (2) and substituting the following—

"(2) (a) An officer or member of the Royal Hong Kong Regiment on duty, or while proceeding to or from duty, when on active service under the Royal Hong Kong Regiment Ordinance 1970 or an officer or member of the Royal Hong Kong Auxiliary Air Force on duty, or while proceeding to or from duty, when on active service under the Royal Hong Kong Auxiliary Air Force Ordinance 1970 shall have the same power of arrest as

Short Title or Citation.

Amendment.

is conferred on a police officer by section 50 of the Police Force Ordinance and may use such force as may be necessary for that purpose.

- (b) Whenever the Governor so directs, an officer or member of the Royal Hong Kong Regiment on duty, or while proceeding to or from duty, when on active service under the Royal Hong Kong Regiment Ordinance 1970 or an officer or member of the Royal Hong Kong Auxiliary Air Force on duty, or while proceeding to or from duty, when on active service under the Royal Hong Kong Auxiliary Air Force Ordinance 1970 shall have the same powers, protection and immunities as are imposed or conferred by this Ordinance or any other law on a police officer of equivalent rank."

4. Section 50A is amended by deleting paragraph (b) and substituting the following—

"(b) any officer or member of the Royal Hong Kong Regiment or the Royal Hong Kong Auxiliary Air Force; or".

5. Section 53 is amended by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment or the Royal Hong Kong Auxiliary Air Force".

1. The long title, paragraph (e) of section 5, section 9, subsection (2) of section 16, section 18 and subsection (1) of section 22 are amended by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment, the Royal Hong Kong Auxiliary Air Force".

2. Section 2 is amended—

- (a) in the definition of "appellant", by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment, the Royal Hong Kong Auxiliary Air Force";

(Cap. 246.)

Compulsory Service Ordinance.

Short Title or Citation.

Amendment.

- (b) in the definition of "objector", by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment, the Royal Hong Kong Auxiliary Air Force"; and

- (c) by deleting the definition of "Royal Hong Kong Defence Force" and substituting the following—

" "Royal Hong Kong Auxiliary Air Force" means the Royal Hong Kong Auxiliary Air Force as constituted under the Royal Hong Kong Auxiliary Air Force Ordinance 1970;

"Royal Hong Kong Regiment" means the Royal Hong Kong Regiment as constituted under the Royal Hong Kong Regiment Ordinance 1970;".

3. Section 6 is amended—

- (a) by deleting "Royal Hong Kong Defence Force" in the first place where it occurs and substituting the following—

"Royal Hong Kong Regiment, the Royal Hong Kong Auxiliary Air Force"; and

- (b) by deleting "Royal Hong Kong Defence Force" in paragraph (a) of the proviso and substituting the following—

"Royal Hong Kong Regiment or the Royal Hong Kong Auxiliary Air Force".

4. Section 8 is amended, in subsection (1), by deleting paragraph (a) and substituting the following—

"(a) the Royal Hong Kong Regiment;

(aa) the Royal Hong Kong Auxiliary Air Force;".

5. Section 10 is amended, in paragraph (e) of subsection (1), by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment or the Royal Hong Kong Auxiliary Air Force".

*Short Title or Citation.**Amendment.*

6. Section 15 is amended, in subsections (1) and (2)—

(a) by deleting "Royal Hong Kong Defence Force" wherever it occurs and substituting the following—

"Royal Hong Kong Regiment, the Royal Hong Kong Auxiliary Air Force"; and

(b) by inserting before "Force or Corps" wherever it occurs the following—
"Regiment,".

7. Section 16 is amended, in subsection (1)—

(a) by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment, the Royal Hong Kong Auxiliary Air Force"; and

(b) by inserting before "Force or Corps" wherever it occurs the following—
"Regiment,".

8. Section 19 is amended, in subsection (1), by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment or the Royal Hong Kong Auxiliary Air Force".

9. Section 20 is repealed and replaced by the following—

"Power of Director to order transfer.

20. The Director may in the public interest order the transfer of any person who is a member of the Royal Hong Kong Regiment, the Royal Hong Kong Auxiliary Air Force, the Royal Hong Kong Auxiliary Police Force or the Essential Services Corps from one body to another."

10. Section 21 is amended—

(a) by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment, the Royal Hong Kong Auxiliary Air Force"; and

*Short Title or Citation.**Amendment.*

(b) in paragraph (b) by inserting before "Force or Corps" the following—
"Regiment,".

11. Section 26 is amended, in subsection (2)—

(a) by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment, the Royal Hong Kong Auxiliary Air Force"; and

(b) by inserting before "Force or Corps" the following—
"Regiment,".

Compulsory Service
(Prescribed Forms)
Regulations.

The Schedule is amended—

(Cap. 246, sub. leg.)

(a) in Note 6 to Form 2, by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment or the Royal Hong Kong Auxiliary Air Force";

(b) in Note 6 to Form 5, by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment or the Royal Hong Kong Auxiliary Air Force"; and

(c) in Form 9, by deleting "Royal Hong Kong Defence Force" and substituting the following—

"Royal Hong Kong Regiment/
Royal Hong Kong Auxiliary Air Force".

Compulsory Service
Tribunal Procedure
Rules.

Rule 2 is amended, in the definition of "appeal", by deleting "Royal Hong Kong Defence Force" and substituting the following—

(Cap. 246, sub. leg.)

"Royal Hong Kong Regiment, the Royal Hong Kong Auxiliary Air Force".

Auxiliary Forces Pay and
Allowances Ordinance.

1. Section 2 is amended—

(Cap. 254.)

(a) in the definition of "auxiliary forces", by deleting paragraph (a) and substituting the following—

"(a) the Royal Hong Kong Regiment raised under section

Short Title or Citation.

Amendment.

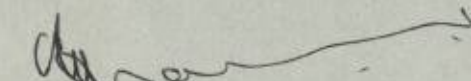
3 of the Royal Hong Kong Regiment Ordinance 1970;

- (aa) the Royal Hong Kong Auxiliary Air Force raised under section 3 of the Royal Hong Kong Auxiliary Air Force Ordinance 1970;"
- (b) in the definition of "commander", by deleting paragraph (a) and substituting the following—
- "(a) in relation to the Royal Hong Kong Regiment, the Commanding Officer as defined in section 2 of the Royal Hong Kong Regiment Ordinance 1970;
- (aa) in relation to the Royal Hong Kong Auxiliary Air Force, the Commanding Officer as defined in section 2 of the Royal Hong Kong Auxiliary Air Force Ordinance 1970;"
- (c) in paragraph (a) of the definition of "full call out", by deleting "16 of the Royal Hong Kong Defence Force Ordinance" and substituting the following—
- "13 of the Royal Hong Kong Regiment Ordinance 1970 or section 13 of the Royal Hong Kong Auxiliary Air Force Ordinance 1970"; and
- (d) in paragraph (a) of the definition of "limited call out", by deleting "17 of the Royal Hong Kong Defence Force Ordinance" and substituting the following—
- "14 of the Royal Hong Kong Regiment Ordinance 1970 or section 14 of the Royal Hong Kong Auxiliary Air Force Ordinance 1970".
2. Section 8 is amended, in paragraph (e) of subsection (2), by deleting "Royal Hong Kong Defence Force" and substituting the following—
- "Royal Hong Kong Regiment or the Royal Hong Kong Auxiliary Air Force".

Passed by the Hong Kong Legislative Council this 16th day of December, 1970.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

HONG KONG

No. 99 OF 1970.



I assent.

Governor.

17th December, 1970.

An Ordinance to provide for the establishment of the Royal Hong Kong Auxiliary Air Force.

[18th December, 1970.]

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 Royal Hong Kong Auxiliary Air Force Ordinance 1970. Short title.
2. In this Ordinance, unless the context otherwise requires— Interpretation.
 - “active service” means, in addition to the meaning ascribed to it in section 222 of the Air Force Act, service when called out under section 13 or 14 of this Ordinance;
 - “Air Force Act” means the Air Force Act, 1955; (195: c. 19.)
 - “appointments” includes accoutrements and equipment of every kind other than clothing;
 - “Commanding Officer” means the Commanding Officer of the Force appointed by the Governor under this Ordinance;

- "enlist" and "enrol" have the same meaning;
- "Force" means the Royal Hong Kong Auxiliary Air Force;
- "member" means a warrant officer, non-commissioned officer or airman of the Force;
- "officer" means a person holding a commission as an officer of the Force;
- "Order by Her Majesty" means the Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the air forces during the 1914 world war and after the 2nd September 1939;
- "public property" means any property belonging to the Government or held for the purposes of the Government;
- "Queen's Regulations" means the Queen's Regulations for the Royal Air Force;
- "Service Commander" means the Service Commander of the Force specified under section 4;
- "service property" means any property of the Force;
- "training" means the training prescribed for officers or members under this Ordinance;
- "volunteer" means an officer or member of the Force enlisted under section 6.

PART II.

CONSTITUTION AND FUNCTIONS OF FORCE.

- 3.** (1) The Governor may raise and maintain a force to be known as the Royal Hong Kong Auxiliary Air Force.
- (2) The expenses of raising and maintaining the Force shall be met from moneys provided by the Legislative Council.
- (3) The Force shall be composed of officers and members who shall be—
- persons employed on the permanent uniformed staff of the Force;
 - persons enlisted in the Force as volunteers;
 - persons enrolled in the Force under section 15 of the Compulsory Service Ordinance; and
 - persons posted to the reserve of officers or members established under this Ordinance.
- 4.** The Force shall be—
- under the supreme command of the Governor;
 - when called out, under the operational command of the Service Commander, who shall be the officer for the time

Power to raise and maintain an air force.

(Cap. 246.)

Command.

- being discharging the duties of Air or other Officer Commanding, Royal Air Force, Hong Kong; and
- (c) under the executive command of the Commanding Officer, who shall be responsible to the Service Commander and ultimately to the Governor for such matters as may be prescribed.
- 5.** (1) A person of any nationality may hold a commission.
- (2) An officer shall be commissioned by the Governor, on the recommendation of the Commanding Officer, and no commission shall be deemed to be vacated by the death or retirement from office of the Governor by whom it was granted.
- 6.** (1) The Governor may enlist a person of any nationality as a volunteer in the Force.
- (2) A person applying for enlistment in the Force shall comply with such requirements for enlistment as may be prescribed.
- 7.** (1) The Force shall consist of—
- a Force headquarters unit;
 - a flying unit;
 - an engineering unit; and
 - such other units as the Governor may determine.
- (2) The establishment of the Force shall be determined by the Governor.
- 8.** The Force shall be employed in the defence of the Colony, the maintenance of public order and with such other duties as may be defined by the Governor.
- 9.** (1) When an officer or member is serving with Her Majesty's regular forces or is undergoing training with such forces, officers of Her Majesty's regular forces shall have, in relation to an officer or member of the Force, such powers of command and punishment as they would have if they were officers of the same rank in the Force.
- (2) Nothing in this section shall be deemed to authorize an officer of the Force to exercise any powers of punishment over members of Her Majesty's regular forces.
- 10.** (1) Subject to the provisions of this Ordinance, a volunteer may quit the Force upon—
- giving to the Commanding Officer not less than twenty-eight days' notice in writing of his intention to quit the Force;

Commissioned officers.

Volunteers.

Establishment of the Force.

Functions of the Force.

Provision for command and punishment when on active service or under training with H.M. forces.

Right of volunteer to quit.

- (b) delivering up in good order (fair wear and tear excepted) any arms, appointments and clothing which are public property or service property and are in his possession; and
- (c) paying any money due from him under this Ordinance.

(2) A volunteer shall, if he quits the Force in accordance with subsection (1), thereupon be struck off the strength of the Force by the Commanding Officer.

(3) A volunteer may, if the Commanding Officer refuses to strike him off the strength of the Force, appeal to the Governor through the normal service channels.

(4) The Governor may on an appeal under subsection (3), confirm the refusal of the Commanding Officer or order him to strike the volunteer off the strength of the Force.

(5) Notwithstanding any other provisions of this Ordinance, a volunteer shall be deemed, on enlistment, to have engaged himself to serve in the Force for such period as may be prescribed. A volunteer who quits, or is discharged from, the Force before the expiration of his period of service shall pay to the Commanding Officer such sum as he may order not exceeding one hundred dollars.

(6) No sum shall be payable under subsection (5) by a volunteer who quits the Force for any cause which the Commanding Officer considers reasonable and *bona fide*.

(7) Subsection (5) shall not relieve a volunteer from the obligation to comply with the provisions of subsection (1) if he wishes to quit the Force.

(8) No volunteer shall quit the Force during any period when the Force or any part thereof is called out under section 13, except with the prior approval in writing of the Governor.

11. (1) An officer or member, other than a volunteer, who obtains permission, in such manner as may be prescribed, to quit the Force shall—

- (a) deliver up in good order (fair wear and tear excepted) any arms, appointments and clothing which are public property or service property and are in his possession; and
- (b) pay any money due from him under this Ordinance.

(2) An officer or member shall, if he quits the Force in accordance with subsection (1), thereupon be struck off the strength of the Force by the Commanding Officer.

Delivery of arms, etc., by non-volunteers.

12. The Governor may at any time—

- (a) disband or discontinue the services of the Force or any part thereof; or
- (b) dispense with the services of any officer or member.

Power of Governor to dispense with services.

PART III.

CALLING OUT.

13. (1) The Governor may by notice in the *Gazette* call out the Force or any part thereof on active service.

Calling out of the Force.

(2) Every officer or member so called out shall assemble at such place and at such time as may be directed by the Commanding Officer.

(3) An officer or member so called out shall be deemed to be called out from the time at which he reports at the place directed by the Commanding Officer. An officer or member who fails to report at the place and time so directed shall be liable to be charged with desertion unless, within four days, he satisfies the Commanding Officer that he had reasonable excuse for his failure to report as directed.

(4) An officer or member who has been called out shall remain called out until he is stood down from active service by order of the Governor.

(5) Notwithstanding subsection (4), the Commanding Officer may direct any officer or member who has been called out—

- (a) to stand down from active service; and
- (b) to report back for active service at such place and at such time as may be directed.

(6) On receipt of a direction under paragraph (a) of subsection (5), the officer or member shall be deemed to have ceased to be on active service and, if a direction is made under paragraph (b) of that subsection, the officer or member shall, on reporting back in accordance with such direction, be deemed to have been called out on active service in pursuance of a new notice by the Governor under subsection (1).

14. (1) The Commanding Officer may, with the prior approval of the Governor, order a limited call out of the Force or any part thereof or of any officer or member.

Power of Commanding Officer to make limited call out.

(2) Every officer or member so called out shall assemble at such place and at such time as may be directed by the Commanding Officer.

(3) An officer or member so called out shall be deemed to be called out from the time at which he reports at the place directed by the Commanding Officer.

(4) An officer or member who has been called out shall remain called out until he is stood down from active service by order of the Commanding Officer, with the prior approval of the Governor.

(5) Notwithstanding subsection (4), the Commanding Officer may direct any officer or member, who has been called out,—

- (a) to stand down from active service; and
- (b) to report back for active service at such place and at such time as may be directed.

(6) On receipt of a direction under paragraph (a) of subsection (5), the officer or member shall be deemed to have ceased to be on active service and, if a direction is made under paragraph (b) of that subsection, the officer or member shall, on reporting back in accordance with such direction, be deemed to have been called out on active service in pursuance of a new order under subsection (1).

15. (1) An officer or member who, when on active service or under training, sustains an injury or contracts an illness which, in the opinion of the board constituted for the purpose of this section, is attributable to or aggravated by such service, may be awarded a disability pension, which shall be paid in accordance with the provisions of the Order by Her Majesty applicable to his rank and appropriate to the Force.

(2) If an officer or member loses his life, whilst on active service or under training and his death is, in the opinion of the board constituted for the purpose of this section, attributable to an injury sustained during, or an illness caused or aggravated by, such service, his dependants may be awarded a pension which shall be paid in accordance with the provisions of the Order by Her Majesty applicable to the deceased's rank and appropriate to the Force.

(3) A pension payable in accordance with the provisions of subsection (1) or (2) shall be calculated in accordance with the provisions of the Order by Her Majesty in force at the date of the service in respect of which the pension is payable, irrespective of whether the officer or member, at such time, was on active service or under training.

(4) For the purpose of this section, the expression "dependant" shall have the meaning assigned to it in the Order by Her Majesty:

Provided that the expressions "wife", "widow" and "child" shall have the meanings assigned to them in subsection (3) of section 18 of the Pensions Ordinance.

Pensions for disabled officers or members or for their dependants.

(5) The Governor in Council may, for the better carrying out of the provisions of this section, make regulations providing for—

- (a) the manner in which pensions may be granted in respect of the death, disablement or illness of any officer or member;
- (b) establishing a board for the purpose of exercising and performing such powers and duties, privileges and functions as may be imposed upon it by this Ordinance;
- (c) establishing a Pensions Appeal Tribunal, to which an appeal may be made by, or on behalf of, an officer or member, or any of his dependants, as the case may be, who has been granted or refused a pension, or whose pension has been varied and who is aggrieved by such grant, refusal or variation;
- (d) the manner in which and the time within which appeals shall be made to and the manner in which appeals shall be heard by a Pensions Appeal Tribunal;
- (e) the mode of proof and the admissibility of evidence before a Pensions Appeal Tribunal, including the disclosure of documents in the possession of a Government department;
- (f) the representation of an appellant or any other party to the proceedings at the hearing of an appeal and, in particular, for cases where an applicant owing to illness or any other cause is unable to be present at the hearing of an appeal;
- (g) the payment of travelling expenses and allowances to members of a Pensions Appeal Tribunal, to appellants or to their representatives or attendants, and of medical expenses reasonably incurred by an appellant for the purpose of an appeal;
- (h) the recording and proving of the decisions of a Pensions Appeal Tribunal;
- (i) the appointment of such staff as may be necessary to enable a Pensions Appeal Tribunal properly to fulfil its functions;
- (j) any other matter, whether similar to or of the same nature as the foregoing or not, relating to the powers, duties and procedure of a Pensions Appeal Tribunal.

(6) The decision of a Pensions Appeal Tribunal upon an appeal made under the provisions of any regulations made under this subsection shall be final.

(7) No pension granted under this section shall be assignable or transferable or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever, other than a debt due to the Government.

(8) Any pension payable under this Ordinance shall be met from moneys provided by the Legislative Council.

Hospital treatment and pay.

16. An officer or member who sustains injuries or contracts an illness, when on active service or in training, shall—

- (a) be granted such free medical and hospital treatment as may be prescribed or, if it is not prescribed, as may be directed by the Commanding Officer in Routine Orders;
- (b) during the period of disability or illness, receive the full pay which he is eligible to receive while undergoing training, until he is granted a pension under section 15.

PART IV.

GOVERNMENT AND DISCIPLINE.

Air Force Act and Queen's Regulations.

17. The Air Force Act and the Queen's Regulations shall, in so far as this Ordinance does not so provide, apply in relation to the administration, discipline, trial and punishment of—

- (a) officers and members on the permanent staff at all times; and
- (b) other officers and members when on active service or under training,

as it applies to persons subject to military law under that Act and holding a corresponding rank.

Courts-martial.

18. (1) An officer or member who is to be tried by court-martial may be brought before a court-martial convened by the Service Commander.

(2) The Commanding Officer may order an officer or member to attend at any time and place in the Colony for the purpose of any court-martial or any board of inquiry or for any other purpose which may seem proper to the Commanding Officer.

(3) The Commanding Officer may in writing authorize a police officer not below the rank of inspector to arrest and hand over to the Commanding Officer, or to such person as may be

authorized by him to act on his behalf, any officer or member who refuses or neglects to comply with an order given under subsection (2).

19. An officer or member convicted by court-martial may, whether or not he has pleaded guilty at his trial, appeal to the Full Court against conviction and sentence as if he had been convicted by the District Court.

Appeals from courts-martial.

20. (1) The Commanding Officer may discharge from the Force an officer or member, who is not on active service, for any offence, misconduct or other cause.

Discipline when not called out.

(2) An officer or member who is aggrieved by his discharge under subsection (1) may appeal to the Governor, who may cancel or confirm the discharge or give such other directions with reference thereto as he may think fit.

(3) The Commanding Officer may deal summarily with a charge in respect of any offence for which he may award any summary punishment.

(4) An officer or member who, when on duty with the Force or when wearing the uniform of the Force, commits any offence against this Ordinance, may be placed under arrest by an officer or member of equal or superior rank.

(5) An officer or member shall not be kept under arrest under subsection (4) for a period longer than that during which he would have been on duty with the Force or would have been in uniform.

(6) The release of an officer or member from arrest under this section shall not prejudice any subsequent disciplinary proceedings under this section.

(7) An arrest under this section shall be forthwith reported to the Commanding Officer.

21. Any officer or member who without reasonable excuse (the proof whereof shall lie upon him) fails to report for duty at any time or place when lawfully ordered so to do, or leaves such duty before he is permitted to do so, shall be guilty of an offence.

Failure to perform duty.

22. (1) Without prejudice to the powers of the Commanding Officer to deal summarily with offences, any officer or member who—

Failure to attend training.

- (a) fails without reasonable excuse to attend the training which he is required to attend; or

- (b) fails to carry out his training diligently or to discharge any duty lawfully assigned to him in the course of such training,

shall be guilty of an offence.

(2) No prosecution for an offence against this section shall be commenced without the consent of the Commanding Officer.

(3) An officer or member shall not be liable to prosecution for an offence against this section if the offence is committed in the year during which he attains the prescribed age of compulsory retirement.

(4) A volunteer, other than a person referred to in subsection (3), who quits the Force without completing the prescribed training in any year shall forfeit the sum of one hundred dollars:

Provided that the Commanding Officer may exempt from liability any volunteer who in his opinion has quit the Force for a reasonable and *bona fide* cause and used reasonable diligence in his training before he quit the Force.

Complaints.

23. (1) An officer or member shall have a right to present his complaint with regard to any matter concerning the Force to the Commanding Officer.

(2) An officer or member who is not satisfied with the manner in which a complaint made by him under subsection (1) has been dealt with, may require the Commanding Officer to forward his complaint to the Governor.

Obstructing officers or members.

24. (1) Any person who wilfully obstructs an officer or member in the performance of his duty under this Ordinance shall be guilty of an offence.

(2) Any employer who, without reasonable excuse—

- (a) prevents an officer or member who is his employee from performing any duty required of the officer or member under this Ordinance;
- (b) reduces, or makes any deduction from, the salary or wages of such an employee by reason of the performance by the employee of any such duty, otherwise than as is permitted by subsection (3);
- (c) dismisses the employee, by reason of the performance by the employee of any such duty, otherwise than in accordance with the conditions of his contract of employment,

shall be guilty of an offence.

(3) Notwithstanding subsection (2) an employer may make deductions from the salary or wages of an employee in respect of any period when the employee is absent from his employment on active service or under training.

25. Any person who is guilty of an offence against section 21, 22 or 24 shall be liable on conviction to a fine of one thousand dollars.

Penalty.

PART V.

SERVICE PROPERTY.

26. (1) Without prejudice to the provisions of section 44 of the Air Force Act, any officer or member who fraudulently misapplies any public or service property shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars.

Fraudulent misapplication of public or service property.

(2) The court may order a person convicted of an offence under this section to pay to the Force the value of the public or service property in respect of which he is convicted, as assessed by the Commanding Officer.

27. (1) Without prejudice to the provisions of section 46 of the Air Force Act, any officer or member who fails to deliver up in good condition (fair wear and tear excepted) any public or service property in his possession when lawfully required to do so shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars.

Return of public or service property.

(2) The court may order a person convicted of an offence under this section to pay to the Force the value of the public or service property in respect of which he is convicted, as assessed by the Commanding Officer.

28. (1) The ownership of all service property, and the administration thereof, shall vest in the Commanding Officer, who shall be deemed to be a corporation sole with perpetual succession for this purpose.

Vesting and administration of service property.

(2) For the purposes of subsection (1), the Commanding Officer may—

- (a) recover, under section 30, any subscription or other money due from an officer or member; and
- (b) enter into a contract or execute a conveyance of property.

PART VI.

MISCELLANEOUS.

Application of
Air Force
Act and
Queen's
Regulations.

29. The Air Force Act and the Queen's Regulations, in so far as they apply to the Force and to officers and members, shall be construed—

- (a) so that any power or duty vested in or imposed upon the Air Council of the Defence Council by the Air Force Act or the Queen's Regulations, shall be vested in, exercised or performed by, the Governor;
- (b) so that references in the Air Force Act or the Queen's Regulations to the Secretary of State or the Defence Council shall be references to the Governor; and
- (c) with such adaptations, modifications or exceptions consistent with this Ordinance as may be necessary.

Summary
remedies.

30. (1) Any money due from an officer or member under this Ordinance may be recovered summarily as a civil debt.

(2) In proceedings under subsection (1) the complaint may be in the name of the Commanding Officer, who may appoint any person to conduct the proceedings.

Oath to be
taken.

31. (1) An officer or member shall, on his enlistment in the Force, or as soon afterwards as may be, whether or not he was a member of the former Hong Kong Volunteer Defence Corps or the former Royal Hong Kong Defence Force, make the appropriate form of oath or declaration prescribed in subsection (2).

(2) The form of oath or declaration shall be—

(a) for an officer or member who is a British subject—

“I ^{swear}/_{declare} that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law, and that I will faithfully serve as an officer (or a member) in accordance with the provisions of the Royal Hong Kong Auxiliary Air Force Ordinance 1970.”; and

(b) for an officer or member who is not a British subject—

“I ^{swear}/_{declare} that I will faithfully serve as an officer (or a member) in accordance with the provisions of the Royal Hong Kong Auxiliary Air Force Ordinance 1970.”.

(3) An oath or declaration under this section shall be made before an officer or a justice of the peace.

32. The Governor in Council may make regulations providing for the constitution, general government, discipline and training of the Force and in particular, but without prejudice to the generality hereof, may make regulations providing for—

Power to make
regulations.

- (a) the terms of service, the appointment, duties, rank, promotion, seniority, transfer, leave, resignation and release from service of officers;
- (b) the enlistment, rank, posting, transfer, leave, promotion, reduction, discharge, dismissal and terms of service of members;
- (c) the establishment of a reserve of officers and members and matters relating thereto;
- (d) standards of efficiency of officers and members;
- (e) offences and the officers who may deal with offenders and award punishment;
- (f) the hospital and medical treatment of officers and members;
- (g) anything which under this Ordinance is to be or may be prescribed; and
- (h) generally for the better carrying out of the provisions of this Ordinance.

33. The Commanding Officer may make such standing orders of a routine nature as are necessary for the purposes of this Ordinance.


Power to
make standing
orders.

34. The Hong Kong Auxiliary Air Force, raised and maintained as a military unit of the Royal Hong Kong Defence Force under the Royal Hong Kong Defence Force Ordinance, shall be deemed to be the Royal Hong Kong Auxiliary Air Force for the purposes of this Ordinance as if it were raised and maintained under this Ordinance.

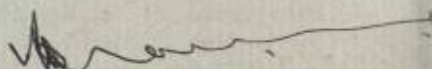
Transitional
provisions.

(Cap. 199.)

Passed by the Hong Kong Legislative Council this 16th day of December, 1970.


Clerk to the Legislative Council.

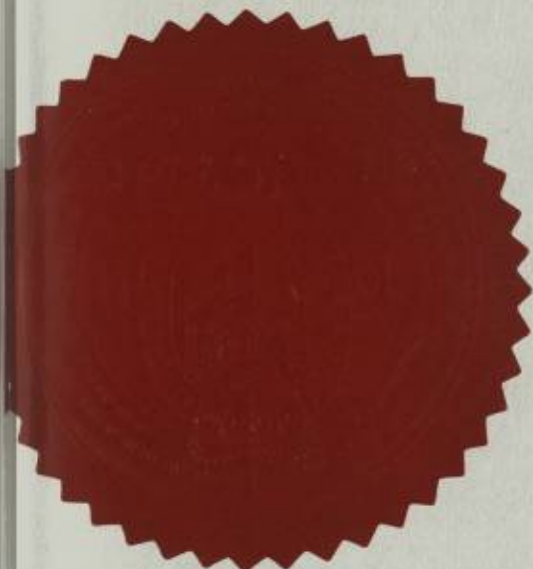
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.



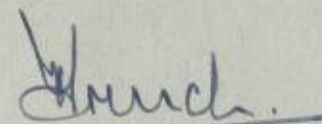
Clerk to the Legislative Council.

HONG KONG

No. 100 OF 1970.



I assent.



Governor.

17th December, 1970.

An Ordinance to make provision for interim payments and for conferring powers exercisable by the courts before the commencement of an action, to make further provision with respect to interest on damages, and to amend the law relating to the limitation of actions.

[18th December, 1970.]

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

1. (1) This Ordinance may be cited as the Law Reform (Miscellaneous Amendments) Ordinance 1970.

(2) Items 1 and 4 of the Schedule shall not come into operation until such date as the Governor may appoint by notice in the *Gazette*; and different days may be so appointed for different provisions of those items and for different purposes.

2. The Ordinances specified in the second column of the Schedule are amended to the extent and in the manner set out in the third column of the Schedule.

3. The following provisions shall have effect in respect of items 2 and 3 of the Schedule—

(a) the time for bringing proceedings in respect of a cause of action which arose before the commencement of this

Short title, and commencement of items 1 and 4 of Schedule. [cf. 1970, c. 31, s. 34(4).]

Amendment of specified Ordinances. Schedule.

Transitional provisions. 1954, c. 36, s. 7.

Ordinance shall, if it has not then already expired, expire at the time when it would have expired if those items had at all material times been in force;

- (b) the amendment effected by item 3 shall, in the case of a person dying after the commencement of this Ordinance, apply as well in relation to causes of action arising before, as in relation to causes of action arising after, the commencement thereof;
- (c) save as provided in paragraphs (a) and (b), nothing in item 2 or 3 shall affect any action or proceeding if the cause of action arose before the commencement thereof.

SCHEDULE.

[s. 2.]

<i>Item.</i>	<i>Ordinance.</i>	<i>Amendment.</i>
(Cap. 4.) 1.	Supreme Court Ordinance.	<p>1. Section 30A is amended by inserting after subsection (4) the following new subsections—</p> <p>(5) Where in any such proceedings as are mentioned in subsection (1) judgment is given for a sum which (apart from interest on damages) exceeds three thousand dollars and represents or includes damages in respect of personal injuries to the plaintiff or any other person, or in respect of a person's death, then (without prejudice to the exercise of the power conferred by that subsection in relation to any part of that sum which does not represent such damages) the court shall exercise that power so as to include in that sum interest on those damages or on such part of them as the court considers appropriate, unless the court is satisfied that there are special reasons why no interest should be given in respect of those damages.</p> <p>(6) Any order under this section may provide for interest to be calculated at different rates in respect of different parts of the period for which interest is given, whether that period is the whole or part of the period mentioned in subsection (1).</p> <p>(7) For the avoidance of doubt it is hereby declared that in determining, for the purposes of any enactment contained in the District Court (Civil Jurisdiction and Procedure) Ordinance, whether an amount exceeds, or is less than, a sum specified in that enactment, no account shall be taken of any power exercisable by virtue of this section or of any order made in the exercise of such a power.</p>

(Cap. 336.)

*Item. Ordinance.**Amendment.*

(8) In this section—

"personal injuries" includes any disease and any impairment of a person's physical or mental condition."

2. The following new sections are added after section 30B—

"Powers of court exercisable before commencement of action. 1969, c. 58, s. 21.

30C. (1) On the application of any person in accordance with rules of court, the court shall, in such circumstances as may be specified in the rules, have power to make an order providing for any one or more of the following matters—

- (a) the inspection, photographing, preservation, custody and detention of property which appears to the court to be property which may become the subject matter of subsequent proceedings in the court, or as to which any question may arise in any such proceedings; and
- (b) the taking of samples of any such property as it mentioned in paragraph (a) and the carrying out of any experiment on or with any such property.

(2) The power to make rules of court under section 38 shall include power to make rules of court as to the manner in which an application for such an order can be made, and as to the circumstances in which such an order can be made; and any such rules may include such incidental, supplementary and consequential provisions as the authority making the rules may consider necessary or expedient.

(3) In this section—

"property" includes any land, chattel or other corporeal property of any description.

Item. Ordinance.

Power of court to order disclosure, etc. of documents before commencement of proceedings. 1970, c. 31, s. 31.

Amendment.

30D. On the application, in accordance with rules of court, of a person who appears to the court to be likely to be a party to subsequent proceedings in that court in which a claim in respect of personal injuries to a person or in respect of a person's death is likely to be made, the court shall, in such circumstances as may be specified in the rules, have power to order a person who appears to the court to be likely to be a party to the proceedings and to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising or likely to arise out of that claim—

- (a) to disclose whether those documents are in his possession, custody or power; and
- (b) to produce to the applicant such of those documents as are in his possession, custody or power.

Extension of powers of court to order disclosure of documents, inspection of property, etc. 1970, c. 31, s. 32.

30E. (1) On the application, in accordance with rules of court, of a party to any proceedings in which a claim in respect of personal injuries to a person or in respect of a person's death is made, the court shall, in such circumstances as may be specified in the rules, have power to order a person who is not a party to the proceedings and who appears to the court to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising out of that claim—

- (a) to disclose whether those documents are in his possession, custody or power; and
- (b) to produce to the applicant such of those documents as are in his possession, custody or power.

(2) On the application, in accordance with rules of court, of a party to any such proceedings as are referred to in subsection (1), the court shall, in such circumstances as may be specified in the rules, have power

Item. Ordinance.

Amendment.

to make an order providing for any one or more of the following matters—

- (a) the inspection, photographing, preservation, custody and detention of property which is not the property of, or in the possession of, any party to the proceedings but which is the subject matter of the proceedings or as to which any question arises in the proceedings;
- (b) the taking of samples of any such property as is mentioned in paragraph (a) and the carrying out of any experiment on or with any such property.

(3) Subsections (1) and (2) are without prejudice to the exercise by the court of any power to make orders which is exercisable apart from those provisions.

(4) In this section—

“property” includes any land, chattel or other corporeal property of any description.

Provisions supplementary to sections 30D and 30E. 1970, c. 31, s. 33.

30E. (1) The power to make rules of court under section 38 shall include power to make rules of court as to the circumstances in which an order under section 30D or 30E can be made; and any such rules may include such incidental, supplementary and consequential provisions as the authority making the rules may consider necessary or expedient.

(2) Without prejudice to the generality of subsection (1), rules of court shall be made under section 38 for the purpose of ensuring that the costs of and incidental to proceedings for an order under section 30D or 30E incurred by the person against whom the order is sought shall be awarded to that person unless the court otherwise directs.

Item. Ordinance.

Amendment.

(3) In sections 30D, 30E and 30G—

“personal injuries” includes any disease and any impairment of a person’s physical or mental condition.

Application to Crown of sections 30C to 30F, 1970, c. 31, s. 35.

30G. (1) Section 30C shall bind the Crown so far as it relates to property (within the meaning of that section) as to which it appears to the court that it may become the subject matter of subsequent proceedings involving a claim in respect of personal injuries to a person or in respect of a person’s death.

(2) Sections 30D, 30E and 30F shall bind the Crown.

(3) A court shall not make an order under section 30C, 30D or 30E if it considers that compliance with the order, if made, would be likely to be injurious to the public interest.”.

3. The following new section is added after section 38—

“Orders for interim payment, 1969, c. 58, s. 20.

38A. (1) The power to make rules of court under section 38 shall include power by any such rules to make provision for enabling the court in which any proceedings are pending, in such circumstances as may be specified in the rules, to make an order requiring a party to the proceedings to make an interim payment of such amount as may be specified in the order, either by payment into court or (if the order so provides) by paying it to another party to the proceedings.

(2) Where any such rules make provision in accordance with subsection (1), the rules may include provision for enabling a party to any proceedings who, in pursuance of such an order, has made an interim payment to recover the whole or part of the amount of the payment in such circumstances, and from such other party to the proceedings, as may be determined in accordance with the rules.

Item. Ordinance.

Amendment.

(3) Any rules made by virtue of this section may include such incidental, supplementary and consequential provisions as the authority making the rules may consider necessary or expedient.

(4) Nothing in this section shall be construed as affecting the exercise of any power relating to costs, including any power to make rules of court relating to costs.

(5) In this section—

(a) “interim payment”, in relation to a party to any proceedings, means a payment on account of any damages, debt or other sum (excluding any costs) which that party may be held liable to pay to or for the benefit of another party to the proceedings if a final judgment or order of the court in the proceedings is given or made in favour of that other party; and

(b) any reference to a party to any proceedings includes a reference to any person who for the purposes of the proceedings acts as next friend or guardian of a party to the proceedings.

(6) This section shall bind the Crown so far as (but no further than) any proceedings to which the section is applicable can be brought by or against the Crown in accordance with the Crown Proceedings Ordinance.”.

1969, c. 58, s. 34(3).

(Cap. 300.)

2. Fatal Accidents Ordinance. [cf. 1954, c. 36, s. 3.]

Section 8 is amended by deleting “twelve months” and substituting the following—
“three years”.

(Cap. 22.)

3. Law Reform (Miscellaneous Provisions) Ordinance. [cf. 1954, c. 36, ss. 4, 8(3).]

Section 2 is amended in paragraph (b) of subsection (3) by deleting “the cause of action arose not earlier than six months before his death and”.

(Cap. 271.)

Item.	Ordinance.	Amendment.
(Cap. 336.)	4. District Court (Civil Jurisdiction and Procedure) Ordinance.	<p>1. Section 19A is amended by inserting after subsection (3) the following new subsections—</p> <p>"1969, c. 58, s. 22.</p> <p>(4) Where in any such proceedings as are mentioned in subsection (1) judgment is given for a sum which (apart from interest on damages) exceeds three thousand dollars and represents or includes damages in respect of personal injuries to the plaintiff or any other person, or in respect of a person's death, then (without prejudice to the exercise of the power conferred by that subsection in relation to any part of that sum which does not represent such damages) the Court shall exercise that power so as to include in that sum interest on those damages or on such part of them as the Court considers appropriate, unless the Court is satisfied that there are special reasons why no interest should be given in respect of those damages.</p> <p>(5) Any order under this section may provide for interest to be calculated at different rates in respect of different parts of the period for which interest is given, whether that period is the whole or part of the period mentioned in subsection (1).</p> <p>(6) For the avoidance of doubt it is hereby declared that in determining for the purposes of any enactment contained in this Ordinance, whether an amount exceeds, or is less than, a sum specified in that enactment, no account shall be taken of any power exercisable by virtue of this section or of any order made in the exercise of such a power.</p> <p>(7) In this section— "personal injuries" includes any disease and any impairment of a person's physical or mental condition."</p> <p>2. The following new sections are added after section 19B—</p> <p>"Powers of Court exercisable before commencement of action, 1969, c. 58, s. 21.</p> <p>19C. (1) On the application of any person in accordance with rules, the Court shall, in such circumstances as may be specified in the rules, have power to make an order providing for any one or more of the following matters—</p> <p>(a) the inspection, photographing, preservation, custody</p>

Item.	Ordinance.	Amendment.
		<p>and detention of property which appears to the Court to be property which may become the subject matter of subsequent proceedings in the Court, or as to which any question may arise in any such proceedings; and</p> <p>(b) the taking of samples of any such property as is mentioned in paragraph (a) and the carrying out of any experiment on or with any such property.</p> <p>(2) The power to make civil procedure rules under section 48 shall include power to make rules as to the manner in which an application for such an order can be made, and as to the circumstances in which such an order can be made; and any such rules may include such incidental, supplementary and consequential provisions as the authority making the rules may consider necessary or expedient.</p> <p>(3) In this section— "property" includes any land, chattel or other corporeal property of any description.</p> <p>19D. On the application, in accordance with rules, of a person who appears to the Court to be likely to be a party to subsequent proceedings in that court in which a claim in respect of personal injuries to a person or in respect of a person's death is likely to be made, the Court shall, in such circumstances as may be specified in the rules, have power to order a person who appears to the Court to be likely to be a party to the proceedings and to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising or likely to arise out of that claim—</p> <p>(a) to disclose whether those documents are in his possession, custody or power; and</p>

Power of Court to order disclosure, etc. of documents before commencement of proceedings, 1970, c. 51, s. 31.

Item. Ordinance.

Amendment.

- (b) to produce to the applicant such of those documents as are in his possession, custody or power.

Extension of powers of Court to order disclosure of documents, inspection of property, etc. 1970, c. 31, s. 32.

19E. (1) On the application, in accordance with rules, of a party to any proceedings in which a claim in respect of personal injuries to a person or in respect of a person's death is made, the Court shall, in such circumstances as may be specified in the rules, have power to order a person who is not a party to the proceedings and who appears to the Court to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising out of that claim—

- (a) to disclose whether those documents are in his possession, custody or power; and
(b) to produce to the applicant such of those documents as are in his possession, custody or power.

(2) On the application, in accordance with rules, of a party to any such proceedings as are referred to in subsection (1), the Court shall, in such circumstances as may be specified in the rules, have power to make an order providing for any one or more of the following matters—

- (a) the inspection, photographing, preservation, custody and detention of property which is not the property of, or in the possession of, any party to the proceedings but which is the subject matter of the proceedings or as to which any question arises in the proceedings;
(b) the taking of samples of any such property as is mentioned in paragraph (a) and the carrying out of any experiment on or with any such property.

(3) Subsections (1) and (2) are without prejudice to the exercise by

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the Court of any power to make orders which is exercisable apart from those provisions.

(4) In this section—

“property” includes any land, chattel or other corporeal property of any description.

Provisions supplementary to sections 19D and 19E. 1970, c. 31, s. 33.

19F. (1) The power to make civil procedure rules under section 48 shall include power to make rules as to the circumstances in which an order under section 19D or 19E can be made; and any such rules may include such incidental, supplementary and consequential provisions as the authority making the rules may consider necessary or expedient.

(2) Without prejudice to the generality of subsection (1), civil procedure rules shall or may be made under section 48 for the purpose of ensuring that the costs of and incidental to proceedings for an order under section 19D or 19E incurred by the person against whom the order is sought shall be awarded to that person unless the Court otherwise directs.

(3) In sections 19D, 19E and 19G—

“personal injuries” includes any disease and any impairment of a person's physical or mental condition.

Application to Crown of sections 19C to 19F. 1970, c. 31, s. 35.

19G. (1) Section 19C shall bind the Crown so far as it relates to property (within the meaning of that section) as to which it appears to the court that it may become the subject matter of subsequent proceedings involving a claim in respect of personal injuries to a person or in respect of a person's death.

(2) Sections 19D, 19E and 19F shall bind the Crown.

(3) A Court shall not make an order under section 19C, 19D or 19E if it considers that compliance with the order, if made, would be likely to be injurious to the public interest.”.

Item. Ordinance. Amendment.

3. The following new section is added after section 48—

"Orders for interim payment. 1969, c. 58, s. 20.

48A. (1) The power to make civil procedure rules under section 48 shall include power by any such rules to make provision for enabling the Court in which any proceedings are pending, in such circumstances as may be specified in the rules, to make an order requiring a party to the proceedings to make an interim payment of such amount as may be specified in the order, either by payment into court or (if the order so provides) by paying it to another party to the proceedings.

(2) Where any such rules make provision in accordance with subsection (1), the rules may include provision for enabling a party to any proceedings who, in pursuance of such an order, has made an interim payment to recover the whole or part of the amount of the payment in such circumstances, and from such other party to the proceedings, as may be determined in accordance with the rules.

(3) Any rules made by virtue of this section may include such incidental, supplementary and consequential provisions as the authority making the rules may consider necessary or expedient.

(4) Nothing in this section shall be construed as affecting the exercise of any power relating to costs, including any power to make rules relating to costs.

(5) In this section—

(a) "interim payment", in relation to a party to any proceedings, means a payment on account of any damages, debt or other sum (excluding any costs) which that party may be held liable to pay to or for the benefit of another party to the proceedings if a final judgment or order of the Court in the

Item. Ordinance. Amendment.

proceedings is given or made in favour of that other party; and

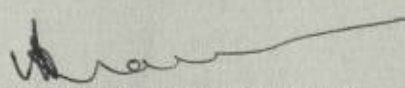
(b) any reference to a party to any proceedings includes a reference to any person who for the purposes of the proceedings acts as next friend or guardian of a party to the proceedings.

1969, c. 58,
s. 34(3).


(6) This section shall bind the Crown so far as (but no further than) any proceedings to which the section is applicable can be brought by or against the Crown in accordance with the Crown Proceedings Ordinance."

(Cap. 300.)

Passed by the Hong Kong Legislative Council this 16th day of December, 1970.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

HONG KONG

NO. 101 OF 1970.



I assent.

Church

Governor.

17th December, 1970.

An Ordinance to repeal certain Ordinances.

[18th December, 1970.]

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

1. This Ordinance may be cited as the Law Revision (Miscellaneous Repeals) Ordinance 1970. Short title.

2. The Ordinances specified in the Schedule are repealed. Repeals Schedule.

SCHEDULE.

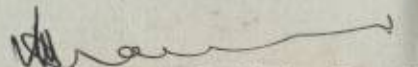
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Item.

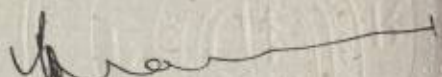
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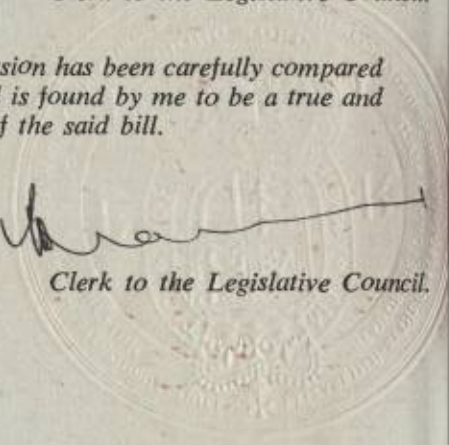
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|----|---|--------------|
| 1. | Stonecutters Island Ordinance. | (Cap. 201.) |
| 2. | District Watch Force Ordinance. | (Cap. 230.) |
| 3. | Emergency Registration of China Companies Ordinance. | (Cap. 261.) |
| 4. | Services Welfare Association Incorporation Ordinance. | (Cap. 1075.) |

Passed by the Hong Kong Legislative Council this 16th day of December, 1970.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

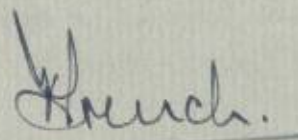


HONG KONG

No. 102 OF 1970.



I assent.


Governor.

17th December, 1970.

An Ordinance to make further and better provision for the prevention of bribery and for purposes necessary thereto or connected therewith.

[]

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

PART I.

PRELIMINARY.

1. This Ordinance may be cited as the Prevention of Bribery Ordinance 1970, and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

2. (1) In this Ordinance, unless the context otherwise requires—

Interpretation.

“advantage” means—

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;

- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (e) the exercise or forbearance from the exercise of any right or any power or duty; and
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e);

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

"banker's books" means—

- (a) any ledger, day book, cash book, account book or other book whatsoever, and
- (b) any computer records, used in the ordinary business of a bank;

"child" includes a child who is illegitimate or adopted, a foster child and a step-child;

"company books" means the annual return and balance sheets and any ledger, day book, cash book, account book, bank book or other book used in the ordinary business of a company;

"court" includes a magistrate hearing proceedings with a view to committal for trial under section 85 of the Magistrates Ordinance;

"Crown servant" means a person holding an office of emolument, whether permanent or temporary, under the Crown in right of the Government;

"Director" means the person appointed by the Governor to be in charge of the Anti-Corruption Office;

"entertainment" means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions;

"parents" includes parents-in-law and step-parents;

"principal" includes—

- (a) an employer;
- (b) a beneficiary under a trust;
- (c) a trust estate as though it were a person;
- (d) any person beneficially interested in the estate of a deceased person;
- (e) the estate of a deceased person as though it were a person; and
- (f) in the case of an employee of a public body, the public body;

"public body" means—

- (a) the Government;
- (b) the Executive Council;
- (c) the Legislative Council;
- (d) the Urban Council;
- (e) any board, commission, committee or other body, whether paid or unpaid, appointed by or on behalf of the Governor or the Governor in Council; and
- (f) any board, commission, committee or other body specified in the Schedule;

Schedule.

"public servant" means any employee or member of a public body, whether temporary or permanent and whether paid or unpaid, but the holding of a share in a company which is a public body shall not of itself constitute the holder a public servant;

"spouse" includes a concubine.

(2) For the purposes of this Ordinance—

- (a) a person offers an advantage if he, or any other person acting on his behalf, directly or indirectly gives, affords or holds out, or agrees, undertakes or promises to give, afford or hold out, any advantage to or for the benefit of or in trust for any other person;
- (b) a person solicits an advantage if he, or any other person acting on his behalf, directly or indirectly demands, invites, asks for or indicates willingness to receive, any advantage, whether for himself or for any other person; and
- (c) a person accepts an advantage if he, or any other person acting on his behalf, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any advantage, whether for himself or for any other person.

PART II.
OFFENCES.

Soliciting or accepting an advantage.

3. Any Crown servant who, without the general or special permission of the Governor, solicits or accepts any advantage shall be guilty of an offence.

Bribery.

4. (1) Any person who, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's—

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(2) Any public servant who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his—

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public servant in his or that other public servant's capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

5. (1) Any person who, without lawful authority or reasonable excuse, offers an advantage to a public servant as an inducement to or reward for or otherwise on account of such public servant's giving assistance or using influence in, or having given assistance or used influence in—

- (a) the promotion, execution, or procuring of—
 - (i) any contract with a public body for the performance of any work, the providing of any service, the doing

Bribery for giving assistance, etc. in regard to contracts.

of any thing or the supplying of any article, material or substance, or

(ii) any subcontract to perform any work, provide any service, do any thing or supply any article, material or substance required to be performed, provided, done or supplied under any contract with a public body; or

- (b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in any such contract or subcontract as aforesaid,

shall be guilty of an offence.

(2) Any public servant who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his giving assistance or using influence in, or having given assistance or used influence in—

- (a) the promotion, execution or procuring of, or
- (b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in,

any such contract or subcontract as is referred to in subsection (1) shall be guilty of an offence.

6. (1) Any person who, without lawful authority or reasonable excuse, offers any advantage to any other person as an inducement to or a reward for or otherwise on account of the withdrawal of a tender, or the refraining from the making of a tender, for any contract with a public body for the performance of any work, the providing of any service, the doing of any thing or the supplying of any article, material or substance, shall be guilty of an offence.

Bribery for procuring withdrawal of tenders.

(2) Any person who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or a reward for or otherwise on account of the withdrawal of a tender, or the refraining from the making of a tender, for such a contract as is referred to in subsection (1), shall be guilty of an offence.

7. (1) Any person who, without lawful authority or reasonable excuse, offers any advantage to any other person as an inducement to or reward for or otherwise on account of that other person's refraining or having refrained from bidding at any auction conducted by or on behalf of any public body, shall be guilty of an offence.

Bribery in relation to auctions.

(2) Any person who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to

or reward for or otherwise on account of his refraining or having refrained from bidding at any auction conducted by or on behalf of any public body, shall be guilty of an offence.

Bribery of public servants by persons having dealings with public bodies.

8. (1) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any advantage to any Crown servant employed in that department, office or establishment of the Government, shall be guilty of an offence.

(2) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with any other public body, offers any advantage to any public servant employed by that public body, shall be guilty of an offence.

Corrupt transactions with agents.

9. (1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his—

- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
- (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,

shall be guilty of an offence.

(2) Any person who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's—

- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
- (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,

shall be guilty of an offence.

(3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document—

- (a) in respect of which the principal is interested; and
- (b) which contains any statement which is false or erroneous or defective in any material particular; and
- (c) which to his knowledge is intended to mislead the principal,

shall be guilty of an offence.

(4) For the purposes of subsections (1) and (2), the permission of a principal to the soliciting or accepting of any advantage by his agent shall, without prejudice to the generality of the defence of lawful authority or reasonable excuse, constitute a reasonable excuse.

10. (1) Any person who, being or having been a Crown servant—

- (a) maintains a standard of living above that which is commensurate with his present or past official emoluments; or
- (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments,

shall, unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control, be guilty of an offence.

(2) No prosecution for an offence under subsection (1) shall be instituted without the consent in writing of the Attorney General, who shall, before consenting to the institution of a prosecution against a person for such an offence, inform that person that a prosecution against him for such an offence is under consideration and give him an opportunity of making representations in writing to the Attorney General.

(3) Neither section 7 of the Legal Officers Ordinance nor section 43 of the Interpretation and General Clauses Ordinance shall apply to or in respect of this section.

(4) Any representations in writing made by a person to the Attorney General under subsection (2) shall not, without the consent of that person, be admissible in evidence in any proceedings against him for any offence.

(5) In this section, "official emoluments" includes a pension or gratuity payable under the Pensions Ordinance.

11. (1) If, in any proceedings for an offence under any section in this Part, it is proved that the accused accepted any advantage, believing or suspecting or having grounds to believe or suspect that the advantage was given as an inducement to or reward for or otherwise on account of his doing or forbearing to do, or having done or forborne to do, any act referred to in that section, it shall be no defence that—

- (a) he did not actually have the power, right or opportunity so to do or forbear;
- (b) he accepted the advantage without intending so to do or forbear; or
- (c) he did not in fact so do or forbear.

Possession of unexplained property.

(Cap. 87.)
(Cap. 1.)

(Cap. 89.)

Given and acceptor of bribe to be guilty notwithstanding that purpose not carried out, etc.

(2) If, in any proceedings for an offence under any section in this Part, it is proved that the accused offered any advantage to any other person as an inducement to or reward for or otherwise on account of that other person's doing or forbearing to do, or having done or forborne to do, any act referred to in that section, believing or suspecting or having reason to believe or suspect that such other person had the power, right or opportunity so to do or forbear, it shall be no defence that such other person had no such power, right or opportunity.

Penalty for offences.

12. (1) Any person guilty of an offence under this Part, other than an offence under section 3, shall be liable—

(a) on conviction on indictment—

(i) for an offence under section 5 or 6, to a fine of one hundred thousand dollars and to imprisonment for ten years, and

(ii) for any other offence under this Part, to a fine of one hundred thousand dollars and to imprisonment for seven years; and

(b) on summary conviction, to a fine of fifty thousand dollars and to imprisonment for three years,

and shall be ordered to pay to such person or public body and in such manner as the court directs, the amount or value of any advantage received by him, or such part thereof as the court may specify.

(2) Any person guilty of an offence under section 3 shall be liable on conviction to a fine of twenty thousand dollars and to imprisonment for one year.

PART III.

POWERS OF INVESTIGATION.

Special powers of investigation.

13. (1) The Attorney General, if satisfied that there are reasonable grounds for suspecting that an offence under this Ordinance has been committed by any person, may, for the purposes of an investigation into such offence, authorize in writing any police officer of or above the rank of senior inspector or any Crown servant specified in such authorization, to exercise the following powers on the production by him of the authorization—

(a) to investigate and inspect any share account, purchase account, club account, subscription account, investment account, trust account, mutual or trust fund account, expense account, bank account or other account of what-

soever kind or description, any safe-deposit box, and any banker's books or company books, of or relating to any person named or otherwise identified in such authorization;

(b) to require from any person the production of any accounts, books, documents, safe-deposit box or other article of or relating to any person named or otherwise identified in such authorization which may be required for the purpose of such investigation and the disclosure of all or any information relating thereto, and to take copies of such accounts and books or of any relevant entry therein.

(2) (a) Every authorization given under subsection (1) shall be deemed also to authorize the police officer or Crown servant specified therein to require from any person information as to whether or not at any bank, company or other place there is any account, book, document, safe-deposit box or other article liable to investigation, inspection or production under such authorization.

(b) A requirement under paragraph (a) shall be made in writing and any statement therein as to the existence of the appropriate authorization under subsection (1) shall be accepted as true without further proof of the fact.

(3) Any person who, having been lawfully required under this section to disclose any information or to produce any accounts, books, documents, safe-deposit box or other article to a police officer or a Crown servant authorized under subsection (1), shall, notwithstanding the provisions of any other law to the contrary save only the provisions of section 4 of the Inland Revenue Ordinance, comply with such requirement, and any such person who fails or neglects, without reasonable excuse, so to do, and any person who obstructs any such police officer or Crown servant in the execution of the authorization given under subsection (1), shall be guilty of an offence and shall be liable on conviction to a fine of twenty thousand dollars and to imprisonment for one year.

(Cap 112.)

(4) Any person who falsely represents that an appropriate authorization has been given under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of twenty thousand dollars and to imprisonment for one year.

14. (1) In the course of any investigation into, or proceedings relating to, an offence alleged or suspected to have been committed

Power to obtain information.

by any person under this Ordinance, the Attorney General may by written notice require—

- (a) such person to furnish to the Director a statutory declaration or, as the Attorney General sees fit, a statement in writing, enumerating—
 - (i) the property, being property in such categories or classes of property, movable or immovable, as may be specified in such notice, belonging to or possessed by, or which at any time during the year immediately preceding the date of such notice or during such shorter period as may be specified in such notice belonged to or was possessed by, such person, his agents or trustees, specifying in respect of each property enumerated whether it is or was possessed jointly (and, if so, with whom) or severally; and specifying the date upon which each such property was acquired and whether by purchase, gift, bequest, inheritance or otherwise, and, where it was acquired by purchase, specifying the consideration paid therefor; and in respect of any property enumerated which has been disposed of, whether by sale, gift or otherwise, at any time during the year immediately preceding the date of the notice or such shorter period as aforesaid, specifying how and to whom the same was disposed of and, where it was disposed of by sale, specifying the consideration given therefor;
 - (ii) all expenditure incurred by such person in respect of himself, his spouse, parents or children with regard to living expenses and other private expenditure during any period specified in such notice (not, however, being a period commencing earlier than one year from the date of the notice);
 - (iii) all liabilities incurred by such person, his agents or trustees, at such time or during such period as may be specified in such notice (not, however, being a time or a period commencing earlier than one year from the date of the notice), and specifying in respect of each such liability whether it was incurred jointly (and, if so, with whom) or severally;
- (b) such person to furnish to the Director a statutory declaration or, as the Attorney General sees fit, a statement in writing of any money or other property sent out of the Colony by him or on his behalf during such period as may be specified in the notice;
- (c) any other person to furnish to the Director a statutory declaration or, as the Attorney General sees fit, a state-

ment in writing enumerating the property, being property in such categories or classes of property, movable or immovable, as may be specified in such notice, belonging to or possessed by him, if the Attorney General believes that such information may assist the investigation or proceedings;

- (d) any other person whom the Attorney General believes to be acquainted with any facts relevant to such investigation or proceedings to furnish to the Director all information in his possession respecting such matters as are specified in the notice or, as the Attorney General sees fit, to appear before the Director or such other person specified in the notice and to answer orally on oath or affirmation any questions relevant thereto; and, on demand by the Director or such other person, to produce or deliver or otherwise furnish to him the original or a copy of any document in his possession or under his control which, in the opinion of the Director or such other person, may be relevant to such investigation or proceedings; for the purposes of this paragraph the Director or such other person shall have authority to administer any oath or take any affirmation;
 - (e) the person in charge of any public body or any department, office or establishment of any public body to produce or furnish to the Director any document or a copy, certified by the person in charge, of any document which is in his possession or under his control;
 - (f) the manager of any bank to give to the Director copies of the accounts of such person or of his spouse, parents or children at the bank as shall be named in the notice.
- (2) Without prejudice to the generality thereof, the powers conferred by paragraph (d) of subsection (1) include the power to require information from, and to require the attendance for the purpose of answering questions of—
- (a) any person, or any employee of any person, who has acted for or is acting for any party to any particular land or property transaction; and
 - (b) any person, or any employee of any person, who was concerned in the passing of any consideration, brokerage, commission or fee, or in the clearing or collection of any cheque or other instrument of exchange, respecting any particular land or property transaction,

as to any of the following matters, that is to say—

- (i) the full names (including aliases) and addresses of any of the persons referred to in paragraphs (a) and (b) and any other information in his possession which may be helpful in identifying or locating any such person;
- (ii) any consideration, brokerage, commission or fee paid or received in respect of or in connexion with any such land or property transaction; and
- (iii) the terms and conditions of any such land or property transaction.

(3) A notice under subsection (1) shall be served on the person to whom it is addressed either personally or by registered post addressed to his last known place of business or residence.

(4) Every person on whom a notice under subsection (1) is served shall, notwithstanding the provisions of any other law to the contrary save only the provisions of section 4 of the Inland Revenue Ordinance, comply with the terms of that notice within such time as may be specified therein or within such further time as the Attorney General may, in his discretion, authorize, and any person on whom such a notice has been served, other than the person referred to in paragraphs (a) and (b) of subsection (1), who, without reasonable excuse, neglects or fails so to comply shall be guilty of an offence and shall be liable on conviction to a fine of twenty thousand dollars and to imprisonment for one year.

15. (1) Save as is provided in this section, nothing in this Ordinance shall require the disclosure by a legal adviser of any privileged information, communication, book, document or other article.

(2) Subject to subsection (4), the information referred to in subsection (2) of section 13 and in subsection (2) of section 14 may be required from a legal adviser as from any other person, notwithstanding that the effect of compliance with such a requirement would be to disclose any privileged information or communication.

(3) Subject to subsection (4), a legal adviser may be required by notice under paragraph (d) of subsection (1) of section 14—

- (a) to state whether, at any time during such period as is specified in the notice, he has acted on behalf of any person named or otherwise identified in the notice in connexion with—

- (i) the transfer by such person of any moneys out of the Colony; or

(Cap. 112.)

Legal advisers and privileged information.

- (ii) the investment by such a person within or outside the Colony of any moneys; and

- (b) if so, to furnish information in his possession with respect thereto, being information as to—

- (i) the date of the transfer or investment;
- (ii) the amount of the transfer or investment;

(iii) in the case of a transfer, the name and address of the bank and the name and number (if any) of the account to which the money was transferred;

(iv) in the case of an investment, the nature of the investment,

notwithstanding that the effect of compliance with such a requirement would be to disclose any privileged information or communication.

(4) Nothing in subsection (2) or (3) shall require a legal adviser to comply with any such requirement as is specified therein to the extent to which such compliance would disclose any privileged information or communication which came to his knowledge for the purpose of any proceedings, begun or in contemplation, before a court or to enable him to give legal advice to his client.

(5) In this section “legal adviser” means counsel or a solicitor.

(6) The protection conferred by this section on a legal adviser shall extend to a clerk or servant of or employed by a legal adviser.

16. (1) Any police officer of or above the rank of senior inspector and any Crown servant conducting an investigation into an offence alleged or suspected to have been committed under this Ordinance—

- (a) may apply to any Crown servant or any other person for assistance in the exercise of his powers or the discharge of his duties under this Ordinance;

- (b) may for the purposes of such investigation, with the written consent of the Attorney General and with such assistance as may be necessary, enter and search any office, registry or other room of or used by a public body:

Provided that the Governor may by order exempt any office, registry or room from entry and search under the provisions of this paragraph.

Powers of search, and to obtain assistance.

- (2) Any person who—
- (a) when requested under paragraph (a) of subsection (1) to render assistance, without reasonable excuse neglects or fails to render such assistance; or
- (b) obstructs or resists any police officer or Crown servant in the exercise of the powers of entry and search conferred by paragraph (b) of subsection (1),

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

17. (1) If it appears to the Attorney General, or to the Director, that there is reasonable cause to believe that in any place other than an office, registry or other room of or used by a public body there is any document or thing containing any evidence of the commission of an offence under this Ordinance, the Attorney General or the Director may, by warrant directed to any police officer, empower such police officer to enter such place, by force if necessary, and there to search for, seize and detain any such document or thing.

(2) Without prejudice to any other law relating to entry and search, the chambers of counsel or the office of a solicitor are not subject to entry and search under this section or any warrant issued under this section except in the course of investigating an offence under this Ordinance alleged or suspected to have been committed by that counsel or that solicitor, as the case may be, or by his clerk or any servant employed by him in such chambers or office.

(3) Any person who obstructs or resists the Director or any police officer in the exercise of the powers of entry and search under this section shall be guilty of an offence and shall be liable on conviction to a fine of twenty thousand dollars and to imprisonment for one year.

18. (1) If, in the course of an investigation of an offence alleged or suspected to have been committed by any person under this Ordinance, it appears to the Director that such person is preparing or about to leave Hong Kong, the Director, or any gazetted police officer or Crown servant authorized in that behalf by the Director, may apply to a magistrate for a warrant for the apprehension of such person and his production before a magistrate; and where, on any such application, it is made to appear to the magistrate upon the oath of any person that there is reasonable cause to believe that the person whose apprehension is sought is preparing or about to leave Hong Kong and that,

Further powers of search and seizure.

Bail from persons about to leave Hong Kong after commencement of investigations.

in all the circumstances, the investigation could not reasonably have been completed before the date of the application, he may issue a warrant to apprehend such person and to cause him to be brought before a magistrate as soon after apprehension as is practicable to be dealt with according to subsection (3).

(2) The provisions with reference to the forms of warrants of apprehension, the directions to be contained therein and the execution thereof contained in the Magistrates Ordinance shall apply, *mutatis mutandis*, to warrants issued under subsection (1).

(3) On the production before a magistrate of any person apprehended pursuant to a warrant issued under subsection (1), the magistrate shall, unless the person apprehended can satisfy the magistrate that he is not preparing or about to leave the Colony and that he has no intention of leaving the Colony, offer to admit him to bail, on his procuring or producing such surety or sureties as, in the opinion of the magistrate, will be sufficient to ensure his appearance on such day and at such time and place as the magistrate decides and, thereafter, on such subsequent day, and at such time and place on that day, as may from time to time on his appearing be decided by a magistrate; and thereupon the magistrate shall take the recognizance of such person and his surety or sureties conditioned for the appearance of such person on such day and at such time and place as that magistrate shall have decided and, thereafter, on such subsequent day, and at such time and place on that day, as may be decided from time to time on his appearing before a magistrate, and that he will then surrender and not depart without leave of a magistrate.

(4) In deciding the day on which a person admitted to bail under subsection (3) is to appear or to appear again, regard shall be had by the magistrate to the time reasonably necessary for completion of the investigation of the offence alleged or suspected to have been committed by such person and to any special hardship to such person likely to result from his being on bail, but the person shall not be required to appear or to appear again on a day later than twenty-eight days from the date of his apprehension pursuant to the warrant issued under subsection (1) unless the magistrate is of the opinion that, having regard to the gravity of the offence alleged or suspected to have been committed by such person, it is expedient to fix a later date.

(5) If any person offered bail under this section refuses to enter into the recognizance required or makes default in finding any surety or sureties as may be required, the magistrate shall, by warrant, commit him to prison there to be safely kept—

- (a) until he enters into such recognizance or finds such surety or sureties, as the case may be; or

(Cap. 227.)

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

whichever occurs first.

(6) The provisions of section 62 (power to reduce or vary security), section 63 (recognizance taken out of court), section 64 (mode of giving security and enforcement thereof) and section 65 (enforcing recognizance for appearance) of the Magistrates Ordinance shall apply, *mutatis mutandis*, to recognizances under this section.

(Cap. 227.)

(7) Proceedings before a magistrate under this section shall be deemed to be a proceeding which a magistrate has power to determine in a summary way within the meaning of section 105 and subsection (3) of section 113 of the Magistrates Ordinance, and, accordingly, the provisions of Part VII of that Ordinance (which relate to appeals) shall apply, *mutatis mutandis*, to appeals against an order or determination of a magistrate under this section.

(Cap. 227.)

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

PART IV.

EVIDENCE.

19. In any proceedings for an offence under this Ordinance, it shall not be a defence to show that any such advantage as is mentioned in this Ordinance is customary in any profession, trade, vocation or calling.

Custom not to be a defence.

20. In any proceedings against a person for an offence under this Ordinance—

Admissibility of accused's declarations and statements.

- (a) any statutory declaration or statement in writing furnished by him in compliance or purported compliance with the terms of a notice served upon him under paragraph (a) or (b) of subsection (1) of section 14 shall be admissible in evidence and, if such person tenders himself as a witness, any such declaration or statement may be used in cross-examination and for the purpose of impeaching his credit;

- (b) the fact of his failure in any respect to comply with the terms of a notice served on him under paragraph (a) or (b) of subsection (1) of section 14 may be adduced in evidence and made the subject of comment by the court and the prosecution.

21. (1) In any proceedings against a person for an offence under Part II (other than section 10), the fact that the accused was, at or about the date of or at any time since the date of the alleged offence, or is in possession, for which he cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income, or that he had, at or about the date of or at any time since the date of the alleged offence, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken by the court—

Evidence of pecuniary resources or property.

- (a) as corroborating the testimony of any witness giving evidence in such proceedings that the accused accepted or solicited any advantage; and
- (b) as showing that such advantage was accepted or solicited as an inducement or reward.

(2) For the purposes of subsection (1) a person accused of an offence under Part II (other than section 10) shall be presumed to be or to have been in possession of pecuniary resources or property, or to have obtained an accretion thereto, where such resources or property are or were held, or such accretion was obtained, by any other person whom, having regard to his relationship to the accused or to any other circumstances, there is reason to believe is or was holding such resources or property or obtained such accretion in trust for or otherwise on behalf of the accused or as a gift from the accused.

22. Notwithstanding any rule of law or practice to the contrary, no witness shall, in any proceedings for an offence under Part II, be regarded as an accomplice by reason only of any payment or delivery by him or on his behalf of any advantage to the person accused or, as the case may be, by reason only of any payment or delivery of any advantage by or on behalf of the person accused to him.

Person giving or receiving bribe not to be regarded as an accomplice.

23. In or for the purpose of any proceedings for an offence under Part II, the court may, at the request in writing of the Attorney General, inform any person accused or suspected of such offence or of any other offence under Part II that, if he gives full and true evidence in such proceedings and, where such proceedings are proceedings held with a view to committal for

Power to secure evidence of parties to offences.

(Cap. 227.)

trial under section 85 of the Magistrates Ordinance, in the trial before the Supreme Court of all things as to which he is lawfully examined, he will not be prosecuted for any offence disclosed by his evidence; and upon such person giving evidence in any such proceedings no prosecution against him for any offence disclosed by his evidence therein shall be instituted or carried on unless the court before which he gives evidence considers that he has wilfully withheld evidence or given false testimony and so certifies to the Attorney General in writing.

Burden of proof.

24. In any proceedings against a person for an offence under this Ordinance, the burden of proving a defence of lawful authority or reasonable excuse shall lie upon the accused.

Presumption of corruption in certain cases.

25. Where, in any proceedings for an offence under section 4 or 5, it is proved that the accused gave or accepted an advantage, the advantage shall be presumed to have been given and accepted as such inducement or reward as is alleged in the particulars of the offence unless the contrary is proved.

Comment on failure of accused to give evidence.

26. Notwithstanding any law or practice to the contrary, it shall be lawful for the court in any proceedings for an offence under Part II to comment on the failure of the accused to give evidence on oath.

PART V.

MISCELLANEOUS.

Frivolous, false or groundless complaints to be reported to the Attorney General.

27. At the conclusion of proceedings for an offence under this Ordinance, the court may, if of the opinion that the complainant or any other person has knowingly, and with intent to harm the accused, made a false, frivolous or groundless allegation against him, so certify in writing and transmit the certificate and the record of the proceedings to the Attorney General.

Costs on acquittal.

28. Where a person is acquitted after trial before the Supreme Court or the District Court for an offence under Part II, the court may award costs to that person, such costs to be taxed and paid out of the general revenue.

Offence of making a false report of the commission of offence, etc.

29. Any person who, during the course of an investigation into, or in any proceedings relating to, an offence alleged or suspected to have been committed under this Ordinance, knowingly—

(a) makes or causes to be made a false report of the commission of an offence under this Ordinance to—

(i) any police officer specified in an authorization given under section 13; or

(ii) any Crown servant specified in an authorization given under section 13; or

(b) misleads—

(i) any police officer specified in an authorization given under section 13; or

(ii) any Crown servant specified in an authorization given under section 13,

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

30. Any person who, without lawful authority or reasonable excuse, discloses to any person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed by him under this Ordinance the fact that he is subject to such an investigation or any details of such investigation, or discloses to any other person either the identity of any person who is the subject of such an investigation or any details of such an investigation, shall be guilty of an offence and shall be liable on conviction to a fine of twenty thousand dollars and to imprisonment for one year.

Offence to disclose identity, etc. of persons being investigated.

31. (1) No prosecution for an offence under Part II shall be instituted except with the consent of the Attorney General.

Consent of Attorney General required for prosecution of offences under Part II.

(2) Notwithstanding subsection (1) of this section a person may be charged with an offence under Part II (other than an offence under section 10) and may be arrested therefor, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail notwithstanding that the consent of the Attorney General to the institution of a prosecution for the offence has not been obtained, but no such person shall be remanded in custody or on bail for longer than three days on such charge unless in the meantime the consent of the Attorney General aforesaid has been obtained.

(3) When a person is brought before a magistrate before the Attorney General has consented to the prosecution, the charge shall be explained to the person accused but he shall not be called upon to plead and the provisions of the law for the time being in force relating to criminal procedure shall be modified accordingly.

32. (1) If, on the trial of any person for any offence under Part II, it is not proved that the accused is guilty of the offence charged but it is proved that the accused is guilty of some other offence under Part II, the accused may, notwithstanding the

Alternative convictions, and amending particulars.

absence of consent under section 10 or 31 in respect of such other offence, be convicted of such other offence, and be liable to be dealt with accordingly.

(2) If on the trial of any person for any offence under Part II there is any material variance between the particulars of the offence charged and the evidence adduced in support thereof, such variance shall not, of itself, entitle the accused to an acquittal of the offence charged if, in the opinion of the court, there is *prima facie* evidence of the commission of that offence, and in such a case the court may, notwithstanding the absence of consent under section 10 or 31 in respect of the particulars supported by the evidence adduced, make the necessary amendment to the particulars, and shall thereupon read and explain the same to the accused and the parties shall be allowed to recall and examine on matters relevant to such amendment any witness who may have been examined and, subject to the provisions of subsection (3), to call any further witness.

(3) If an amendment is made under subsection (2) after the case for the prosecution is closed no further witness may be called by the prosecution other than such and on such matters only as it would, apart from the provisions of this subsection, be permissible to call and put in evidence in rebuttal.

(4) Nothing in this section shall exclude the application of any other law whereby a person may be found guilty of an offence other than that with which he is charged.

33. Any person convicted of an offence under Part II shall, by reason of such conviction, be disqualified for a period of seven years from the date of such conviction from—

- (a) being registered as an elector or voting at any election under the Urban Council Ordinance;
- (b) being or being elected or appointed as a member of the Executive Council, the Legislative Council, the Urban Council and any other public body.

34. (1) The provisions contained in Part III shall apply to and in respect of offences suspected or alleged to have been committed under the Prevention of Corruption Ordinance repealed by section 36 as they apply to and in respect of offences suspected or alleged to have been committed under this Ordinance.

(2) The references in sections 27, 29 and 30 to this Ordinance shall be deemed to include a reference to the Prevention of Corruption Ordinance repealed by section 36.

Effect of conviction of an offence under Part II.

(Cap. 101.)

Extension of certain provisions in relation to offences under repealed Ordinance.

(Cap. 215.)

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

Amendment of Schedule.

36. (1) The Prevention of Corruption Ordinance is repealed.

Repeal and consequential amendment.
(Cap. 215.)
(Cap. 101.)

(2) The Urban Council Ordinance is amended—

(a) in section 6, by deleting from paragraph (d) "relating to corrupt and illegal practices"; and

(b) in section 17, by—

(i) deleting the full stop at the end of paragraph (b) of subsection (1) and substituting a semicolon; and

(ii) adding thereafter the following new paragraph—

"(c) any person convicted of any offence under Part II of the Prevention of Bribery Ordinance 1970."

(102 of 1970.)

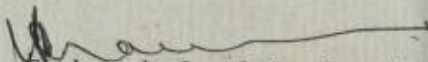
SCHEDULE.

[ss. 2(1) & 35.]

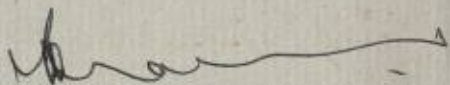
PUBLIC BODIES.

1. Hong Kong Electric Company Limited.
2. China Light and Power Company Limited.
3. Hong Kong and China Gas Company Limited.
4. Hong Kong Telephone Company Limited.
5. Cable and Wireless Limited.
6. China Motor Bus Company Limited.
7. Kowloon Motor Bus Company (1933) Limited.
8. Hong Kong Tramways Limited.
9. Peak Tramways Company Limited.
10. "Star" Ferry Company Limited.
11. Hong Kong and Yaumati Ferry Company Limited.
12. Cross-Harbour Tunnel Company Limited.
13. Hong Kong Commercial Broadcasting Company Limited.
14. Rediffusion (Hong Kong) Limited.
15. Television Broadcasts Limited.
16. Hong Kong Housing Authority.
17. Hong Kong Housing Society.
18. Hong Kong Settlers Housing Corporation Limited.

Passed by the Hong Kong Legislative Council this 16th day of December, 1970.


Clerk to the Legislative Council.

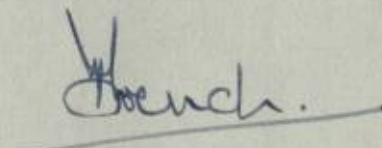
This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.


Clerk to the Legislative Council.

HONG KONG

NO. 103 OF 1970.

I assent.


Governor.

17th December, 1970.

An Ordinance to amend the District Court (Civil Jurisdiction and 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 District Court (Civil Jurisdiction and Procedure) (Amendment) Ordinance 1970 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

2. Section 2 of the principal Ordinance is amended by deleting the definition of "Code".

Amendment of section 2.
(Cap. 336.)

3. Section 9 of the principal Ordinance is amended in subsection (1) by deleting "Code or by any other rules" and substituting the following—

Amendment of section 9.

"Rules".

Amendment of section 15.

4. Section 15 of the principal Ordinance is amended by adding, after subsection (3), the following new subsection—

“(4) This section shall apply *mutatis mutandis* when any action, counterclaim or matter is ordered to be transferred from the District Court to the Supreme Court.”.

Repeal of sections 27 to 33.

5. The principal Ordinance is amended in Part III—

- (a) by deleting the subheading “Parties.”;
- (b) by deleting the subheading “Commencement of Proceedings and Framing of Issues.”;
- (c) by repealing sections 27, 28 and 29;
- (d) by deleting the subheading “Summary Judgment, Trial, etc.”;
- (e) by repealing sections 30, 31, 32 and 33.

Amendment of section 35.

6. Section 35 of the principal Ordinance is amended in subsection (1) by deleting “Code” and substituting the following—

“Rules of the Supreme Court”.

Amendment of section 40.

7. Section 40 of the principal Ordinance is amended in subsection (3) by deleting “Code” and substituting the following—

“Rules of the Supreme Court”.

Amendment of section 41.

8. Section 41 of the principal Ordinance is amended by deleting “Code” and substituting the following—

“Rules of the Supreme Court”.

Amendment of section 45.

9. Section 45 of the principal Ordinance is amended in subsection (1)—

- (a) in paragraph (a), by inserting after “rent in arrear” the following—

“, together with such sum as would have been payable as rent if there had been no re-entry or forfeiture.”;

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

“(b) if the action does not cease as aforesaid and the Court at trial, or the Registrar in the case where an application is made to enter judgment in default of defence, is satisfied that the lessor is entitled to enforce the right of re-entry or forfeiture, the Court or the Registrar shall order possession of the land to be given to the lessor at the expiration of such

period, not being less than four weeks from the date of the order, as the Court or the Registrar thinks fit, unless within that period the lessee pays into court all the rent in arrear, together with such sum as would have been payable as rent if there had been no re-entry or forfeiture, and the costs of the action as endorsed on the writ or as may be fixed by the Court or the Registrar.”;

- (c) in paragraph (c), by inserting, after “rent in arrear” wherever they occur, the following—

“, together with such sum as would have been payable as rent if there had been no re-entry or forfeiture.”.

10. The principal Ordinance is amended by adding, after section 48, the following new section—

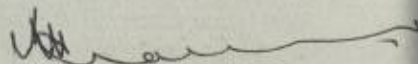
Addition of new section 49.

“Suits
Fund Rules.

49. The Chief Justice may make rules for regulating the deposit, payment, delivery and transfer in, into and out of the Court of money, securities and movable property of suitors and the evidence of such deposit, payment, delivery or transfer, and the investment of and other dealings with money, securities, and movable property in court, and the execution of orders of the Court, and the powers and duties of the Registrar with reference to such money, securities and property, and, in particular, for doing all or any of the following things—

- (a) regulating the placing on and withdrawal from deposit of money in court, and the payment or crediting of interest on money placed on deposit;
- (b) determining the smallest amount of money on deposit on which interest is to be credited to an account to which money placed on deposit belongs;
- (c) determining the time at which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
- (d) determining the cases in which interest on money placed on deposit and the dividends on any securities standing in the name of the Registrar is or are to be placed on deposit.”.

Passed by the Hong Kong Legislative Council this 16th day of December, 1970.



Clerk to the Legislative Council.

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

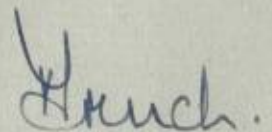


Clerk to the Legislative Council.

HONG KONG

No. 104 OF 1970.

I assent.



Governor.

17th December, 1970.

An Ordinance to amend the Li Po Chun Charitable Trust Fund Ordinance.

[18th December, 1970.]

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 Li Po Chun Charitable Trust Fund (Amendment) Ordinance 1970.

Short title.

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

Repeal and replacement of section 5. (Cap. 1110.)

"Adminis-
tration of
the fund.

5. (1) The fund shall be administered by a committee to be known as the Li Po Chun Charitable Trust Fund Committee which shall consist of—

- (a) the Secretary for Home Affairs who shall be the chairman of the committee;
- (b) a son of Li Po Chun who shall be appointed by the Governor; and

- (c) not more than four other members appointed by the Governor.
- (2) The son of Li Po Chun appointed by the Governor under paragraph (b) of subsection (1) may—
- (a) by deed appoint any descendant of Li Po Chun in his stead as a member of the committee during his lifetime; or
- (b) by will appoint any such descendant as such member from the day of his death.
- (3) The right to nominate a person as a member of the committee, conferred by subsection (2), may be passed on by any person appointed thereunder to another person who may similarly pass on such right.
- (4) Subject to subsection (5), no person shall be appointed as a member of the committee under subsection (2) or (3) unless he is a descendant of Li Po Chun.
- (5) If at any time any son or descendant of Li Po Chun, appointed as a member of the committee under subsection (1), (2) or (3), shall retire or die or be removed under the provisions of subsection (6) without having by deed or by will appointed another descendant of Li Po Chun to take his place as a member of the committee, the power of appointment shall vest in the Governor, who may appoint as a member—
- (a) a descendant of Li Po Chun; or
- (b) if no descendant of Li Po Chun is resident in the Colony and willing to be a member, any other person for so long only as no descendant of Li Po Chun is resident in the Colony and willing to be a member.
- (6) A member appointed by the Governor under paragraph (c) of subsection (1) shall hold office for three years from the date of his appointment and may be re-appointed.
- (7) A member, other than the Secretary for Home Affairs, may be removed by the Governor at any time, and shall cease to be a member if he shall be convicted of an offence punishable with imprisonment for a period exceeding twelve months, or shall be adjudged bankrupt or make a composition of arrangement with his creditors or become of unsound mind.

(8) The quorum necessary for the transaction of the business of the committee may be fixed by rules made under section 8 and, unless so fixed, four members shall form a quorum.”

3. Section 6 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 6.

“The trust. 6. (1) The trustee shall, at the direction of the committee, apply the income of the fund in the following manner—

Schedule.

(a) approximately one half of the income shall be applied for educational purposes in accordance with the Schedule;

(b) the balance of the income shall be paid to the Director of Social Welfare for use by him in the relief of distress in cases in which no adequate assistance is available from other sources.

(2) Notwithstanding subsection (1), the committee may invest any part of the income of the fund as capital, the income from which shall thereafter form part of the income of the fund.”

4. The principal Ordinance is amended by adding, at the end thereof, the following new Schedule—

Addition of Schedule.

“SCHEDULE. [s. 6.]

APPLICATION OF INCOME ALLOCATED FOR EDUCATIONAL PURPOSES.

Application.

1. Income of the fund allocated for the purposes of paragraph (a) of subsection (1) of section 6 shall be applied as specified in this Schedule.

Post-graduate award.

2. (1) One scholarship may be awarded in each year to a graduate of a university established in Hong Kong to assist in the payment of the education, travelling expenses, and maintenance in the United Kingdom for the purposes of post-graduate training for a period not exceeding two years.

(2) The holder of a scholarship awarded under subparagraph (1) shall be selected by a selection board appointed by the Director of Education.

(3) A scholarship awarded under this paragraph may be terminated at the end of one year unless the Director of Education is satisfied as to the progress and conduct of the scholar.

(4) No graduate of a university in Hong Kong shall be eligible for an award under this paragraph unless he—

- (a) is resident in Hong Kong at the date of the award; and
- (b) does not concurrently hold any other award.

Li Po Chun
Scholarships.

3. (1) From any balance remaining after making provision for the scholarship referred to in paragraph 2, the committee may award scholarships (to be known as Li Po Chun Scholarships) for the education of students resident in the Colony, in accordance with the provisions of this paragraph.

(2) Not more than seven scholarships may be awarded in each year to students in each of the following schools—

- (a) King's College;
- (b) Queen's College;
- (c) Queen Elizabeth School;
- (d) Belilios Public School.

(3) A scholarship awarded under sub-paragraph (2) shall be tenable for such period as the committee may determine.

(4) Such number of scholarships as the committee may decide may be awarded in each year to students in the University of Hong Kong and The Chinese University of Hong Kong selected by the Registrars thereof.

(5) A scholarship awarded under sub-paragraph (4) shall, subject to the Registrar of the University concerned being satisfied as to the progress and conduct of the scholarship holder, be tenable for not more than—

- (a) three years in the case of the University of Hong Kong; and
- (b) four years in the case of The Chinese University of Hong Kong.

(6) A scholarship granted under sub-paragraph (4) may be extended by the committee for longer than—

- (a) three years in the case of the University of Hong Kong; and
- (b) four years in the case of The Chinese University of Hong Kong.


(7) Not more than one hundred scholarships may be awarded in each year to students in Chinese middle schools who are selected by the Director of Education.

(8) A scholarship awarded under sub-paragraph (7) shall be tenable for such period as the committee may determine.


Additional
scholarships.

4. Any balance remaining after making provision for the scholarships referred to in paragraphs 2 and 3 may be applied in the provision of such additional scholarships for such a period and for such amounts and at such educational establishments as the committee may from time to time think fit."

Passed by the Hong Kong Legislative Council this 16th day of December, 1970.


Clerk to the Legislative Council.


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


Clerk to the Legislative Council.

HONG KONG

No. 105 OF 1970.

I assent.



French

Governor.

17th December, 1970.

An Ordinance to amend further the Public Transport Services
(Hong Kong Island) Ordinance.

[18th December, 1970.]

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 Transport
Services (Hong Kong Island) (Amendment) Ordinance 1970.

Short title.

2. Section 8 of the principal Ordinance is amended by
adding at the end thereof the following—

Amendment of
section 8.
(Cap. 317.)

“(3) The Legislative Council may, by resolution, amend
the rate of royalty specified in subsection (1), or amend that
rate for any accounting year of the Company; and any reso-
lution under this subsection may have retrospective effect
to the commencement of the accounting year of the Com-
pany in which the resolution is passed:


Provided that the rate of royalty for the accounting year
of the Company commencing on the 1st July 1969 shall be
twenty *per cent.*”.

Amendment of
section 9.

3. Section 9 of the principal Ordinance is amended, in subsection (1), by deleting "forty-six per cent of" and substituting the following—


"the royalty at the rate specified in subsection (1) of section 8 on".

Passed by the Hong Kong Legislative Council this 16th day of December, 1970.



Clerk to the Legislative Council.

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



Clerk to the Legislative Council.

PUBLIC RECORDS OFFICE
OF HONG KONG

H.K.R.S. No. ~~30~~

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