

Form 25.

- (b) in respect of the part of the building which is being occupied there is a temporary occupation permit, in the prescribed form, issued by the Building Authority, which temporary occupation permit has not expired and has not been revoked by the Building Authority.

Forms 20 and 21.

(2) On receiving an application in the appropriate prescribed form, the Building Authority may issue—

- (a) an occupation permit in respect of the new building which is the subject of such application; or
 (b) a temporary occupation permit in respect of any part of a new building which is completed and which is the subject of the application.

Form 25A.

(3) On the issue of a temporary occupation permit, the Building Authority may impose such conditions as he may consider necessary including a condition limiting the duration of the temporary occupation permit to such period as he may consider necessary and may revoke a temporary occupation permit for breach of any such condition by the service on the building owner of notice of revocation in such form as may be prescribed.

(4) If an occupation permit is issued in respect of a building, every temporary occupation permit issued in respect of any part of the building shall thereupon be deemed to have been revoked.

(5) If a temporary occupation permit in respect of a part of a building has been revoked or has expired and an occupation permit has not been issued in respect of the building, the provisions of subsection (1) shall apply to such part of the building on the expiration of seven days from the expiry or revocation of the temporary occupation permit.

(6) The Building Authority may refuse to issue a temporary occupation permit or an occupation permit under this section where—

- (a) any part of the building works has been carried out in contravention of any of the provisions of this Ordinance;
 (b) any street works required under the provisions of this Ordinance in connexion with any new private street or any access road, on to which the building abuts or fronts or by which access is obtained, remain to be completed; or

- (c) in the case of a building in which a liftway is provided, a lift has not yet been installed therein, unless the liftway has been protected to the satisfaction of the Building Authority in such manner as to avoid any danger to persons using the building.

(7) Upon the expiration of fourteen days from the date of receipt by the Building Authority of an application in the appropriate prescribed form, for a temporary occupation permit or for an occupation permit, such permit shall be deemed to have been granted unless the Building Authority has by notice in writing served on the building owner refused to issue such permit, specifying the ground for such refusal.”.

3. Section 18 of the principal Ordinance is amended by the deletion of subsection (5) and the substitution therefor of the following—

Amendment of section 18.

“(5) No person except with the prior permission in writing of the Building Authority shall occupy any building during the continuance in force of a Closure Order made in respect thereof or in contravention of any condition imposed by the Building Authority in granting such permission.”.

4. Section 20 of the principal Ordinance is amended—

Amendment of section 20.

(a) by the deletion in subsection (5) of paragraph (b) and the substitution therefor of the following—

“(b) in the case of an access road, in proportion to the areas of the lots to which the road provides access.”;

(b) by the insertion in subsection (8) after the word “street” of the following—

“and the cost of maintaining all apparatus required for such purpose”; and

(c) by the insertion at the end thereof of the following—

“(9) Where the Building Authority certifies that the lighting of an access road is in the public interest on the grounds of public safety, good order and security, the cost of the supply of gas or electricity for the lighting of the access road and the cost of maintaining all apparatus required for such purposes shall be borne by the Government.”.

5. Section 23 of the principal Ordinance is amended by the insertion in paragraph (b) of subsection (10) after the word “mortgagee” of the following—

Amendment of section 23.

“under a mortgage by deed in common form”.

Amendment
of section 26.

6. Subsection (1) of section 26 of the principal Ordinance is amended—

(a) in paragraph (c), by the deletion of the word “and” at the end of sub-paragraph (x), and by the addition at the end of sub-paragraph (xi) of the following—

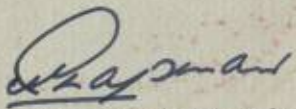
“and

(xii) fire fighting equipment;”; and

(b) by the insertion after paragraph (f) of the following—

“(ff) the demolition of buildings and the safety precautions to be taken in respect thereof;”.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 16th day of August, 1961, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

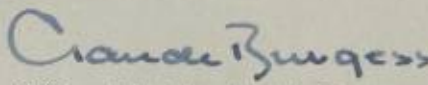
(Secretariat BL5/741/60)

HONG KONG

No. 38 OF 1961.



I assent.


Officer Administering the Government.

17th August, 1961.

An Ordinance to amend the Pharmacy and Poisons Ordinance, Chapter 138.

[18th August, 1961.]

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

1. This Ordinance may be cited as the Pharmacy and Poisons Short title. (Amendment) Ordinance, 1961.

2. Subsection (2) of section 25 of the Pharmacy and Poisons Ordinance is amended—

(a) in paragraph (d) by the deletion of the full stop at the end thereof and the substitution therefor of a semi-colon; and

(b) by the addition after paragraph (d) of the following—

“(e) to seize and detain any article, record or other thing which appears to him to constitute or contain evidence of a contravention of any of the provisions of this Ordinance.”.

Amendment
of section 25.
(Cap. 138).

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 16th day of August, 1961, and is found by me to be a true and correctly printed copy of the said Bill.

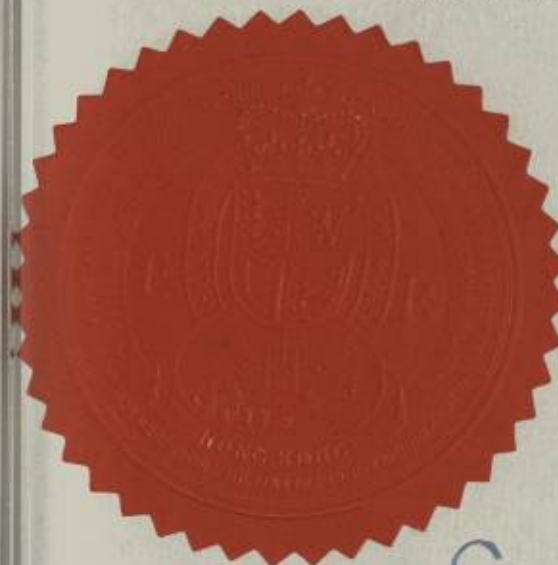
(Secretariat GR17/3231/59)



[Signature]
Deputy Clerk of Councils.

HONG KONG

NO. 39 OF 1961.



I assent.

[Signature]
Officer Administering the Government.

17th August, 1961.

An Ordinance to amend the Education Ordinance, 1952.

[18th August, 1961.]

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

1. This Ordinance may be cited as the Education (Amendment) Ordinance, 1961. Short title.

2. Section 44 of the Education Ordinance, 1952, (hereinafter referred to as the principal Ordinance) is amended— Amendment of section 44.

(a) in subsection (1) by the deletion of all words preceding paragraph (a) and the substitution therefor of the following— (33 of 1952, 1958 Reprint).

“For the purpose of maintaining any provident fund, whether established before or after the coming into operation of this Ordinance, for the benefit of teachers employed in schools to which grants in aid or subsidies are made by Government, the Governor in Council may by rules prescribe or provide for—”; and

(b) in subsection (4) by the deletion of the words "if there is an amount not exceeding two thousand five hundred dollars payable out of his account in respect of such death, such amount shall be deemed" and the substitution therefor of the following—

"the first five thousand dollars, or such lesser amount as there may be, payable out of such contributor's account in respect of his death shall be deemed".

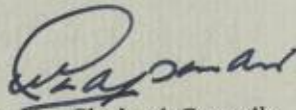
Amendment
of Third
Schedule.

3. (1) Rule 14 of the Third Schedule to the principal Ordinance is amended by the addition after paragraph (2) of the following new paragraph—

"(3) Notwithstanding the provisions of paragraph (2), the amount of any dividend, declared in accordance with the provisions of rule 12, in respect of an account which was closed in accordance with the provisions of rule 13 on or after the 31st day of August in any year and before the next following annual general meeting of the board, shall be paid to the person entitled to payment of the sum standing to the credit of such account and the amount of any debit sum due out of such account may be deducted from the balance standing to the credit of such account or may be recovered from such person, up to the limit of the amount paid to him out of such account."

(2) Subsection (1) shall be deemed to have had effect from the 19th day of December, 1952.

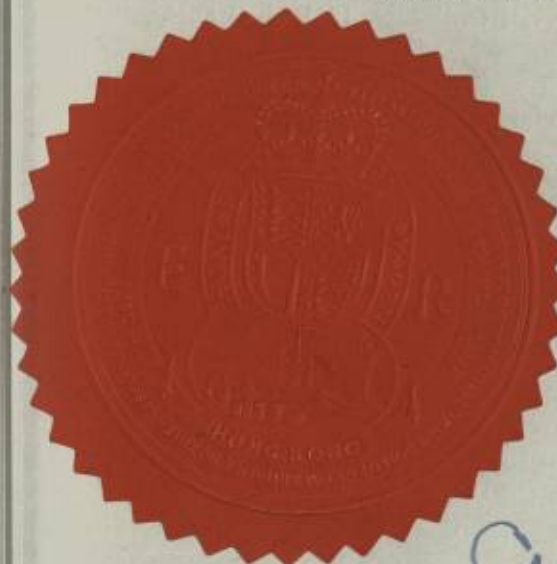
This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 16th day of August, 1961, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

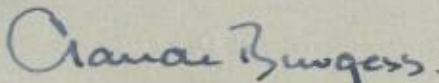
(Secretariat GR2/1936/57)

HONG KONG

No. 40 OF 1961.



I assent.


Officer Administering the Government.

7th September, 1961.

An Ordinance further to amend the Registration of Persons Ordinance, 1960.

[8th September, 1961.]

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

1. This Ordinance may be cited as the Registration of Persons (Amendment) (No. 2) Ordinance, 1961. Short title.
Repeal and replacement
of section 7.
(18 of 1960).
2. Section 7 of the Registration of Persons Ordinance, 1960, is repealed and replaced by the following—

"Power of
arrest.

7. (1) The Commissioner of Registration may, in the absence of a police officer, arrest without warrant any person who he reasonably believes has committed an offence against this Ordinance or the regulations made thereunder.

(2) The Director of Immigration or any member of the Immigration Service authorized in writing for the purposes of this section by the Director of Immigration may arrest without warrant any person who he reasonably

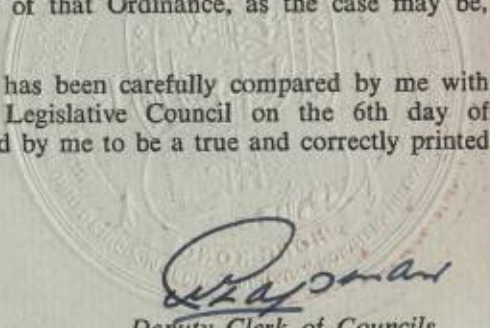
believes has committed an offence against this Ordinance or the regulations made thereunder, and, upon any such arrest, the provisions of subsection (2) of section 12 of the Immigration Service Ordinance, 1961, shall apply.

(30 of 1961).

(3) Any person arrested under the provisions of this section by the Commissioner of Registration shall forthwith be given by him into the custody of a police officer or taken by him to the nearest police station, whereupon the provisions of sections 46 and 47 of the Police Force Ordinance or of section 47 of that Ordinance, as the case may be, shall apply.”.

(Cap. 232).

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 6th day of September, 1961, and is found by me to be a true and correctly printed copy of the said Bill.

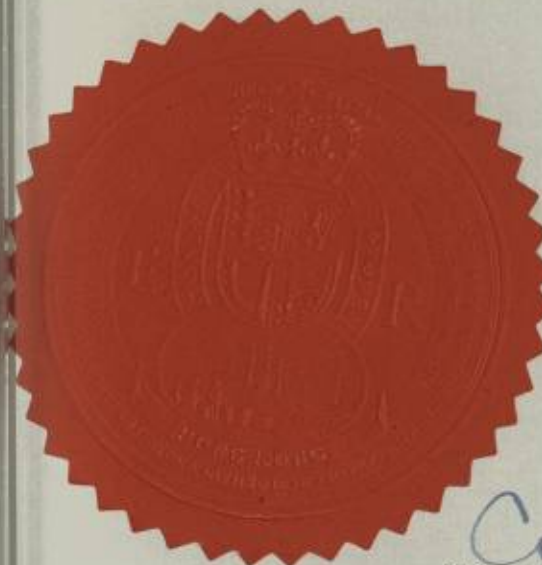


[Signature]
Deputy Clerk of Councils.

(Secretariat D/RPO)

HONG KONG

No. 41 OF 1961.



I assent.

[Signature]
Officer Administering the Government.

7th September, 1961.

An Ordinance to amend the Telecommunication Ordinance, Chapter 106.

[1st May, 1961.]

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

1. This Ordinance may be cited as the Telecommunication (Amendment) Ordinance, 1961, and shall be deemed to have come into operation on the 1st day of May, 1961.

Short title and commencement.

2. Section 36 of the Telecommunication Ordinance is repealed and replaced by the following—

Repeal and replacement of section 36.

“Regulations annexed to Conventions.

36. Save insofar as they are repugnant to any of the provisions of this Ordinance, the regulations annexed to the Final Acts of any International Telecommunication Convention from time to time or at any time acceded to by, or applied to, the Colony shall be in force in the Colony, so far as they are applicable thereto, as if such regulations had been made in accordance with the provisions of section 31.”.

(Cap. 106).

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 6th day of September, 1961, and is found by me to be a true and correctly printed copy of the said Bill.

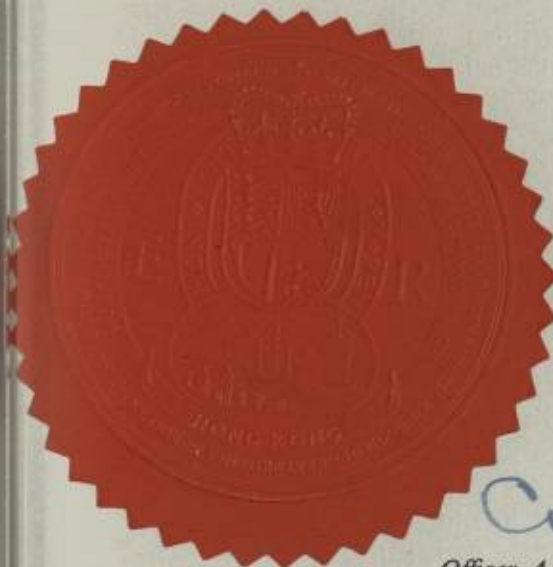
(Secretariat GR32/2961/46)



[Signature]
Deputy Clerk of Councils.

HONG KONG

No. 42 OF 1961.



I assent.

[Signature]
Officer Administering the Government.

7th September, 1961.

An Ordinance to amend the Fire Brigade Ordinance, 1954.

[8th September, 1961.]

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

1. This Ordinance may be cited as the Fire Brigade (Amendment) Short title. (No. 2) Ordinance, 1961.

2. (1) The Ordinances specified in the second column of the Schedule and the subsidiary legislation specified in the third column thereof are amended by the deletion therefrom wherever they appear of the titles "Fire Brigade", "Chief Officer" or "Chief Officer of the Fire Brigade", and "Deputy Chief Officer" or "Deputy Chief Officer of the Fire Brigade", and the substitution therefor of the following titles respectively—

"Fire Services Department",

"Director" or "Director of Fire Services", or

"Deputy Director" or "Deputy Director of Fire Services",

as the case may require.

Change of
titles.
Schedule.

(33 of
1952, 1958
Reprint).

- (2) The Education Ordinance, 1952 is amended—
- (a) by the deletion from section 2 thereof of the definition "Chief Officer"; and
- (b) by the deletion therefrom wherever it appears of the title "Chief Officer" and the substitution therefor of the following—
"Director of Fire Services".

Amendment
of section 1.
(32 of 1954).

3. Section 1 of the Fire Brigade Ordinance, 1954, (hereinafter referred to as the principal Ordinance) is amended by the deletion of the words "Fire Brigade" and the substitution therefor of the following—
"Fire Services".

Repeal and
replacement
of section 6.

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

"Delegation
of powers.

6. (1) Save where the contrary intention appears from the context of any enactment and subject to any special instructions of the Director, a Deputy Director of Fire Services may exercise or discharge any of the powers or duties which the Director by any enactment is entitled to exercise or required to discharge.

(2) Save where the contrary intention appears from the context of any enactment and subject to any special instructions of the Governor, the Director may authorize any officer of the Fire Services Department, not being below the rank of subordinate officer or a head mechanic or ambulance dresser, by name, office or appointment, to exercise or discharge any of the powers or duties which the Director by any enactment is entitled to exercise or required to discharge.

(3) For the avoidance of doubt, nothing in this section shall be deemed to derogate from any power of delegation conferred upon the Director by the provisions of any other enactment."

SCHEDULE.

[s. 2.]

Item.	Column 2.	Column 3.
1.	Celluloid and Cinematograph Ordinance, 1923. (No. 23 of 1923).	
2.		Dangerous Goods Regulations, 1940.
3.	Summary Offences Ordinance, Chapter 228.	
4.		Miscellaneous Licences Regulations. (Vol. IX, p. 365).
5.		Places of Public Entertainment Regulations. (Vol. X, p. 289).

Item.

Column 2.

Column 3.

- | | | |
|----|--|--|
| 6. | Fire Brigade Ordinance, 1954. (No. 32 of 1954). | |
| 7. | Factories and Industrial Undertakings Ordinance, 1955. (No. 34 of 1955). | Factories and Industrial Undertakings Regulations, 1955. (G.N.A. 103 of 1955). |
| 8. | Dangerous Goods Ordinance, 1956. (No. 38 of 1956). | |
| 9. | Public Health and Urban Services Ordinance, 1960. (No. 30 of 1960). | Advertisement By-laws. (Vol. VIII, p. 313). |

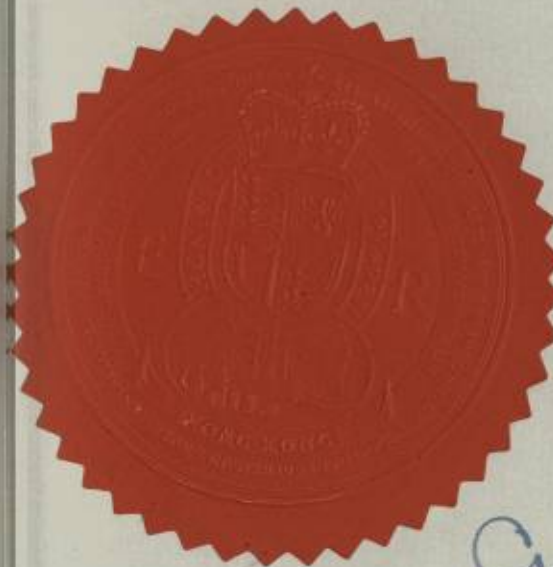
This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 6th day of September, 1961, and is found by me to be a true and correctly printed copy of the said Bill.

Deputy Clerk of Councils.

(Secretariat GR22/3231/52)

HONG KONG

No. 43 OF 1961.



I assent.

Claude Burgess.
Officer Administering the Government.

7th September, 1961.

An Ordinance to repeal the Expulsion of Undesirables Ordinance,
Chapter 242.

[8th September, 1961.]

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

1. This Ordinance may be cited as the Expulsion of Undesirables Short title.
(Repeal) Ordinance, 1961.

2. The Expulsion of Undesirables Ordinance is repealed. Repeal.
(Cap. 242).

This printed impression has been carefully compared by me with
the Bill which passed the Legislative Council on the 6th day of
September, 1961, and is found by me to be a true and correctly printed
copy of the said Bill.

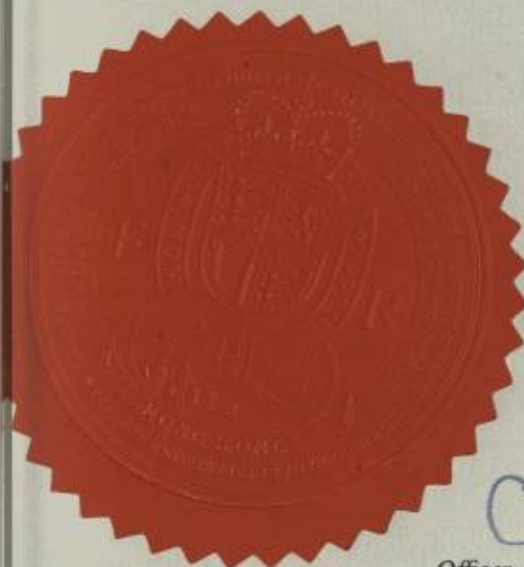
John Andrew
Deputy Clerk of Councils.

(Secretariat CR45/3231/50)



HONG KONG

No. 44 OF 1961.



I assent.

Claude Burgess.
Officer Administering the Government.

7th September, 1961.

An Ordinance to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March, 1961.

[8th September, 1961.]

WHEREAS it has become necessary to make further provision for the public service of the Colony for the financial year ended the 31st day of March, 1961, in addition to the charge upon the revenue and other funds of the Colony authorized by the Appropriation (1960-61) Ordinance, 1960:

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

1. This Ordinance may be cited as the Supplementary Appropriation (1960-61) Ordinance, 1961. Short title.

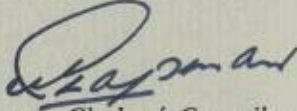
2. A sum of thirteen million, three hundred and ninety thousand, eight hundred and fifty five dollars is hereby charged upon the revenue and other funds of the Colony for the service of the financial year ended the 31st day of March, 1961, the appropriation of the sum so charged being approved as specified in the Schedule. Appropriation from general revenue and other funds. Schedule.

SCHEDULE.

[s. 2.]

<i>Number of vote.</i>	<i>Head of Expenditure.</i>	<i>Amount of vote.</i>
		\$
21.	His Excellency the Governor's Establishment	13,519
28.	Co-operative Development and Fisheries Department ...	561,894
36.	Defence: Registration of Persons Office	181,005
46.	Labour Department: Mines Division	1,147
50.	Miscellaneous Services	5,459,458
52.	Pensions	4,739,668
59.	Public Services Commission	1,631
63.	Quartering Office	1,142,686
71.	Social Welfare Department	166,894
72.	Stores Department	978,418
74.	Subventions: Medical	99,189
80.	Urban Services Department: New Territories Division.	31,445
83.	Public Enquiry Service	13,901
	TOTAL	\$13,390,855

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 6th day of September, 1961, and is found by me to be a true and correctly printed copy of the said Bill.

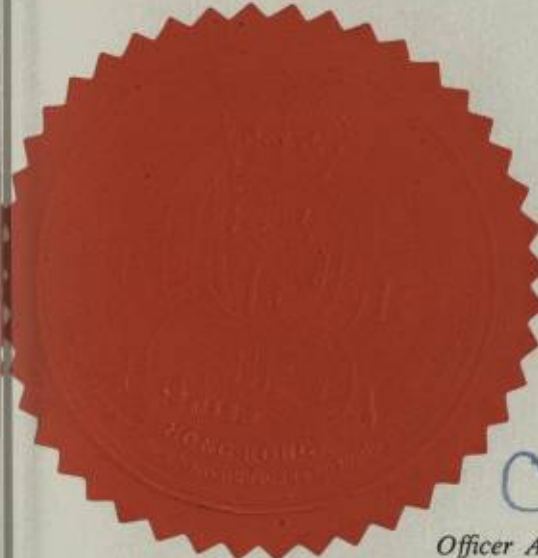

Deputy Clerk of Councils.

(Secretariat GR1/2311/60)

HONG KONG

No. 45 OF 1961.

I assent.


Claude Burgess
Officer Administering the Government.

7th September, 1961.

An Ordinance to amend the Mental Health Ordinance, 1960.

[8th September, 1961.]

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

1. This Ordinance may be cited as the Mental Health (Amendment) Ordinance, 1961. Short title.

2. The Mental Health Ordinance, 1960, is amended by the addition at the end thereof of the following— Addition of new section 72.

^{“Transitional provisions.} 72. Any person who, immediately before the commencement of this Ordinance, was— (35 of 1960).

(Cap. 136). (a) lawfully in a mental hospital within the meaning of section 2 of the Mental Hospitals Ordinance, in accordance with the provisions of that Ordinance—

(i) for observation, in accordance with the provisions of section 7, 8, 11 or 12 of that Ordinance, shall be deemed to have been duly

admitted to that mental hospital as a patient under observation;

(ii) for voluntary treatment, in accordance with the provisions of section 9 of that Ordinance, shall be deemed to have been duly admitted to that mental hospital as a voluntary patient;

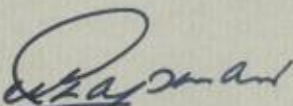
(iii) by virtue of a certificate signed and countersigned in accordance with the provisions of section 10 of that Ordinance or by virtue of subsection (4) of section 16 of that Ordinance, shall be deemed to be duly detained in that mental hospital as a certified patient;

(iv) by virtue of a warrant issued under subsection (1) of section 16 of that Ordinance, shall be deemed to be duly detained in that mental hospital by virtue of the warrant issued under subsection (1) of section 57; or

(v) by virtue of a warrant issued under subsection (2) of section 16 of that Ordinance, shall be deemed to be duly detained in that mental hospital by virtue of a transfer order issued under subsection (1) of section 52; or

- (b) a person absent on trial in accordance with the provisions of section 13 of that Ordinance as a patient liable to detention under section 7, 8, 10, 11 or 12 of that Ordinance, shall be deemed to be a person absent on trial under subsection (1) of section 39 as a patient under observation, a temporary patient or a certified patient, as the case may be; or
- (c) a person who had been removed to a mental hospital in accordance with the provisions of subsection (1) of section 16 of that Ordinance and discharged by warrant under subsection (5) of that section or was the subject of an order made by the Governor under section 18 of that Ordinance, shall be deemed to be a person who is the subject of a warrant issued by the Governor under subsection (1) of section 57 and who is absent on trial in accordance with the provisions of subsection (1) of section 39 subject to such conditions as were imposed under subsection (5) of section 16 or under section 18 of that Ordinance as if such conditions had been imposed under subsection (2) of section 39."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 6th day of September, 1961, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

(Secretariat GR11/3231/52)

HONG KONG

No. 46 OF 1961.



I assent.

Governor.

5th October, 1961.

An Ordinance to repeal and re-enact, subject to amendment, the Employers and Servants Ordinance, Chapter 57.

[6th October, 1961.]

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

1. This Ordinance may be cited as the Employers and Servants Ordinance, 1961. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpreta-
tion.
“wages” includes any remuneration in cash which is of a constant nature, whether ascertainable in *quantum* by reference to any period of time or by reference to work done, and includes any cash allowance and the cash value of food, fuel or accommodation supplied by the employer to the servant provided that such allowance or the supply of such food, fuel or accommodation is of a constant nature; but the expression “wages” does not include

remuneration for intermittent overtime or casual payments of a non-recurrent nature, or *ex gratia* payments whether given by the employer or by any other person, or the value of any travelling allowance or concession, or the value of any contribution paid by the employer towards any pension or provident fund, or any sum paid to a servant to cover any special expense falling upon him by reason of the nature of the employment.

Application.

3. The provisions of this Ordinance shall apply to contracts of service, whether made before or after the commencement of this Ordinance, in respect of which the remuneration in cash does not exceed seven hundred dollars per month.

Duration of contracts of service.

4. (1) Every contract of service (except in the case of hire by the hour, day, job or journey) shall, until the contrary is proved, be deemed to be a contract for one month renewable from month to month.

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

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

Determination of monthly contracts.

5. Every contract of service which is deemed by virtue of the provisions of section 4 to be a contract from month to month shall be determinable—

- (a) by either party thereto giving to the other thirty days notice, orally or in writing, to determine the contract; or
- (b) at any time without notice, by the employer paying to the servant in lieu of such notice such wages, if any, as are due to the servant in accordance with the terms of the contract, together with a further sum of money being not less than one month's wages at the rate payable in accordance with the terms of such contract at the date of the determination thereof:

Provided that nothing in this section shall be construed to deprive an employer of his right to dismiss a servant summarily for cause without notice or payment in lieu.

Payment of wages.

6. Wages payable under any contract of service shall, until the contrary is proved, be deemed to be payable monthly.

7. No fees shall be payable by and no costs exceeding fifty dollars shall be awarded against any servant or his employer in respect of any proceedings, concerning a contract of service, instituted in the District Court—

Exemption from payment of court fees and costs in certain cases.

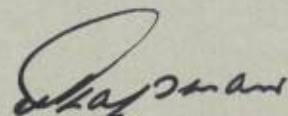
- (a) by or on behalf of the servant against his employer—
 - (i) for the recovery of wages alleged to be due to the servant under the terms of such contract; or
 - (ii) for the recovery of damages by the servant for alleged wrongful dismissal; or
- (b) by or on behalf of the employer against his servant for damages for the alleged wrongful determination of such contract by the servant.

8. Nothing in this Ordinance shall be construed to prejudice the application of any of the provisions of the Merchant Shipping Acts of the United Kingdom, or of the Merchant Shipping Ordinance, 1953, (14 of 1953), having reference to the engagement of seamen or agreements between seamen and the masters of ships. Saving.

9. The Employers and Servants Ordinance is repealed. Repeal.

(Cap. 57).

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 4th day of October, 1961, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

(Secretariat GR6/3231/50)

HONG KONG

No. 47 OF 1961.



I assent.

Governor.

2nd November, 1961.

An Ordinance to amend the Gambling Ordinance, Chapter 148.

[3rd November, 1961.]

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

1. This Ordinance may be cited as the Gambling (Amendment) Short title.
(No. 2) Ordinance, 1961.
2. Subsection (5) of section 11A of the Gambling Ordinance Amend-
(hereinafter referred to as the principal Ordinance) is amended by the ment of
deletion of the words "two hundred dollars" and the substitution there- section 11A.
for of the following— (Cap. 148).
"two thousand dollars".
3. The Schedule to the principal Ordinance is amended in the Amendment
FORM OF LICENCE by the deletion of "Fee \$200." and the sub- of Schedule.
stitution therefor of the following—
"Fee \$2,000."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 1st day of November, 1961, and is found by me to be a true and correctly printed copy of the said Bill.

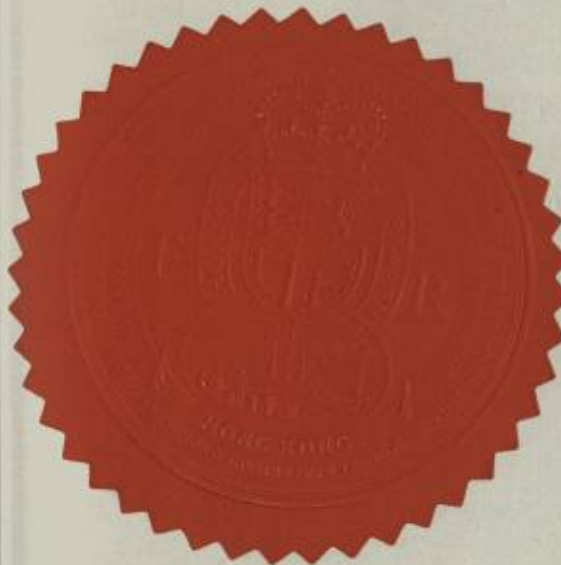
(Secretariat GR46/3231/50)



[Signature]
Deputy Clerk of Councils.

HONG KONG

No. 48 OF 1961.



I assent.

[Signature]
Governor.

2nd November, 1961.

An Ordinance to amend the Fire Investigation Ordinance, Chapter 12.

[3rd November, 1961.]

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

1. This Ordinance may be cited as the Fire Investigation Short title. (Amendment) Ordinance, 1961.

2. Section 2 of the Fire Investigation Ordinance (hereinafter referred to as the principal Ordinance) is amended by the deletion of the words "the Commissioner of Police shall, as soon as possible," and the substitution therefor of the following—

Amendment
of section 2.
(Cap. 12).

"the Commissioner of Police may, if he thinks fit,".

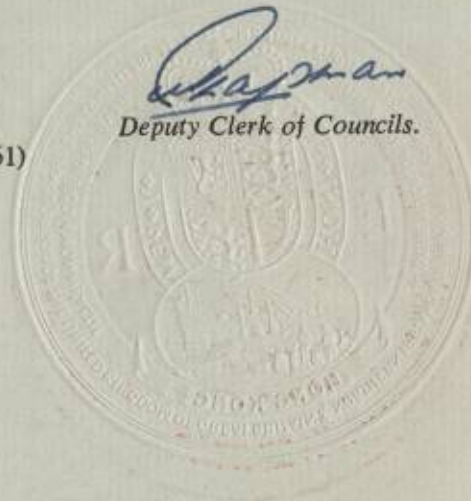
3. Section 5 of the principal Ordinance is amended by the insertion after the words "the magistrate shall close the inquiry and" of the following—

Amendment
of section 5.

“, if any premises have been taken into the possession of the Commissioner of Police pursuant to the provisions of section 2,”.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 1st day of November, 1961, and is found by me to be a true and correctly printed copy of the said Bill.

(Secretariat GR5/3231/61)



Deputy Clerk of Councils.

HONG KONG

No. 49 OF 1961.



I assent.

Governor.

16th November, 1961.

An Ordinance to amend the law relating to inns and innkeepers.

[1st February, 1962.]

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

1. This Ordinance may be cited as the Hotel Proprietors Ordinance, 1961, and shall come into operation on the first day of February, 1962. Short title and commencement.

2. In this Ordinance— Interpretation.
 “hotel” means an establishment held out by the proprietor as offering food, drink and, if so required, sleeping accommodation, without special contract, to any traveller presenting himself who appears able and willing to pay a reasonable sum for the services and facilities provided and who is in a fit state to be received.

3. (1) An hotel within the meaning of this Ordinance shall, and any other establishment shall not, be deemed to be an inn; and the duties, liabilities and rights which immediately before the commencement of this Ordinance by law attached to an innkeeper as such shall, Inns and innkeepers.

subject to the provisions of this Ordinance, attach to the proprietor of such an hotel and shall not attach to any other person.

(2) The proprietor of an hotel shall, as an innkeeper, be under the like liability, if any, to make good to any guest of his any damage to property brought to the hotel as he would be under to make good the loss thereof.

Modifica-
tions of
liabilities and
rights of
innkeepers
as such.

4. (1) Without prejudice to any other liability incurred by him with respect to any property brought to the hotel, the proprietor of an hotel shall not be liable as an innkeeper to make good to any traveller any loss of or damage to such property except where—

- (a) at the time of the loss or damage sleeping accommodation at the hotel had been engaged for the traveller; and
- (b) the loss or damage occurred during the period commencing with the midnight immediately preceding, and ending with the midnight immediately following, a period for which the traveller was a guest at the hotel and entitled to use the accommodation so engaged.

(2) Without prejudice to any other liability of his or to the provisions of section 5 or other right of his with respect thereto, the proprietor of an hotel shall not as an innkeeper be liable to make good to any guest of his any loss of or damage to, or have any lien on, any vehicle or any property left therein.

(3) Where the proprietor of an hotel is liable as an innkeeper to make good the loss of or any damage to property brought to the hotel, his liability to any one guest shall not exceed the sum of one thousand dollars in respect of any one article, or the sum of two thousand dollars in the aggregate, except where—

- (a) the property was stolen, lost or damaged through the default, neglect or wilful act of the proprietor or some servant of his; or
- (b) the property was deposited by or on behalf of the guest expressly for safe custody with the proprietor or some servant of his authorized, or appearing to be authorized, for the purpose, and, if so required by the proprietor or that servant, in a container fastened or sealed by the depositor and when property is deposited in accordance with the provisions of this paragraph, the liability of the proprietor as an innkeeper to any one guest in respect of the loss of or damage to property so deposited shall not exceed the value thereof as declared by or on behalf of the guest at the time of deposit; or
- (c) at a time after the guest had arrived at the hotel, either the property in question was offered for deposit as aforesaid and the proprietor or his servant refused to receive it, or the guest

or some other guest acting on his behalf endeavoured to offer the property in question but, through the default of the proprietor or a servant of his, was unable to do so: Provided that the provisions of this paragraph shall not apply where the value of the property as declared by or on behalf of the guest when offered for deposit exceeds the sum of ten thousand dollars:

Provided that the proprietor shall not be entitled to the protection of this subsection unless, at the time when the property in question was brought to the hotel, a copy of the notice set out in the Schedule printed in plain type was conspicuously displayed in a place where it could conveniently be read by his guests at or near the reception office or desk or, where there is no reception office or desk, at or near the main entrance to the hotel.

Schedule.

5. A proprietor of an hotel shall as an innkeeper, in addition to his ordinary lien, have the right absolutely to sell by public auction any property which may have been deposited with him or left in his hotel or in premises appurtenant or belonging thereto, where the guest depositing or leaving such property shall be or become indebted to him for any board or lodging:

Power of
sale.

Provided however—

- (i) that, except in the case of perishable property, no such sale shall be made until after the property shall have been for the space of six weeks in such charge or custody or in or upon such premises without such debt having been satisfied;
- (ii) that such proprietor, after having, out of the proceeds of such sale, paid himself the amount of any such debt together with the costs and expenses of such sale, shall on demand pay to the guest depositing or leaving such property the surplus, if any, remaining after such sale;
- (iii) that the debt for the payment of which a sale is made shall not be any other or greater debt than the debt for which the property could have been retained by the proprietor as an innkeeper under his lien;
- (iv) that, in the case of perishable property, as soon as conveniently may be either before or after such sale, and in the case of other property at least one month before any such sale, the proprietor shall cause to be inserted in a newspaper circulating in the Colony an advertisement containing a notice of such sale or intended sale and giving shortly a description of the property sold or intended to be sold together with the name of the guest where known who deposited or left it.

6. The Innkeepers Ordinance is hereby repealed.

Repeal.
(Cap. 158).

SCHEDULE.

[s. 4.]

NOTICE.

Loss of or Damage to Guests' Property.

The liability under the Hotel Proprietors Ordinance, 1961 of an hotel proprietor to make good loss or damage to a guest's property—

- (a) extends only to the property of guests who have engaged sleeping accommodation at the hotel;
- (b) is limited to DOLLARS ONE THOUSAND (\$1,000.00) for any one article and a total of DOLLARS TWO THOUSAND (\$2,000.00) in the case of any one guest, except—
 - (i) in the case of property which has been deposited for safe custody in which case such liability is limited to the declared value of the property; or
 - (ii) in the case of property, the declared value of which does not exceed DOLLARS TEN THOUSAND (\$10,000.00), which has been offered for deposit;
- (c) does not cover motor-cars or other vehicles of any kind or any property left in them.

This notice does not constitute an admission either that the Ordinance applies to this hotel or that liability thereunder attaches to the proprietor of this hotel in any particular case.

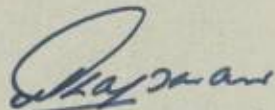
關於旅客財物之遺失或損壞事

根據一九六一年酒店東主條例所載，酒店東主對賠償旅客財物遺失或損壞之責任規定如下——

- (甲) 祇限於在該酒店內住宿旅客之財物；
- (乙) 對每一物件之賠償額最高以一千元為限；而對任何一位旅客之賠償總額則最高以貳千元為限，惟下開情形則不在此限——
 - (一) 對於業經存放作安全保管之財物，則此項責任，祇以存放該財物時所報稱之價值為限；或
 - (二) 對於經已提請存放之財物而所報稱價值係不超過一萬元者；
- (丙) 並不包括汽車或任何種類之其他車輛或遺留在其內之任何財物。

本佈告並非謂在某種情形之下，上述條例之規定及責任盡皆適用於本酒店或酒店之東主。

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 15th day of November, 1961, and is found by me to be a true and correctly printed copy of the said Bill.

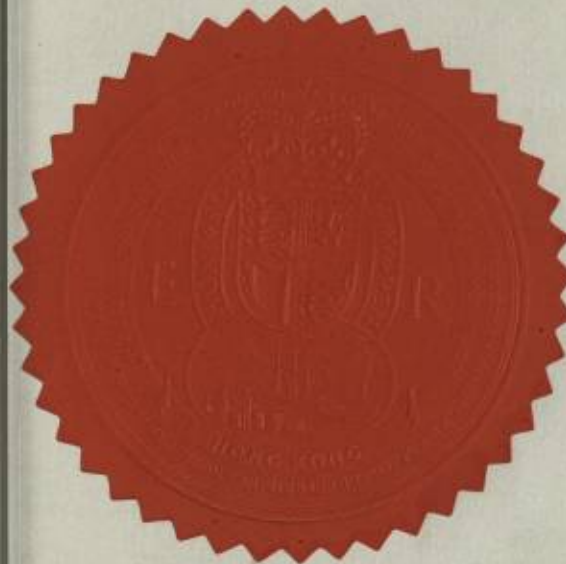


Deputy Clerk of Councils.

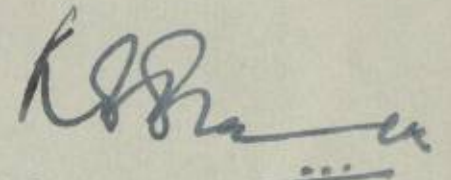
(Secretariat GR1/3281/58)

HONG KONG

No 50 OF 1961.



I assent.



Governor.

30th November, 1961.

An Ordinance to make provision for the establishment of a trust fund to be known as the Sir Robert Black Trust Fund, and for the due administration thereof and for purposes connected with the matters aforesaid.

[1st December, 1961.]

WHEREAS—

Preamble.

(1) The sum of one million dollars has been donated by Mr. TANG Shiu-kin for the purpose of establishing a trust fund to be known as the Sir Robert Black Trust Fund for the welfare, education and training of persons particularly in fields of activity which are of social value:

(2) The Governor has approved the use of his name in the title of the fund:

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

1. This Ordinance may be cited as the Sir Robert Black Trust Short title. Fund Ordinance, 1961.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—
“committee” means the committee appointed under section 5.

Establishment and vesting of fund.

3. (1) There is hereby established a trust fund to be known as the Sir Robert Black Trust Fund (hereinafter referred to as the fund), which shall, on a day to be appointed by the Governor by notice in the *Gazette* (hereinafter referred to as the vesting day), be transferred to and vested in the Secretary for Chinese Affairs Incorporated as trustee.

(2) The fund shall consist of the moneys referred to in the preamble together with any sum accumulated by way of interest thereon, dividends and such other moneys as may be paid into the fund but less all such proper disbursements as may be made before the vesting day, and the fund shall include also such other moneys and assets as may from time to time after the vesting day be donated to or acquired by the trustee on the trusts hereinafter set out.

(3) So soon as may be after the vesting day, the auditor appointed under section 10 shall cause the accounts of the fund to be examined, and shall certify to the Governor the state of the fund as on the vesting day; and a copy of such certificate shall be published in the *Gazette*.

Objects of the trust fund.

4. (1) The trustee shall hold and stand possessed of the fund upon trust to apply the same in such manner and to such extent as the committee may advise for the following objects—

- (a) to provide for persons, who appear to the committee to be of exceptional merit, opportunities for the furtherance of studies, of developing initiative and character and of acquiring greater social usefulness in particular through the qualities of personal leadership in the service of all members of the community;
- (b) to make grants to individuals or to groups of individuals for the furtherance of activities which appear to the committee—
 - (i) to be of social value; and
 - (ii) to develop qualities of personal initiative and resource;
- (c) to make grants for the training of individuals or groups of individuals who appear to the committee to be likely to become devoted leaders of community service of any kind.

(2) In selecting persons to be beneficiaries of the fund the committee shall have regard to—

- (a) the circumstances of the family of the proposed beneficiary; and
- (b) any qualities of the proposed beneficiary whatsoever.

Establishment of committee.

5. (1) There shall be established a committee to be known as the Sir Robert Black Trust Fund Committee.

(2) The committee shall consist of—

- (a) the Secretary for Chinese Affairs as *ex officio* member and chairman;
- (b) the Director of Education as *ex officio* member and vice-chairman;
- (c) the Director of Social Welfare as *ex officio* member;
- (d) a Chinese unofficial member of the Executive Council, appointed by the Governor;
- (e) an unofficial member of the Legislative Council, appointed by the Governor; and
- (f) three other members appointed by the Governor.

(3) A member appointed by the Governor shall hold office for such period as may be specified in the letter of appointment, and may be re-appointed or removed by the Governor at his pleasure.

(4) The quorum necessary for the transaction of business by the committee may be fixed by standing orders made under section 7 and unless so fixed shall be three members.

(5) The validity of any proceedings of the committee shall not be affected by any vacancy among the members thereof or by any defect in the appointment of any member thereto.

6. Subject to the provisions of this Ordinance and the agreement of the trustee, the committee may determine all matters whatsoever touching the administration of the fund and the attainment of the objects thereof.

Control by committee.

7. (1) The committee may make standing orders—

- (a) governing their procedure in the transaction of business;
- (b) for the maintenance of good order at their meetings; and
- (c) generally for matters relating to the administration and management of the fund and the discharge of their duties.

Standing orders.

(2) A copy of such standing orders shall be furnished to the Colonial Secretary and they shall be subject to disallowance, alteration or amendment by the Governor.

(3) All questions arising at any meeting of the committee shall be decided by a majority of votes of members present, and, in case of an equality of votes, the chairman shall have a casting vote in addition to his original vote.

8. (1) The committee may from time to time appoint, upon such salary and upon such terms as they may think proper, a secretary, a treasurer, and such other officials as they may think necessary for the purpose of carrying out the trusts and may employ any professional person to advise them on any point arising out of or in connexion with the said trusts.

Appointment of officers.

(2) All salaries and fees of any person or persons so appointed or employed shall be paid by the trustee out of the fund.

Investment
of moneys.

9. The trustee may invest any moneys of the fund in such investments, whether or not such investments are trust investments, as the committee may advise, subject, in the case of investments which are not trust investments, to the prior approval of the Financial Secretary and may remit moneys comprised in the fund through the Accountant General to the Crown Agents for investment in the name of the trustee.

Accounts.

10. (1) The trustee shall cause proper accounts to be kept of all transactions of the fund and shall cause to be prepared for the period from the vesting day to the 31st day of March, 1962, and thereafter for every period of twelve months ending on the 31st day of March in each year, a statement of the accounts of the fund, which statement shall include an income and expenditure account and balance sheet and shall be signed by the trustee.

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

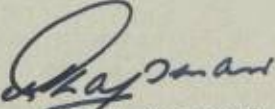
(3) A copy of the signed and audited statement of accounts together with the auditor's report, if any, and a report by the trustee on the administration of the fund during the period covered by the audited accounts shall be laid on the Table of the Legislative Council not later than the 30th day of September next following the end of such period, or so soon thereafter as the Governor, in his absolute discretion, may allow.

Cost of
adminis-
tration of
the fund.

11. The cost of the administration of the fund, other than the salaries and fees paid under the provisions of subsection (2) of section 8, shall be a charge on the general revenue of the Colony:

Provided that the Financial Secretary may direct that an annual supervision fee to be determined by him shall be charged against the income of the fund and paid into the general revenue of the Colony.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 29th day of November, 1961, and is found by me to be a true and correctly printed copy of the said Bill.

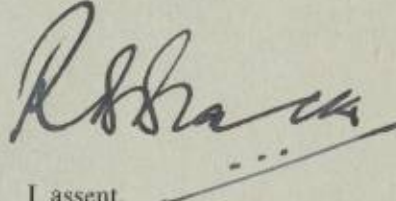

Deputy Clerk of Councils.

(Secretariat CR1/781/61)

HONG KONG

No. 51 OF 1961.




I assent.

Governor.

14th December, 1961.

An Ordinance further to amend the Factories and Industrial Undertakings Ordinance, 1955.

[15th December, 1961.]

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

1. This Ordinance may be cited as the Factories and Industrial Undertakings (Amendment) Ordinance, 1961. Short title.

2. Section 2 of the Factories and Industrial Undertakings Ordinance, 1955 (hereinafter referred to as the principal Ordinance) is amended by the insertion therein, after subsection (1), of the following new subsection— Amendment of section 2. (34 of 1955).

“(1A) A woman, young person or child who works in an industrial undertaking, whether for wages or not, either in a process or in cleaning any part of the industrial undertaking used for any process, or in cleaning or oiling any part of the machinery or plant, or in any other kind of work whatsoever incidental to or connected with the process, or connected with the article made or otherwise

the subject of the process therein, shall be deemed to be employed therein for the purposes of this Ordinance or any proceedings thereunder.”.

Addition of
new sections
4A and 4B.

3. The principal Ordinance is amended by the addition thereto, after section 4, of the following new sections—

“Duty of
public officers
not to
disclose
source of
complaint,
etc.

4A. (1) Save as provided in subsection (4), no public officer shall disclose to any person, other than another public officer, the name or identity of any person who has made a complaint alleging a contravention of any of the provisions of this Ordinance or as a result of which a contravention of any such provision has come to his notice or to the notice of any other public officer.

(2) No public officer shall disclose to the proprietor of an industrial undertaking or his representative or to any other employer who is carrying on business in the industrial undertaking or his representative that a visit to the industrial undertaking was made in consequence of the receipt of any such complaint as is referred to in subsection (1).

(3) Save as provided in subsection (4), where, arising out of, or in connexion with, the enforcement of any of the provisions of this Ordinance, any manufacturing or commercial secret or any working process comes to the knowledge of a public officer, such officer shall not at any time and notwithstanding that he is no longer a public officer disclose such secret or process to any person.

(4) Where in any proceedings a court or a magistrate considers that justice so requires, the court or magistrate may order the disclosure of the name or identity of any person who has made any such complaint as is referred to in subsection (1) or the disclosure of any such secret or process as is referred to in subsection (3).

Employment
not to be
terminated,
etc. by reason
of fact that
employee
has given
evidence in
proceedings
under
Ordinance,
etc.

4B. No employer shall terminate, or threaten to terminate, the employment of, or in any way discriminate against, any of his employees by reason of the fact that the employee has—

- (a) given evidence, or agreed to give evidence, in any proceeding for the enforcement of any of the provisions of this Ordinance; or
- (b) given information to a public officer in any inquiry made by such officer for the purposes of or in connexion with the enforcement of any of the provisions of this Ordinance.”.

4. Section 8 of the principal Ordinance is amended by the insertion therein, after subsection (3), of the following new subsection— Amendment
of section 8.

“(4) Any person who contravenes any of the provisions of subsection (1), (2) or (3) of section 4A shall be guilty of an offence and shall be liable to a fine of two thousand dollars.”.

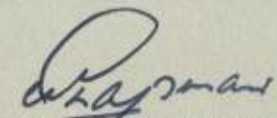
5. Section 13 of the principal Ordinance is amended by— Amendment
of section 13.

(a) the deletion of the full stop at the end thereof and the substitution thereof of a semi-colon; and

(b) the insertion therein of the following new paragraph—

“(c) if the charge alleges the contravention of any of the provisions of this Ordinance prohibiting or controlling the employment of women, young persons or children and the defendant in such prosecution is the proprietor of the industrial undertaking in or in respect of which the offence is alleged to have been committed, it shall, until the contrary is proved, be presumed that any woman, young person or child to whom the charge relates and who was employed in the industrial undertaking on the day on which the offence is alleged to have been committed was employed therein on that day by such proprietor.”.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 13th day of December, 1961, and is found by me to be a true and correctly printed copy of the said Bill.


Deputy Clerk of Councils.

(Secretariat GR16/2961/46II)

HONG KONG

No. 52 OF 1961.



I assent.

Governor.

28th December, 1961.

An Ordinance to make provision for the registration and better control of trade unions, and matters ancillary thereto.

[]

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

PART I.

Preliminary.

1. This Ordinance may be cited as the Trade Union Registration Ordinance, 1961, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*.

Short title
and com-
mencement.

Interpreta-
tion.

2. In this Ordinance, save where the context otherwise requires—

“employee”, in relation to a trade union or a branch of a trade union or a trade union federation, means a clerk or other person appointed by, and acting under the instructions of, the executive thereof and paid from the funds of the trade union or the branch of the trade union or the trade union federation, as the case may be;

“executive” means the body to which the management of the affairs of a trade union or a branch of a trade union or a trade union federation, as the case may be, is entrusted by the members and also means any person for the time being carrying out the functions of a president, chairman, vice-chairman, secretary or treasurer thereof;

“funds”, in relation to a trade union or a branch of a trade union, or a trade union federation, includes money, whether allocated to a welfare fund or not, and all other property or assets, whether real or personal, held, collected, received or controlled by or on behalf of the trade union or the branch of the trade union or the trade union federation, as the case may be;

“injury”, for the purposes of Part VII, includes injury to a person in respect of his business, occupation, employment or other source of income, and includes any actionable wrong;

“intimidation”, for the purposes of Part VII, means to cause in the mind of a person a reasonable apprehension of injury to himself or to any member of his family or to any of his dependants or of violence or damage to any person or property;

“lock-out” means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aiding another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

“officer”, in relation to a trade union or a branch of a trade union or a trade union federation, includes any member of the executive thereof, but does not include an auditor;

“register” means the register of trade unions to be maintained by the Registrar in accordance with section 4;

“registered” means registered under this Ordinance;

“registered office”, in relation to a trade union or a branch of a trade union or a trade union federation, means the office, if any, which is registered under this Ordinance as the head office thereof;

“Registrar” means the Registrar of Trade Unions appointed under section 3;

“strike” means the cessation of work by a body of persons employed acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons employed, to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer or the employer of any other person or body of persons, or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment;

“strike benefit” means any financial or other benefit given by a trade union to any member of the trade union in consideration of a strike or lock-out;

“trade dispute” means any dispute or difference between employers and workmen, or between workmen and workmen, connected with the employment or non-employment, or the terms of employment, or with the conditions of or affecting employment, of any person;

“trade union” means any combination, whether temporary or permanent, the principal objects of which are under its constitution the regulating of relations between workmen and employers, or between workmen and workmen, or between employers and employers, whether such combination would or would not, if this Ordinance had not been enacted, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade;

“trade union federation” means a trade union which is wholly an association or combination of other registered trade unions;

“voting member” means any member of a registered trade union entitled to vote for any purposes under the rules of the trade union;

“welfare fund” means trade union funds allocated or set apart for payment to members or the families of members of the trade union of any assurance or benefit, other than strike benefit, or for the

provision for such members or such families of educational, recreational or medical facilities;

“workman” means any person who has entered into or works under a contract with an employer, whether the contract be by way of manual labour, clerical work or otherwise, express or implied, oral or in writing and whether it be a contract of service or apprenticeship or a contract personally to execute any work or labour.

PART II.

Appointments.

Appointment
of Registrar,
etc.

3. The Governor shall appoint such person as he may think fit to be Registrar of Trade Unions and may appoint a deputy registrar, assistant registrars and such other officers as may from time to time appear to him necessary for carrying out the purposes of this Ordinance.

PART III.

Registration.

Register
of trade
unions.

4. (1) The Registrar shall keep a register in which shall be recorded such particulars relating to trade unions and trade union federations as may be prescribed by regulations.

(2) A copy of an entry in the register certified under the hand of the Registrar shall, until the contrary is shown, be received in evidence as proof of the facts specified therein as at the date of such certified copy.

Trade unions
to be
registered,
etc.

5. (1) Every trade union shall be registered under this Ordinance.

(2) An application for the registration of a trade union shall be made to the Registrar in the prescribed form within thirty days of the establishment thereof.

(3) Every such application shall be signed by not less than seven members of the trade union, any of whom may be officers thereof.

(4) Upon receipt of any such application in the prescribed form, the Registrar shall issue to the trade union a certificate in the prescribed form acknowledging receipt of such application, and every such certificate or a copy thereof certified under the hand of the Registrar shall, until the contrary is proved, be received in evidence as proof of the facts specified therein.

(5) Any person who is an officer, or who acts as an officer, or who takes any part in the management or administration, of a trade union that is not registered under this Ordinance shall be guilty of an offence and shall be liable to a fine of one thousand dollars and to imprisonment for six months:

Provided that this subsection shall not apply to any person who is an officer, or who acts as an officer, or who takes any part in the management or administration, of any such trade union so long as—

- (a) an application for the registration of the trade union has been made in accordance with this section and the Registrar has not refused to register such trade union; and
- (b) the only acts performed by such person, and the only acts performed by or on behalf of the trade union, are acts for the purposes of, or in connexion with, its establishment and its registration under this Ordinance.

6. (1) Whenever he has registered a trade union, the Registrar shall issue to the trade union a certificate of registration in the prescribed form, and such certificate, or a copy thereof certified under his hand shall, unless proved to have been cancelled or withdrawn, be conclusive evidence for all purposes that such trade union has been duly registered under this Ordinance:

Registration.

Provided that if any of the purposes of such trade union be unlawful such registration shall be void.

(2) The Registrar may, before registering a trade union, direct that the applicants shall produce any documents or provide any such particulars concerning such trade union as he may require in order to satisfy himself that such trade union is entitled to registration under this Ordinance.

7. (1) The Registrar may in his discretion refuse to register a trade union if—

Refusal of
registration.

- (a) any of the provisions of this Ordinance or the regulations have not been complied with; or
- (b) any of the purposes of such trade union is unlawful; or
- (c) the name under which it is proposed to register the trade union is identical with that by which any other trade union, whether existing or having ceased to exist, has been registered, or so nearly resembles such name as to be likely to deceive the public or the members of such trade union or of any other existing trade union.

(2) Where the Registrar refuses to register a trade union, he shall forthwith serve upon the applicants for registration thereof a notice in writing to that effect and shall specify therein the ground for his refusal.

Appeals against refusal of Registrar to register trade union.

8. Where the Registrar refuses to register a trade union, any of the applicants for the registration thereof who considers that the refusal of the Registrar to register the trade union on the ground specified in the notice of refusal to register was wrong in that, as the case may be—

- (a) the provisions of this Ordinance and the regulations had been complied with;
- (b) the purposes of the trade union were not unlawful;
- (c) the name under which registration of the trade union was sought was not such a name as is specified in paragraph (c) of subsection (1) of section 7.

may, within twenty-eight days after the service of such notice, appeal to the Full Court, and, if upon any such appeal the Full Court finds that the refusal of the Registrar to register the trade union was wrong as aforesaid, it may so declare and thereupon the Registrar shall register the trade union, but, save as hereinbefore provided, the appeal shall be dismissed.

Effect of application to register.

9. (1) The provisions of this Ordinance, other than the provisions of section 45, shall apply to a trade union in respect of which application for registration has been made in accordance with section 5 in like manner as if the trade union had been duly registered:

Provided that, upon service by the Registrar upon any of the applicants for registration of a notice of refusal to register, the provisions of this Ordinance shall cease so to apply to the trade union.

(2) A trade union in respect of which application for registration has been made in accordance with section 5 shall, for the purposes of the Societies Ordinance, be deemed to have been duly registered under this Ordinance:

Provided that, upon service by the Registrar upon any of the applicants for registration of a notice of refusal to register, the trade union shall cease to be deemed to have been so registered.

(Cap. 151).

Cancellation of registration.

10. (1) The registration of a trade union shall not be cancelled otherwise than by order of the Registrar and in the following cases—

- (a) at the request of the trade union, to be verified in such manner as the Registrar may require; or
- (b) where—
 - (i) the certificate of registration of the trade union has been obtained by fraud or mistake; or
 - (ii) the registration of the trade union has become void under the proviso to subsection (1) of section 6; or
 - (iii) the trade union is being used, or has at any time since registration been used, for any unlawful purpose or for any purpose inconsistent with its objects or rules; or

(iv) the trade union has wilfully and after notice in writing from the Registrar contravened this Ordinance, or has allowed any rule which is inconsistent with this Ordinance to continue in force, or has rescinded any rule providing for any matter for which provision is required by section 18; or

(v) the funds of the trade union have been expended in an unlawful manner or for an unlawful purpose or for any purpose not authorized by the rules of the trade union; or

(vi) any funds of the trade union that have been utilized for any purpose connected with the trade union, or any members thereof, have wilfully and after notice in writing from the Registrar requiring the same to be entered in the accounts of such trade union been omitted from the accounts thereof; or

(vii) the trade union has ceased to exist.

(2) Where an appeal has been duly brought under subsection (1) of section 12, the Registrar shall not cancel the registration of the trade union before the appeal has been determined.

11. Before cancelling the registration of a registered trade union, the Registrar shall give to the trade union not less than two months' previous notice in writing specifying the ground upon which he intends to cancel its registration:

Notice of cancellation.

Provided that no such notice shall be required—

- (a) where the trade union has ceased to exist; or
- (b) where cancellation is at the request of the trade union.

12. (1) Any voting member of a trade union that has received from the Registrar notice in writing of his intention to cancel its registration who considers that the Registrar is not entitled to cancel its registration on the ground specified in the notice in that, as the case may be—

Appeals in relation to cancellation by Registrar of registration of trade union.

- (a) the certificate of registration of the trade union was not obtained by fraud or mistake;
- (b) the registration of the trade union has not become void under the proviso to subsection (1) of section 6;
- (c) the trade union was not being used, nor has at any time since its registration been used, for any unlawful purpose or for any purpose inconsistent with its objects or rules;
- (d) the trade union has not wilfully and after notice in writing from the Registrar contravened this Ordinance nor allowed any rule which is inconsistent with this Ordinance to continue in force nor rescinded any rule providing for any matter for which provision is required by section 18;

- (e) the funds of the trade union have not been expended in any way specified in sub-paragraph (v) of paragraph (b) of subsection (1) of section 10;
- (f) any such funds as are specified in sub-paragraph (vi) of paragraph (b) of subsection (1) of section 10 have not wilfully and after notice in writing from the Registrar requiring the same to be entered in the accounts of the trade union been omitted from such accounts,

may, within twenty-eight days after the service of such notice upon the trade union, appeal to the Full Court, and, if upon any such appeal the Full Court finds that the Registrar is not entitled as aforesaid to cancel the registration of the trade union, it may so declare, but, save as hereinbefore provided, the appeal shall be dismissed.

(2) Any voting member of a trade union the registration of which has been cancelled who considers that the cancellation of its registration was wrong in that, as the case may be—

- (a) notice was not given by the Registrar in accordance with section 11;
- (b) the trade union had not requested cancellation of its registration;
- (c) the trade union had not ceased to exist,

may, within fourteen days after the cancellation of its registration, appeal to the Full Court, and if upon any such appeal the Full Court finds that the cancellation of the registration of the trade union was wrong as aforesaid, it may so declare and thereupon the Registrar shall restore the registration of the trade union, but, save as hereinbefore provided, the appeal shall be dismissed.

Effect of registration.

13. The registration of a trade union shall render it a body corporate by the name under which it is registered, and, subject to the provisions of this Ordinance, with perpetual succession and with power to hold property movable or immovable and to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

Effect of cancellation of registration.

14. (1) Save where, under subsection (2), the cancellation of the registration of a trade union does not take effect immediately in which cases this subsection shall apply when the cancellation takes effect for the purposes thereof, a trade union whose registration has been cancelled under this Ordinance shall in addition to any other disability—

- (a) cease to exist as a corporate body, and the Registrar may, notwithstanding anything contained in the rules of such trade union, forthwith appoint one or more persons to be liquidators thereof;

- (b) cease to enjoy any of the rights, immunities or privileges of a registered trade union, but without prejudice to any liability incurred by the trade union, which may be enforced against the trade union or its assets, whether such liability is incurred before, on or after the date of the cancellation of registration;
- (c) forthwith be dissolved and no person shall, except for the purpose of defending proceedings against the trade union or of dissolving it and disposing of its funds in accordance with the rules thereof and the provisions of this Ordinance, take any part in its management or organization or act or purport to act on behalf of the trade union or as an officer thereof.

(2) Where the registration of a trade union is cancelled on the ground that it had requested cancellation of the registration or had ceased to exist, the cancellation shall not take effect for the purposes of subsection (1) or for the purposes of the Societies Ordinance prior to the expiry of the period limited by subsection (2) of section 12 for the bringing of an appeal and then—

(Cap. 151).

- (a) if no appeal is brought under the said subsection (2) of section 12 within that period, the cancellation shall take effect for those purposes at the commencement of the day following the day on which that period expired; and
- (b) if an appeal is so brought within that period, the cancellation shall not take effect for the purposes of subsection (1) or for the purposes of the Societies Ordinance prior to the determination of the appeal, but, if the appeal is dismissed, shall take effect for those purposes on the determination thereof.

15. (1) Where a liquidator is appointed under section 14, all of the property of whatsoever description (including books and documents) belonging to the trade union, or held by trustees on its behalf, shall vest in the liquidator by his official name with effect from the date of his appointment, and the liquidator, after giving such indemnity, if any, as the Registrar may direct, may—

Power of liquidator and registrar in winding up of affairs of a trade union.

- (a) bring or defend in his official name any action or other legal proceeding that relates to the property of the trade union or is necessary to bring or defend for the purpose of effectually winding up the trade union and recovering its property;
- (b) take possession of any books, documents or property of whatsoever description belonging to the trade union;
- (c) sell the real and personal property and choses in action of the trade union by public auction or private contract, with power to transfer the whole thereof to any person or company or to sell the same in parcels;

- (d) appoint a solicitor or agent to assist him in his duties;
- (e) pay any creditors or classes of creditors of the trade union in full or in part;
- (f) compromise any debts or liabilities of the trade union and any liabilities capable of resulting in debts and any claims, present or future, certain or contingent, ascertained or sounding only in damages, that subsist, or are supposed to subsist, between the trade union and any member thereof or any other debtor or person apprehending liability to the trade union and any questions in any way relating to or affecting the assets or winding up of the affairs of the trade union on such terms as may be agreed, and take any security for the discharge of any such debt, liability or claim and give complete discharge in respect thereof;
- (g) make any compromise with creditors of the trade union or persons claiming to be creditors or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages, against the trade union or whereby the trade union may be rendered liable; and
- (h) prepare a scheme of distribution of the assets of the trade union available for distribution and, subject to the approval of the same by the Registrar, distribute the assets accordingly.

(2) The exercise by the liquidator of any of the powers conferred by this section shall be subject to the control of the Registrar, and any creditor or member of the trade union may apply to the Registrar with respect to any exercise or proposed exercise of any of those powers.

(3) Without prejudice to the generality of subsection (2), the Registrar may—

- (a) rescind or vary any order made by a liquidator or substitute therefor a new order;
- (b) remove a liquidator from office;
- (c) make an order upon the assets of the trade union for the remuneration of any liquidator;
- (d) call for and inspect the books, documents or assets of a trade union;
- (e) by order in writing limit or restrict the powers of a liquidator;
- (f) at any time require accounts to be rendered to him by a liquidator;
- (g) refer any subject of dispute between a liquidator and any third party to arbitration, subject to the consent in writing of such third party;

- (h) summon such meetings of the members of the trade union as may appear to him convenient for the purpose of winding up the affairs of the trade union.

(4) A liquidator appointed under section 14 or the Registrar shall, in so far as such powers are necessary for the carrying out of the purposes of this section, have power to summon and enforce the attendance of parties and witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a magistrate.

16. Where a liquidator has been appointed under section 14 for the liquidation of a registered trade union the registration of which has been cancelled, then, notwithstanding anything contained in the rules of the trade union—

Closure of liquidation on appointment of liquidator by Registrar.

- (a) all of the funds (including welfare funds, if any) and assets of what description soever belonging to the trade union shall be realized and converted into money and shall be applied first to the cost of the liquidation, then to the discharge of the liabilities of the trade union, then to the payment of share capital, if any, and then in such manner as may be provided by the rules of the trade union or, failing provision therefor, in such manner as the Registrar may direct;
- (b) when the liquidation of the trade union has been closed and any creditor thereof has not claimed or received what is due to him under the scheme of distribution, notice of the closing of the liquidation shall be published in the *Gazette*, and all claims against the funds of the trade union shall be proscribed when two years shall have elapsed from the date of such publication;
- (c) any surplus remaining after the application of the funds to the purposes specified in paragraph (a) and the payment of any claims under paragraph (b) shall be paid into the general revenue of the Colony.

PART IV.

Constitution.

17. (1) No person shall be an officer or a member of a registered trade union unless he is ordinarily resident in the Colony and habitually engaged or employed in a trade or occupation with which the trade union is directly concerned:

Officers and members of trade unions.

Provided that—

- (a) with the consent in writing of the Registrar, an officer of a registered trade union may be a person not habitually engaged

in a trade or occupation with which the trade union is directly concerned; and

- (b) any person who has lawfully been a member of a registered trade union may, upon his retirement on account of age or ill-health from the trade or occupation in which he was habitually engaged or employed and by virtue of which he was a member of the trade union, remain a member thereof, but shall not be a voting member.

(2) Save with the consent in writing of the Registrar, no person shall, at the same time, be an officer of more than one registered trade union:

Provided that any person, other than a person who is an officer of a trade union with the consent of the Registrar under paragraph (a) of subsection (1), may, at the same time and without the consent of the Registrar, be an officer of a registered trade union and of a registered trade union federation of which such trade union is a member.

(3) Save with the consent of the Governor in Council no person who has been convicted of any crime involving fraud, dishonesty, extortion or membership of a triad society shall be an officer of a registered trade union.

(4) A person under the age of sixteen years may be a member of a registered trade union, unless provision is made in the rules thereof to the contrary, but shall not be a voting member or a member of the executive of a registered trade union.

(5) A person under the age of twenty-one years, but of or over the age of sixteen years, may be a member of a registered trade union, unless provision is made in the rules thereof to the contrary, and may, subject to the rules of the trade union, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the executive of a registered trade union.

(6) Any person who is an officer of a registered trade union in contravention of this section shall be guilty of an offence and shall be liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

Rules.

18. (1) Every registered trade union shall have, and every trade union which is applying for registration shall make, rules that, in the opinion of the Registrar, provide adequately for each and all of the matters specified in the First Schedule.

First
Schedule.

- (2) (a) Where application is being made for the registration of a trade union, the rules of the trade union shall be sent to the Registrar, in the manner prescribed by regulations, at the same time as the application for registration.

- (b) When the Registrar is satisfied that—

- (i) such rules have been duly made;
- (ii) such rules make adequate provision for each and all of the matters specified in the First Schedule;
- (iii) no such rule is inconsistent with any of the provisions of this Ordinance or the regulations or with any other such rule or with the principal objects of the trade union or is contradictory, imprecise or incomprehensible; and
- (iv) where any such rule relates to the taking of decisions by secret ballot, every voting member of the trade union has an equal right and, so far as practicable, a reasonable opportunity of voting and that the secrecy of the ballot is ensured,

he shall register such rules.

(3) No alteration or amendment of or addition to any of the registered rules of a registered trade union shall be made the effect of which is that the rules no longer provide adequately for each and all of the matters specified in the First Schedule.

(4) Where any registered rule of a registered trade union has been altered or amended or any rule has been added to the registered rules thereof and where the registered rules of a registered trade union have been wholly rescinded or otherwise cancelled and replaced by new rules, the rule so amended or altered or the rule so added or the new rules, as the case may be, shall, within thirty days of the making thereof, be sent to the Registrar in the manner prescribed by regulations.

- (5) When the Registrar is satisfied that—

- (a) such alteration, amendment or addition has, or such new rules have, been duly made; and
- (b) in the case of an altered or amended rule or a rule which has been so added—
 - (i) the effect of the alteration, amendment or addition is not such that the rules of the trade union no longer make adequate provision for each and all of the matters specified in the First Schedule;
 - (ii) the altered or amended rule or the rule so added is not inconsistent with any of the provisions of this Ordinance or the regulations or with any other rule of the trade union or with the principal objects of the trade union or contradictory, imprecise or incomprehensible;
 - (iii) where the altered or amended rule or the rule so added relates to the taking of decisions by secret ballot, every voting member of the trade union has an equal right and, so far as

practicable, an equal opportunity of voting and that the secrecy of the ballot is ensured; and

(iv) where the rule has been amended or altered or the rule has been added for the purpose of compliance by such trade union with the provisions of subsection (1), the rule, either by itself or in conjunction with other registered rules, makes adequate provision for the matter specified in the First Schedule to which it relates; or

(c) in the case of new rules—

(i) such rules make adequate provision for each and all of the matters specified in the First Schedule;

(ii) no such rule is inconsistent with any of the provisions of this Ordinance or the regulations or with any other such rule or with the principal objects of the trade union or is contradictory, imprecise or incomprehensible; and

(iii) where any such rule relates to the taking of decisions by secret ballot, every voting member of the trade union has an equal right and, so far as practicable, an equal opportunity of voting and that the secrecy of the ballot is ensured,

he shall register the altered or amended rule or the rule so added or the new rules, as the case may be.

(6) No new rule, no alteration or amendment of any registered rule and no rule added to the registered rules of a registered trade union shall take effect until the same has been registered under this section.

(7) If a registered trade union contravenes subsection (1), the trade union shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred dollars:

Provided that, in respect of a trade union that is deemed, by virtue of subsection (1) of section 68, to have been duly registered under this Ordinance, this subsection shall not come into operation until such date as may be appointed by the Governor with reference to this subsection by Proclamation in the *Gazette*.

(8) In the event of a contravention of subsection (3), (4) or (6), the registered trade union shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred dollars.

(9) For the purposes of this section, the expression "registered rule" means a rule registered under this section or a rule deemed, by virtue of the provisions of subsection (1) of section 68, to have been registered under this Ordinance.

19. A copy of the rules of a registered trade union shall be delivered by the trade union to any person demanding the same and tendering payment in advance of a sum not exceeding two dollars.

20. (1) Every registered trade union shall have a registered office situated in the Colony and a postal address to which all communications and notices may be addressed. Registered office.

(2) Notice of the situation of the registered office and of the postal address, and of any change therein, shall, within two weeks of the registration of the trade union or of such change, as the case may be, be given to the Registrar and shall be registered by him, and the trade union shall not be deemed to have complied with this Ordinance until such notice has been given.

(3) Any registered trade union that—

(a) operates without having a registered office or without giving notice of the situation of its registered office; or

(b) operates at any place to which its registered office may have been removed without having given notice of the change in the situation thereof to the Registrar; or

(c) operates without having a postal address or without giving notice of its postal address; or

(d) fails to give notice to the Registrar of a change in its postal address,

shall be guilty of an offence and shall be liable on summary conviction to a fine of one hundred dollars.

21. (1) Notification of every branch of a registered trade union and of every business or charitable, cultural, educational or medical undertaking that is operated by or in the name of a trade union shall be made to the Registrar, together with such particulars thereof as the Registrar may from time to time require, by the trade union within fourteen days after the establishment of such branch or business or charitable, cultural, educational or medical undertaking, as the case may be, or, in the case of any such branch or business or charitable, cultural, educational or medical undertaking established before the commencement of this Ordinance, within thirty days after the commencement thereof. Branches and various undertakings of trade unions to be reported to the Registrar.

(2) If a branch of a registered trade union or such a business or charitable, cultural, educational or medical undertaking as is mentioned in subsection (1) ceases after notification to the Registrar, to exist or to be operated by or in the name of a registered trade union, the trade union shall report the fact to the Registrar in writing within thirty days thereafter.

(3) A registered trade union that contravenes this section shall be guilty of an offence and shall be liable to a fine of two hundred dollars.

Notification
of officers,
etc.

22. (1) A notice giving the names (including any alias) of all officers and their titles shall be prominently exhibited in the registered office of every registered trade union and in every office of any branch of a registered trade union.

(2) Notice of every change of officers or of the title of any officer of a registered trade union shall, within fourteen days thereof, be sent by the trade union to the Registrar.

(3) The Registrar may require a registered trade union to furnish, in respect of any officer specified in any notice given under subsection (2), such particulars as he may consider necessary, and such trade union shall furnish such particulars within fourteen days of the date of such request.

(4) A registered trade union that contravenes subsection (2) or fails to furnish, within the period specified therein, any particulars which the Registrar may have required under subsection (3) shall be guilty of an offence and shall be liable to a fine of two hundred dollars.

Change of
name.

23. (1) A registered trade union may agree to change its name by the vote in secret ballot of not less than two-thirds of its voting members.

(2) Where a registered trade union has so agreed to change its name, application for the registration of the change of name shall be made to the Registrar within fourteen days thereof.

(3) If—

(a) the proposed name is identical with that under which any other trade union, whether existing or not, is or has been registered or so nearly resembles such name as to be likely to deceive the public or the members of such trade union or of any other trade union; or

(b) the provisions of this Ordinance in respect of change of name have not been complied with,

the Registrar shall refuse to register the change of name.

(4) Save as provided in subsection (3), the Registrar shall register the change of name.

(5) Any person who considers that the Registrar was wrong in refusing to register a change of the name of any registered trade union in that, as the case may be—

(a) the proposed name was not such a name as is specified in paragraph (a) of subsection (3);

(b) the provisions of this Ordinance in respect of change of name had been complied with,

may, within fourteen days after the refusal of the Registrar to register the change of name, appeal to the Full Court, and, if upon any such appeal the Full Court finds that the refusal of the Registrar to register the change of name was wrong as aforesaid, it may so declare and thereupon the Registrar shall register the change of name, but, save as hereinbefore provided, the appeal shall be dismissed.

(6) No change of name of a registered trade union shall—

(a) take effect until the same has been registered under this section;

(b) affect any right or obligation of the trade union or any member thereof.

(7) Where, in respect of any registered trade union that has changed its name, any proceeding or cause of action was pending or existed at the time of the change of name, the same may be continued or enforced by or against the trade union as it might have been continued or enforced by or against the trade union if the change of name had not taken place.

24. Save with the consent of the Registrar, no registered trade unions shall amalgamate as one trade union.

Consent of
Registrar
required to
amalgama-
tion of
trade unions.

25. (1) Where two or more registered trade unions desire to amalgamate as one trade union, an application shall be made to the Registrar for his consent to the amalgamation.

Application
for consent
to amalga-
mation.

(2) Every application under subsection (1) shall be made in the prescribed form and shall be signed by the chairman and one other officer of each trade union and shall be accompanied by three copies of the proposed rules of the trade union to be formed by the intended amalgamation.

26. No application under section 25 for the consent of the Registrar to the amalgamation of any registered trade unions shall be made unless, in the case of each trade union, a majority of the executive thereof has voted in favour of the making of the application.

Vote on
application
for consent
to amalga-
mation.

27. (1) The Registrar may refuse to give his consent to an intended amalgamation of registered trade unions where—

Grounds for
refusal to
consent to
amalgama-
tion and
procedure
in such
cases.

(a) any of the provisions of this Ordinance in respect of the making of the application for his consent have not been complied with;

(b) the proposed rules of the trade union to be formed by the amalgamation will not make adequate provision for each and all of the matters specified in the First Schedule;

First
Schedule.

- (c) any of the purposes of such trade union will be unlawful;
- (d) the name by which it is proposed that such trade union will be known is identical with that under which any other trade union, whether existing or not, is or has been registered or so nearly resembles such name as to be likely to deceive the public or the members of such trade union or of any other trade union.

(2) Where, under subsection (1) of this section or subsection (2) of section 28, the Registrar refuses to give his consent to the amalgamation of any registered trade unions, he shall, in writing, notify the trade unions of his refusal and shall specify therein the ground for his refusal.

(3) Any person who considers that the Registrar was wrong in refusing under subsection (1) to give his consent to an intended amalgamation of registered trade unions on the ground specified in the notice given pursuant to subsection (2) in that, as the case may be—

- (a) the provisions of this Ordinance in respect of the making of the application for his consent had been complied with;
- (b) the proposed rules of the trade union to be formed by the amalgamation would have made adequate provision for each and all of the matters specified in the First Schedule;
- (c) none of the purposes of such trade union will be unlawful;
- (d) the name by which it was proposed that such trade union would be known was not such a name as is specified in paragraph (d) of subsection (1).

First
Schedule.

may, within fourteen days after the Registrar has given such notice, appeal to the Full Court, and, if upon any such appeal the Full Court finds that the refusal of the Registrar to give his consent to the intended amalgamation was wrong as aforesaid, it may so declare and thereupon the Registrar shall, subject to the provisions of section 28, give his consent to the amalgamation, but, save as hereinbefore provided, the appeal shall be dismissed.

Application
for consent
to be referred
to Governor
in Council
in certain
cases.

28. (1) Where the Registrar has received an application under subsection (1) of section 25 for his consent to the amalgamation of any registered trade unions and any of such trade unions is a member of any kind of a trade union or other organization established outside the Colony, he shall, if, but for the provisions of this section, he would have given his consent to the amalgamation, refer such application to the Governor in Council.

(2) Where, under subsection (1), the Registrar has referred an application to the Governor in Council, he shall refuse to give his consent to the amalgamation unless the Governor in Council consents to the same.

29. (1) Where the Registrar gives his consent to the amalgamation of any registered trade unions, he shall send to each of the trade unions a notice in writing thereof and shall supply to each of the trade unions such additional copies of such notice as may be necessary to enable the trade union to comply with paragraph (a) of subsection (1) of section 30.

(2) The giving by the Registrar of his consent to the amalgamation of any registered trade unions shall not prejudice or affect in any way the powers vested in him by this Ordinance to refuse to register the trade union formed by such amalgamation or the exercise of any powers so vested in him in connexion with the registration thereof.

30. (1) No registered trade unions shall be amalgamated as one trade union unless—

- (a) the notice in writing of the consent of the Registrar to the amalgamation has been posted at the registered office of each of the trade unions party to the amalgamation and in every branch thereof for a period of not less than fourteen days; and
- (b) in the case of each such trade union, on a vote being taken in secret ballot, the votes of at least fifty per centum of the members thereof are recorded and of the votes recorded those in favour of the amalgamation exceed by not less than twenty per centum those against the same.

(2) An amalgamation of registered trade unions may take place with or without any dissolution or division of the funds of the trade unions.

31. (1) All deeds, bonds, agreements and instruments to which any registered trade union that is amalgamated with any other registered trade union was a party that are subsisting at the time of the amalgamation shall be of as full force and effect against or in favour of the trade union formed by the amalgamation as if, instead of such registered trade union, the trade union so formed had been named therein or had been a party thereto.

(2) Where, in respect of any registered trade union that has amalgamated with any other registered trade union, any proceeding or cause of action was pending or existed at the time of the amalgamation, the same may be continued or enforced by or against the trade union formed by the amalgamation as it might have been continued or enforced by or against such registered trade union if the amalgamation had not taken place.

32. (1) When a registered trade union is dissolved, notice of the dissolution thereof, signed by the secretary of the trade union and seven persons who were voting members thereof at the date of the dissolution,

Notice in writing to be given of consent to amalgamation, and saving of powers of Registrar in relation to registration of trade union formed by amalgamation.

Procedure for amalgamation, etc.

Transfer of liabilities, etc. to trade union formed by amalgamation.

Notification of dissolution.

shall, within fourteen days after the dissolution, be sent to the Registrar by the trade union, and upon the registration by the Registrar of such dissolution, the trade union shall cease to be a body corporate.

(2) A registered trade union that contravenes subsection (1) and every officer of a registered trade union, or other person, bound by the rules thereof to give or send the notice required by that subsection who fails to give or send the same shall be guilty of an offence and shall be liable to a fine of two hundred dollars.

PART V.

Funds, Accounts and Returns.

Application
of funds.

33. (1) The funds, other than the welfare fund (if any), of a registered trade union may, subject to the rules thereof and to the provisions of this Ordinance and the regulations, be expended only for the following purposes—

- (a) the payment to officers and employees of the trade union of salaries, allowances and expenses incurred in dealing with the affairs of the trade union;
- (b) the payment of expenses for the administration of the trade union, including audit of the accounts of the funds thereof;
- (c) the prosecution or defence of any legal proceeding to which the trade union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the trade union as such or any rights arising out of the relations of any member with his employer or with a person whom such member employs;
- (d) the conduct of trade disputes on behalf of the trade union or any member thereof;
- (e) the compensation of members for loss arising out of trade disputes;
- (f) the allocation of moneys for the provision and maintenance of a welfare fund;
- (g) purchase of bonds, securities or property;
- (h) payment of subscriptions, fees, contributions or donations to a registered trade union or other lawful association or combination established within the Colony;
- (i) the promotion of entertainments;
- (j) subject to the approval of the Governor in Council, contributions or donations to a trade union or other similar organization established outside the Colony whether or not such registered trade union is affiliated therewith;

(k) any other purpose which the Governor in Council may approve.

(2) Without prejudice to section 49, a registered trade union that contravenes subsection (1) shall be guilty of an offence and shall be liable to a fine of five hundred dollars.

34. The funds of a registered trade union shall not be applied either directly or indirectly for any political purpose or be paid or transferred to any person or body of persons in furtherance of any political purpose whether within or without the Colony.

Use of
funds for
political
purposes.

35. (1) The treasurer of a registered trade union and every other officer thereof who is responsible for the accounts of the trade union or for collection, disbursement, custody or control of the funds or moneys thereof shall, upon resigning or vacating his office and at least once in every year at such time as may be specified in the rules of the trade union and at any other times at which he may be required to do so by a resolution of the voting members of the trade union or by the rules thereof, render to the trade union and its members a just and true account of all moneys received and paid by him during the period that has elapsed since his assuming office or, if he has previously rendered an account, since the last date upon which he rendered such account, and of the balance remaining in his custody at the time of rendering such account and of all bonds, securities or other property of the trade union entrusted to his custody or under his control.

Treasurer
to render
accounts
to members.

(2) The form of account may be prescribed.

(3) The trade union shall cause the account to be audited by some person approved for that purpose by the Registrar.

(4) After the account has been audited, the treasurer or other officer referred to in subsection (1) shall, if he is resigning or vacating his office or if so required by resolution of the voting members of the trade union or by the rules thereof, as the case may be, hand over to the trade union such balance as appears to be due from him and all bonds, securities, effects, books, papers and property of the trade union in his custody or otherwise under his control.

(5) If the treasurer or other officer referred to in subsection (1) fails to hand over such balance or such other things as are referred to in subsection (4) in accordance with that subsection, the trade union or any voting member thereof may sue him in any competent court for the balance appearing to have been due from him upon the account last rendered by him and for all moneys since received by him on account of the trade union and for the securities and effects, books, papers and property in his custody, leaving him to set off in such action the sums, if any, that he may have since paid on account of the trade union, and in any such action the plaintiff shall be entitled to recover full costs of the suit to be taxed as between solicitor and client.

Annual statement of account and returns to be rendered to Registrar.

36. (1) Every registered trade union shall furnish annually to the Registrar, not more than three months after the termination of each financial year of the trade union as specified in the rules thereof or within such further period as the Registrar may on application grant, a statement of account, audited by an auditor approved by the Registrar, of all receipts and expenditures during that financial year and of the assets and liabilities of the trade union. The statement shall be accompanied by a copy of the auditor's report and shall be prepared in such form and shall contain such particulars as may be prescribed.

(2) Every registered trade union shall furnish to the Registrar on or before the 31st day of March in each year a return in the form prescribed showing the membership of the trade union and the names of the officers thereof on the 31st day of December in the preceding year and containing such other particulars as may be prescribed.

(3) Every member of a registered trade union shall be entitled to receive free of charge a copy of the statement of account referred to in subsection (1) and the secretary or other officer thereof specified in the rules of the trade union shall deliver a copy of such statement to every member of the trade union who makes application to him therefor.

(4) A registered trade union that contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable to a fine of five hundred dollars.

Inspection of accounts.

37. (1) The account books of a registered trade union and the register of the members thereof shall be open to inspection by any officer or member of the trade union or any authorized agent thereof at such times and in such place as may be specified in the rules thereof and shall be open to inspection at any time by the Registrar or any person authorized in writing by him in that behalf and the Registrar or such person may for that purpose enter any premises occupied by the trade union or any branch thereof.

(2) Any person who opposes, obstructs or impedes the Registrar, or any person authorized by him under subsection (1), in the carrying out of such inspection shall be guilty of an offence and shall be liable to a fine of five hundred dollars and to imprisonment for three months.

Power to require detailed accounts.

38. (1) Without prejudice to any other provisions relating to the rendering of accounts, the Registrar may, at any time, call upon a registered trade union to render, in respect of any particular period, an account of the funds of the trade union or any branch thereof, or both, together with a statement of the assets and liabilities thereof, and such account shall show in particular such information, and shall be vouched in such manner, as the Registrar may require and shall be delivered to him within such period as he may specify.

(2) Any registered trade union that fails to comply with a request made by the Registrar under subsection (1) shall be guilty of an offence and shall be liable to a fine of five hundred dollars.

PART VI.

Rights and Liabilities of Trade Unions.

39. Subject to section 9, no trade union shall enjoy any of the rights, immunities or privileges of a registered trade union until it is registered. Disabilities of unregistered union.

40. The purposes of any registered trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful so as to render any member of such registered trade union liable to criminal prosecution for conspiracy or otherwise. Registered trade union not criminal.

41. The purposes of any registered trade union shall not, by reason merely that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust. Registered trade union not unlawful for civil purposes.

42. No suit or other legal proceeding shall be maintained in any civil court against a registered trade union in respect of any act done in contemplation or furtherance of a trade dispute to which a member of such trade union is a party on the ground only that such act induces some other person to break a contract of employment or that it is an interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills. Immunity from civil suit in certain cases.

43. (1) An action against a registered trade union, whether of workmen or employers, in respect of any tortious act alleged to have been committed in contemplation or furtherance of a trade dispute by or on behalf of such trade union shall not be entertained by any court. Prohibition of actions in tort against registered trade unions.

(2) Nothing in this section shall affect the liability of a registered trade union, or any trustees thereof, to be sued in any court touching and concerning any property, or any right or claim to property, of such trade union, except in respect of any tortious act committed by or on behalf of such trade union in contemplation or furtherance of a trade dispute.

44. Nothing in this Ordinance shall enable any court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements, namely— Trade union contracts.

(a) any agreement between members of a trade union as such concerning the conditions on which any members for the time

being of such trade union shall or shall not sell their goods, transact business, employ or be employed;

- (b) any agreement for the payment by any person of any subscription or penalty to a trade union;
- (c) any agreement for the application of the funds of a trade union—
 - (i) to provide benefits for members; or
 - (ii) to furnish contributions to any employer or workman not a member of such trade union, in consideration of such employer or workman acting in conformity with the rules or resolutions of such trade union; or
 - (iii) to discharge any fine imposed on any person by sentence of a court of justice; or
- (d) any agreement made between one trade union and another; or
- (e) any bond to secure the performance of any of the above mentioned agreements,

but nothing in this section shall be deemed to constitute any of the above mentioned agreements unlawful.

Affiliation
outside the
Colony.

45. (1) Except with the consent of the Governor in Council, no registered trade union shall be a member of any kind of any trade union or other organization of what nature or kind soever that is established outside the Colony. Such consent, if given, may be withdrawn at the discretion of the Governor in Council.

(2) A registered trade union that contravenes subsection (1) shall be guilty of an offence and shall be liable to a fine of five hundred dollars.

PART VII.

Picketing, Intimidation and Conspiracy.

Peaceful
picketing.

46. Notwithstanding anything in this Ordinance, it shall be lawful for one or more persons, acting on their own behalf or on behalf of a registered trade union or of an individual employer or firm, in contemplation or furtherance of a trade dispute, to attend at or near a house or place where a person resides or works or carries on business or happens to be, if they so attend merely for the purpose of peacefully obtaining or communicating information or of peacefully persuading any person to work or abstain from working:

Provided that it shall not be lawful if they so attend in such numbers, or otherwise in such manner, as to be calculated to intimidate any person in that house or place, or to obstruct the approach thereto

or egress therefrom, or to lead to a breach of the peace, and any person who acts in contravention of this proviso shall be guilty of an offence and shall be liable to a fine of one thousand dollars and to imprisonment for six months.

47. (1) Every person who, with a view to compelling any person to abstain from doing or to do any act that such other person has a legal right to do or abstain from doing, wrongfully and without legal authority—

Intimidation
and annoy-
ance.

- (a) uses violence to or intimidates such other person or his wife or children, or injures his property; or
- (b) persistently follows such other person about from place to place; or
- (c) hides any tools, clothes or other property owned or used by such other person, or deprives him of the same or hinders him in the use thereof; or
- (d) watches or besets the house or other place where such other person resides or works or carries on business or happens to be or the approach to such house or place; or
- (e) follows such other person in a disorderly manner in or through any street or road,

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

(2) Attending at or near any house or place in such numbers, or otherwise in such manner, as is by the proviso to section 46 declared to be unlawful shall be deemed to be a watching or besetting of that house or place within the meaning of this section.

48. (1) An agreement or combination of two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be triable as a conspiracy if such act committed by one person would not be punishable as a crime.

Conspiracy
in relation
to trade
disputes.

(2) An act done in pursuance of an agreement or combination by two or more persons shall, if done in contemplation or furtherance of a trade dispute, not be actionable unless the act, if done without any such agreement or combination, would be actionable.

(3) Nothing in this section shall exempt from punishment any person guilty of a conspiracy for which a punishment is awarded by any enactment in force in the Colony.

(4) Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace or sedition or any offence against the State or the Sovereign.

(5) Where a person is convicted of any such agreement or combination as is referred to in subsection (1) to do or procure to be done any act that is punishable on summary conviction, and is sentenced to imprisonment, the imprisonment shall not exceed three months, or such longer term, if any, as may have been prescribed by the law for the punishment of such act when committed by one person.

(6) Nothing in this section shall be construed in any way to limit (Cap. 151). or prejudice any of the provisions of the Societies Ordinance.

PART VIII.

Miscellaneous Offences Relating to Registered Trade Unions.

Punishment for withholding money or property of a registered trade union.

49. (1) If any officer or any other person being or representing himself to be a member of a registered trade union or the nominee, executor, administrator or assignee of a member thereof or any person whatsoever, by false representation or imposition, obtains possession of any moneys, securities, books, papers or other effects of such trade union, or, having the same in his possession, wilfully withholds or fraudulently misapplies the same, or wilfully applies any part of the same to purposes other than those expressed or directed in the rules of such trade union, the District Court, upon application made by such trade union or by any voting member of such trade union or by the Registrar, may make an order requiring such officer, member or other person to deliver up to the trade union all such moneys, securities, books, papers, or other effects of the trade union, or to repay the amount of the moneys applied improperly, and to pay to the trade union, if the District Court thinks fit, a further sum of money not exceeding two hundred dollars together with the costs of the application, and, in default of delivery of such effects, or repayment of such amount of money, or payment of such penalty and costs aforesaid, the said court may order such officer, member or person to be imprisoned for any time not exceeding three months:

Provided that nothing in this subsection shall prevent any criminal proceedings being taken against such officer, member or other person in relation to any matter in respect of which an order was made under this subsection.

(2) Without prejudice to the provisions of subsection (1), any registered trade union or any voting member of a registered trade union or the Registrar may apply to the District Court for an injunction restraining an officer of the trade union from holding office or controlling trade union funds, and the District Court, if satisfied that there is a *prima facie* case against such officer for the fraudulent misuse of the funds of the trade union, may grant such injunction.

50. Any person who, with intent to mislead or defraud—

- (a) gives to any member of a registered trade union or to any person intending or applying to become a member of such trade union a copy of any rules, or of any alterations or amendments of any rules, other than those that have been registered for the time being under this Ordinance, on the pretence that such rules are registered or that there are no other rules of such trade union; or
- (b) gives a copy of any document purporting to be rules on the pretence that such document contains the rules of a trade union registered under this Ordinance, that is not so registered; or
- (c) uses any sign, seal or stationery of any unregistered trade union on the pretence that such trade union is registered,

shall be guilty of an offence and shall be liable to a fine of five hundred dollars and to imprisonment for three months.

51. (1) No person who is a member of a registered trade union shall, without lawful authority or excuse, have in his possession or under his control any document that is, or purports or appears to be, an order, direction or advice by or on behalf of, or in the name of, any trade union or any labour, political, cultural or social organization that is established outside the Colony, with regard to any action by any person or persons within the Colony:

Provided that this section shall not apply to any such document issued by or on behalf of, or in the name of, any such trade union or such organization established outside the Colony if the person having such document in his possession or under his control is a member of a registered trade union established within the Colony that is, with the consent of Governor in Council, a member of any kind of such trade union or such organization established outside the Colony.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of one thousand dollars and to imprisonment for three months.

52. (1) If it appears to the Registrar that any registered trade union or any officer thereof has contravened or is about to contravene any of the rules of the trade union respecting any of the matters specified in the First Schedule, the Registrar may serve upon the trade union or upon such officer, as the case may be, a notice in writing requiring the trade union or such officer to comply with such rule.

(2) If any registered trade union upon which, or any officer of a registered trade union upon whom, a notice has been served under subsection (1) fails to comply with such notice, the trade union or such officer, as the case may be, shall be guilty of an offence and shall be liable to a fine of two hundred dollars.

Circulating false copies of rules, etc.

Possession of certain documents unlawful.

Contravention of rules.

First Schedule.

PART IX.

Trade Union Federations.

Application to trade union federations.

53. (1) Save as hereinafter expressly provided, this Ordinance shall apply, in so far as applicable, to a trade union federation as if the component trade unions comprising such trade union federation were individual members of a trade union:

(Cap. 151).

Provided that the Societies Ordinance shall not apply to a trade union federation so as to penalize any individual member of a registered trade union merely by reason of his being a member of such registered trade union.

(2) Save as otherwise provided, every notice, copy of rules or other document required by this Ordinance to be signed, in the case of a trade union, by the secretary or voting members thereof, or both, shall, in the case of a trade union federation, be signed by the chairman and one other officer thereof.

Provisions as to application for registration of trade union federation.

54. In the case of a trade union federation, an application for registration in accordance with section 5 shall be signed by the chairman and one other officer of each of the registered trade unions comprised therein, and shall be accompanied by a declaration from each of such trade unions, signed by seven voting members thereof, that the application is made with the consent of the voting members thereof as declared by a majority of votes taken by secret ballot at a general meeting of the trade union.

Trade union federation not to be registered unless component trade unions registered.

55. No trade union federation shall be registered by the Registrar unless—

- (a) each of the component trade unions comprising such trade union federation is a registered trade union; and
- (b) the members of each and all of such component trade unions are engaged in the same trade or industry.

Additions to membership of trade union federations.

56. (1) Where a trade union federation has been registered under this Ordinance, no trade union shall subsequently enter into any agreement for membership thereof or be a member of such registered trade union federation unless—

- (a) such trade union is a registered trade union the members of which are engaged in the same trade or industry as the members of the component trade unions comprising such trade union federation;
- (b) application for membership of such registered trade union federation has been submitted to the Registrar in the prescribed form, which shall be signed by the secretary and not less than seven voting members of the trade union applying for such

membership, any of whom may be officers thereof, and contain a declaration that such application is made with the consent of the voting members of the trade union as declared by a majority of the votes taken by secret ballot at a general meeting thereof;

- (c) there has been submitted to the Registrar a declaration signed by all of the officers of such registered trade union federation signifying consent;
- (d) the Registrar, having satisfied himself that all of the requirements of this Ordinance have been complied with, has signified his consent in writing to such trade union joining in membership with such trade union federation.

(2) If any registered trade union, being a member of a registered trade union federation, shall cease to be registered, such trade union shall forthwith cease to be a member of such registered trade union federation.

(3) Where, under paragraph (d) of subsection (1), the Registrar has signified his consent to any registered trade union joining in membership with a trade union federation and, in respect of any declaration made for the purposes of paragraph (c) or (d) of subsection (1), there has been a contravention of subsection (3) of section 58, the Registrar may forthwith withdraw such consent.

(4) If any trade union, or any person acting for or on behalf of or in the name of a trade union with the consent of the trade union, takes any part in the affairs or business of a registered trade union federation of which such trade union is not a properly constituted member in accordance with this Ordinance and the rules of such registered trade union federation, such trade union or person, as the case may be, shall be guilty of an offence and shall be liable to a fine of five hundred dollars.

57. No person shall be an officer of a registered trade union federation unless he is an officer or a voting member of one of the component registered trade unions comprising such trade union federation.

Officers of trade union federations.

PART X.

Forms and Regulations.

58. (1) The Registrar may prescribe all such forms as may, in his opinion, be required for the carrying out of this Ordinance.

(2) Any form prescribed under subsection (1) shall be published in the *Gazette*.

Forms and offences in relation thereto.

- (3) Any person who—
- (a) in any form prescribed by the Registrar under subsection (1), or in any declaration accompanying any such form, makes any statement or furnishes any information that he knows to be false or has reason to believe to be false;
- (b) causes or procures any such statement to be made or any such information to be furnished in any such form or in any such declaration; or
- (c) in any such form or in any such declaration makes any statement or furnishes any information recklessly,

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

- (4) Any person who—
- (a) signs any form prescribed by the Registrar under subsection (1) knowing that it contains any false statement or any statement that he has reason to believe to be false; or
- (b) signs any such form recklessly,

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

Regulations.

59. (1) Save as provided in section 58 and notwithstanding anything in the rules of any registered trade union, the Governor in Council may by regulation prescribe or provide for—

- (a) all matters stated or required in this Ordinance to be prescribed;
- (b) books, registers and forms to be used for the purposes of this Ordinance;
- (c) the manner in which the accounts of registered trade unions shall be audited and the qualifications of persons by whom they may be audited;
- (d) the seal, if any, to be used by the Registrar for the purpose of registration of trade unions;
- (e) inspection of registers and documents kept by the Registrar and the making of copies of entries therein;
- (f) fees to be charged for inspection and any other service or matter prescribed or permitted by this Ordinance;
- (g) the due disposal and safe custody of the funds and moneys of a registered trade union;
- (h) the creation, administration, protection, control and disposal of the welfare funds of registered trade unions and all matters connected therewith or incidental thereto;

- (i) generally for giving effect to the principles and provisions of this Ordinance.

(2) Regulations made under this section may be of general application or limited to any particular registered trade union or class of registered trade unions.

(3) Regulations made under this section may provide that any person who, or any registered trade union that, contravenes any of the provisions of such regulations shall be guilty of an offence and may prescribe penalties therefor:

Provided that no penalty so prescribed shall exceed a fine of five hundred dollars.

PART XI.

Miscellaneous.

60. The Registrar may delegate to any officer of the Registry of Trade Unions, either generally or particularly, such of his powers, functions or duties under this Ordinance as he may consider expedient: Delegation of powers.

Provided that no delegation made hereunder shall preclude the Registrar from exercising or performing at any time any of the powers, functions or duties so delegated.

61. Where any offence against this Ordinance or any regulations made thereunder has been committed by any registered trade union, every officer of the trade union shall be guilty of the like offence unless he proves to the satisfaction of the court that the act constituting the offence took place without his knowledge or consent. Liability of officers thereof where offence committed by trade union.

62. Notwithstanding anything contained in the Magistrates Ordinance, a complaint made or information laid in respect of an offence under this Ordinance or the regulations shall be made or laid within two years from the time when the matter of such complaint or information respectively arose. Limit of time for complaints or information. (Cap. 227).

63. Every summons, notice or other document required to be served on a registered trade union in any civil or criminal proceeding shall be deemed to be duly served if it is delivered at or sent by registered post addressed to the registered office of the trade union or if it is served personally on any officer of the trade union, provided that such service is otherwise in compliance with the requirements of any relevant enactment. Service of legal process.

64. (1) Subject to the provisions of this Ordinance, the practice and procedure upon and in connexion with any appeal under this Ordinance to the Full Court shall be subject to any rules of court made under the Supreme Court Ordinance. Procedure, etc. upon appeal under Ordinance to Full Court. (Cap. 4).

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

Ordinance not to affect certain agreements.

65. Nothing in this Ordinance shall affect—

- (a) any agreement between partners as to their own business;
- (b) any agreement between an employer and those employed by him as to such employment; or
- (c) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

Notification in the Gazette.

66. The Registrar shall notify the following facts in the *Gazette*—

- (a) the fact that a trade union has applied for registration under this Ordinance;
- (b) the fact that a trade union has been registered under this Ordinance or that registration has been refused;
- (c) the fact that the registration of a trade union has been cancelled;
- (d) the fact that any change of name, amalgamation or federation relating to any trade union has been registered; and
- (e) the fact that any registered trade union has been dissolved.

Provisions of certain Ordinances not to apply to trade unions or trade union federations. (Cap. 33). (Cap. 32).

67. Subject to the provisions of this Ordinance, the following Ordinances, that is to say—

- (a) the Co-operative Societies Ordinance; and
- (b) the Companies Ordinance,

shall not apply to a trade union or a trade union federation and the registration of a trade union or a trade union federation under either of the said Ordinances shall be void and of no effect.

Transitional provisions. (Cap. 64).

68. (1) Any trade union that, on the commencement of this Ordinance, is registered under the Trade Unions and Trade Disputes Ordinance shall be deemed to have been duly registered under this Ordinance and its rules shall be deemed to have been so registered:

Provided that nothing in this subsection shall be deemed to exempt any such trade union from compliance with subsection (1) of section 18.

(2) Any notice of cancellation of registration issued under the Trade Unions and Trade Disputes Ordinance effective under that Ordinance on the commencement of this Ordinance shall be deemed to have been issued under this Ordinance and shall be effective for all purposes with effect from the date of the issue thereof.

(3) If a trade union is registered under the Companies Ordinance (Cap. 32) or the Co-operative Societies Ordinance and the same shall become registered under this Ordinance, all of the property and assets of what description soever vested in the trade union by virtue of registration under the Companies Ordinance or the Co-operative Societies Ordinance, as the case may be, together with all rights and liabilities, whether present, future, certain or contingent, shall forthwith be deemed vested in the trade union by virtue of its registration under this Ordinance, and all causes of action subsisting, or suits or other legal proceedings pending, by or against the trade union by reason of or arising out of its registration under the Companies Ordinance or the Co-operative Societies Ordinance, as the case may be, shall subsist or be continued by or against such trade union by virtue of its registration under this Ordinance.

(4) If any unincorporated association, being a trade union within the meaning of this Ordinance, shall become registered thereunder, all of the property and assets of what description soever belonging to the members of such association by virtue of membership thereof or vested in trustees for the members of such association shall become vested in the registered trade union upon registration together with all rights and liabilities, whether present, future, certain or contingent, and all causes of action subsisting, or suits or other legal proceedings pending, by or against any trustees for the members of such association or any officer or member on behalf of himself and all other members of such association shall subsist or continue by or against such registered trade union in the name under which it is registered.

69. The Trade Unions and Trade Disputes Ordinance is amended as specified in the Second Schedule.

Repeals and amendments. (Cap. 64). Second Schedule.

FIRST SCHEDULE.

[s. 18.]

Matters for which provision must be made in the rules of every registered trade union.

The rules of every registered trade union shall—

1. contain a statement of the name of the trade union and the address of its registered office;
2. declare the whole of the objects for which the trade union is established;
3. subject to the provisions of section 17, declare the conditions under which persons may enjoy—
 - (a) voting membership; and
 - (b) non-voting membership;
4. (a) provide for the keeping of a register of members of the trade union; and
 - (b) make provision for the maintenance of discipline within the trade union, including provision for appeal to the voting members at a general

- meeting of the trade union against any decision of the executive cancelling the membership of any member or dismissing any officer;
5. specify the method of convening and conducting annual general meetings and extraordinary general meetings, and the matters to be presented to the members of the trade union at such meetings, including in the case of annual general meetings the presentation of audited accounts;
 6. provide for the appointment and replacement of officers of the trade union;
 7. provide that every voting member of the trade union shall have a reasonable opportunity of voting;
 8. provide that all decisions in respect of the following matters be taken by decision of the voting members of the trade union by means of secret ballot—
 - (a) the appointment of members to the executive;
 - (b) change of name of the trade union;
 - (c) amalgamation of the trade union with any other trade union; and
 - (d) federation of the trade union with any other trade union or with a trade union federation;
 9. specify the amount and manner of payment of subscriptions, fees and contributions payable by members of the trade union;
 10. (a) subject to the provisions of section 33, specify the purposes to which the funds of the trade union may be applied;
 - (b) provide for the creation, administration, protection, disbursement and disposal of the welfare fund (if any) and declare the conditions under which any member, or the family of any member, of the trade union may become entitled to any benefit assured thereby;
 11. provide for the custody and investment of the funds (if any) of the trade union, the designation of the officer or officers responsible therefor, the keeping of accounts and the annual, or more frequent periodic, auditing thereof;
 12. specify the commencement and termination of the financial year of the trade union;
 13. ensure reasonable opportunity for the inspection by members of the trade union of the rules of the trade union, its account books and the registers of the names of the members thereof;
 14. provide for the making, altering, amending and rescinding of the rules of the trade union;
 15. provide for the method of dissolution of the trade union and the manner in which the funds thereof shall be disposed of upon dissolution.

SECOND SCHEDULE.

[s. 69.]

Amendment of Trade Unions and Trade Disputes Ordinance.

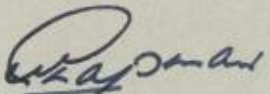
1. The long title is amended by the deletion therefrom of the words "trade unions and".
2. Section 1 is amended by the deletion therefrom of the words "Trade Unions and".
3. Section 2 is amended by the deletion therefrom of the definitions of the following expressions—
 - (a) "trade union";

(b) "registered".

4. Sections 3 to 34 inclusive and sections 45 and 46 are repealed.

5. The Schedule is repealed.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 27th day of December, 1961, and is found by me to be a true and correctly printed copy of the said Bill.



Deputy Clerk of Councils.

(Secretariat CR4/3051/53II)

HONG KONG

No. 53 OF 1961.



I assent.

Governor.

28th December, 1961.

An Ordinance to provide for the grant to workers employed in industrial undertakings of certain holidays and for the payment to them of a measure of sick pay and for matters connected with the purposes aforesaid.

[]

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

PART I.

Preliminary and application.

1. This Ordinance may be cited as the Industrial Employment (Holidays with Pay and Sickness Allowance) Ordinance, 1961, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*.

Short title
and com-
mencement.

Interpreta-
tion.

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

“alternative holiday” means a holiday granted or to be granted under subsection (3) of section 5;

“Commissioner” means the Commissioner of Labour and, save where the expression “Commissioner of Labour” is used, also means the Deputy Commissioner of Labour, any assistant commissioner of labour and any labour officer;

“Director” means the Director of Medical and Health Services;

“factory” means any premises or place (other than a mine) in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished or in which materials are transformed and within the curtilage or precincts of which—

- (a) any machinery, other than machinery worked entirely by hand, is used; or
- (b) one person or more than one person is employed in manual labour;

“holiday” means, as the case may be—

- (a) the statutory holiday;
- (b) the alternative holiday;
- (c) the day on which a female worker or a worker who is a young person is required by subsection (4) of section 5 to be granted a holiday; or
- (d) the day that has, under subsection (5) of section 5, been substituted for the statutory holiday or the alternative holiday or the day on which a female worker or a worker who is a young person is required by subsection (3) of section 5 to be granted a holiday;

“holiday pay” means the holiday pay provided for by section 6;

(18 of 1960). “identity card” means a card of identity issued under the Registration of Persons Ordinance, 1960;

“inspector” means any person appointed under section 3 of the Factories and Industrial Undertakings Ordinance, 1955, as Chief Labour Inspector, a senior labour inspector or a labour inspector; (34 of 1955).

“labour officer” means any person appointed under section 3 of the Factories and Industrial Undertakings Ordinance, 1955, as a labour officer, assistant labour officer or a Labour Officer (Industrial Undertakings);

“medical practitioner” means a person who is registered, or deemed to be registered, as a medical practitioner under the Medical Registration Ordinance, 1957; (25 of 1957).

“mine” means any work for the extraction of minerals from the earth, and includes any quarry or other works for the extraction of stone;

“prescribed”, when used in relation to any form, notice or other document, means prescribed by the Commissioner of Labour under section 34;

“sickness allowance” means the sickness allowance provided for by section 7;

“statutory holiday” means a day specified in subsection (1) of section 5 and also means a day on which a holiday is granted or is to be granted under subsection (2) of that section;

“worker” means a person to whom, by virtue of section 3, this Ordinance applies, and includes a female worker;

“young person” means a worker of or over the age of fourteen years and under the age of eighteen years.

(2) For the purposes of this Ordinance—

(a) the expression “industrial undertaking” has the meaning that it has for the purposes of the Factories and Industrial Undertakings Ordinance, 1955, save that the word “factory” has the meaning assigned to it by subsection (1) and not the meaning assigned to it by subsection (1) of section 2 of the said Factories and Industrial Undertakings Ordinance, 1955;

(b) any reference to days on which a worker worked for any person shall mean days on which the worker worked for that

person whether or not the days were worked under the same contract of employment and whether or not they were consecutive days; and

- (c) a worker shall be treated as having worked for a person on any day on which the worker worked for that person on not less than six hours, whether or not continuously.

(3) Nothing in paragraph (c) of subsection (2) shall be deemed to prevent a person from treating as a day on which a worker worked for him a day on which the worker worked for him for less than six hours.

(4) In determining whether or not on any day a worker has worked for not less than six hours, there shall be included any interval allowed to the worker for a meal or a rest.

Workers to whom Ordinance applies.

3. (1) Save as provided in subsection (2), this Ordinance applies to every person engaged under a contract of service or apprenticeship in an industrial undertaking, whether by way of manual labour, clerical work or otherwise and whether the contract is express or implied, oral or in writing.

(2) This Ordinance does not apply—

- (a) to a person employed otherwise than by way of manual labour whose average earnings exceed seven hundred dollars per month;
- (b) to a person employed in an agricultural operation or in the preparation of food for consumption and sale on the premises whereon it is prepared;
- (c) to a person who is a member of the family of the proprietor of the business in which he is employed and who dwells in the house of the proprietor;
- (d) to a person who is serving under articles entered into pursuant to subsection (1) of section 10 of the Merchant Shipping Ordinance, 1953, or on board a ship whose flag is represented by a consular officer resident in the Colony;
- (e) in respect of a business that is not carried on by way of trade or for purposes of gain.

(14 of 1953).

Person liable to pay holiday pay, etc.

4. The liability under this Ordinance to pay the holiday pay or the sickness allowance is a liability of the person with whom the worker has or had, at the material times, entered into a contract or contracts of service or apprenticeship.

PART II.

Holidays, payment therefor and sickness allowance.

5. (1) Save as provided in subsections (2), (3), (4) and (5), every worker shall be granted a holiday on each of the following days, namely—

Worker to be granted holiday on certain days.

- (a) Chinese New Year's Day;
- (b) the day following Chinese New Year's Day;
- (c) the day of the Tsing Ming Festival;
- (d) the day of the Dragon Boat Festival;
- (e) the day of the Chinese Mid-Autumn Festival; and
- (f) the day of the Chinese Winter Solstice Festival.

(2) Save as provided in subsections (3), (4) and (5), an employer who has, not less than fifteen days before the day following Chinese New Year's Day or the day of the Chinese Winter Solstice Festival, as the case may be, posted in the industrial undertaking a notice of his intention to do so shall—

- (a) in lieu of granting a worker a holiday on the day following Chinese New Year's Day, grant the worker a holiday on the day preceding Chinese New Year's Day;
- (b) in lieu of granting a worker a holiday on the day of the Chinese Winter Solstice Festival, grant the worker a holiday on the first day of January next following that day.

(3) An employer may, in lieu of granting a worker a holiday on a statutory holiday, grant the worker a holiday on another day within sixty days after that day if he has notified the worker of the day on which he will be granted a holiday not less than forty-eight hours before the statutory holiday.

(4) Where, in the case of a female worker or a worker who is a young person, a statutory holiday or an alternative holiday falls on a day on which, by virtue of any regulations made under the Factories and Industrial Undertakings Ordinance, 1955, the employment of the worker in the industrial undertaking is prohibited, the worker shall be granted a holiday on the next day thereafter that is not a statutory holiday or an alternative holiday or a day that has, under subsection (5), been substituted for a statutory holiday or an alternative holiday.

(34 of 1955).

(5) Any other day may, by agreement between a worker and his employer, be substituted for a statutory holiday or an alternative holiday or, in the case of a female worker or a worker who is a young person, a day on which, by virtue of subsection (4), the worker is required to be granted a holiday.

Holiday pay.

6. A worker who has worked for any person on not less than one hundred and eighty days during the period of twelve months preceding a statutory holiday and on not less than twenty days during the period of twenty-eight days preceding the statutory holiday shall, not later than fourteen days after that day or not later than the day on which the worker is next paid his wages, whichever is the later, be paid by that person the holiday pay, whether or not the worker takes a holiday on that day or on any other day.

Sickness allowance.

7. (1) A worker who has worked for any person on not less than one hundred and eighty days during the period of twelve months preceding the day on which on any occasion of sickness or injury he first absents himself from work by reason of his sickness or injury and on not less than twenty days during the period of twenty-eight days preceding that day shall, save as provided in subsection (2), be paid by that person a sickness allowance at the prescribed rate in respect of each day on which he is absent from work by reason of his being unfit therefor on account of sickness or injury.

(2) No person shall be liable to pay the sickness allowance to a worker—

- (a) in respect of more than twelve days in a calendar year;
- (b) where the unfitness for work of the worker is caused or extended by his serious and wilful misconduct;
- (c) where the worker is absent from work on any occasion of sickness or injury for less than seven days, in respect of the first three days on which he is absent from work;
- (d) where the unfitness for work of the worker is on account of a sickness or injury in respect of which compensation is paid in accordance with the Workmen's Compensation Ordinance, 1953;
- (e) in respect of any day unless such day is a day specified in the appropriate medical certificate as a day on which, in the opinion of the medical practitioner by whom the certificate is issued, the worker was, is or will be, as the case may be, unfit for work on account of sickness or injury;
- (f) if, where that person is operating a scheme of medical treatment recognized by the Director, the worker, at any time during the sickness or injury, unless he is a patient in a Government hospital or in such a nursing home, hospital or institution as is referred to in paragraph (a) of subsection (1) of section 8, refuses, without reasonable excuse, to submit himself for treatment by the medical practitioner employed by that person for the purposes of the scheme, in respect of any day on which the worker is absent from work on account of that sickness or injury; or

(28 of 1953).

- (g) if, where that person is operating a scheme of medical treatment recognized by the Director, the worker, having submitted himself for treatment by the medical practitioner employed by that person for the purposes of the scheme or being a patient in a Government hospital or in such a nursing home, hospital or institution as is referred to in paragraph (a) of subsection (1) of section 8, at any time during the sickness or injury, without reasonable excuse, disregards, as the case may be, the advice of such medical practitioner or the advice of the medical practitioner by whom he is being attended in the Government hospital or in such nursing home, hospital or institution, in respect of any day thereafter on which the worker is absent from work on account of that sickness or injury.

8. (1) For the purposes of paragraph (e) of subsection (2) of section 7, the expression "appropriate medical certificate" means—

Provisions as to medical certificates.

- (a) where, on the day on which the certificate is issued, the person from whom payment of the sickness allowance is claimed is operating a scheme of medical treatment recognized by the Director, a certificate issued by the medical practitioner employed by that person for the purposes of the scheme or, if the worker is a patient in a Government hospital or in a nursing home registered under the Nursing and Maternity Homes Registration Ordinance or in a hospital or institution to which exemption from the operation of that Ordinance has been, or is deemed to have been, granted by the Governor in Council, by the medical practitioner attending the worker in the Government hospital or in such nursing home, hospital or institution; and
- (b) in any other case, a certificate issued by any medical practitioner.

(Cap. 165).

(2) Every such medical certificate shall, in addition to specifying the number of days on which, in the opinion of the medical practitioner by whom it is issued, the worker was, is or will be, as the case may be, unfit for work, specify the nature of the sickness or injury on account of which, in the opinion of the medical practitioner, the worker was, is or will be, as the case may be, unfit for work.

(3) Without prejudice to the discretion of the Director with respect to the recognition of any such scheme, no scheme of medical treatment shall be recognized by the Director for the purposes of this Ordinance unless he is satisfied that—

- (a) each worker who is qualified to be paid the sickness allowance by the person by whom the scheme is operated is provided by a medical practitioner with such ordinary medical treatment as an outpatient as the Director considers reasonable; and

(b) such medical treatment is provided by that person without expense to any such worker.

(4) At any time and for any reason, the Director may, having given to the person by whom the scheme is operated not less than one month's notice of his intention so to do, withdraw his recognition of any scheme of medical treatment.

(5) Whenever the Director has recognized, or has withdrawn his recognition of, any scheme of medical treatment, a notification thereof shall be published in the *Gazette*.

9. (1) Any holiday on which a worker absents himself from work shall, in determining for the purposes of this Ordinance whether or not the worker has worked for the person from whom he claims payment of the holiday pay or the sickness allowance, as the case may be, on not less than one hundred and eighty days during the period of twelve months preceding the statutory holiday or the day on which on the occasion of the sickness or injury he first absented himself from work on account thereof and on not less than twenty days during the period of twenty-eight days preceding such day, be treated as a day on which the worker worked for that person.

(2) In the case of a female worker or a worker who is a young person, any day on which, by virtue of any regulations made under the Factories and Industrial Undertakings Ordinance, 1955, the employment of the worker in an industrial undertaking by the person from whom the worker claims payment of the holiday pay or the sickness allowance was prohibited shall, in determining for the purposes of this Ordinance whether or not the worker has worked for that person on not less than twenty days during the period of twenty-eight days preceding, as the case may be, the statutory holiday or the day on which on any occasion of sickness or injury, the worker first absented herself or himself from work on account of her or his sickness or injury, be treated as a day on which the worker worked for that person.

(3) In calculating for the purposes of this Ordinance the period of twenty-eight days preceding a statutory holiday or the day on which on any occasion of sickness or injury a worker first absents himself from work on account of his sickness or injury, no account shall be taken of any day on which the business of the person from whom the worker claims payment of the holiday pay or the sickness allowance, as the case may be, was closed, either wholly or in respect of that class of worker to which the worker belonged.

(4) For the avoidance of doubt, it is hereby declared that a worker who is otherwise entitled to be paid the holiday pay or the sickness allowance shall not be deprived thereof solely by reason of the fact that, on the statutory holiday or on any day on which he is absent from work on account of his sickness or injury, he ceases to be, or is no longer,

Ancillary provisions relating to holiday pay and sickness allowance.

(34 of 1955).

employed by the person who is liable to pay him the same, unless his employment was terminated by that person on a ground that, at the date of the termination thereof, was at common law a good cause for terminating without notice the employment of a servant.

10. (1) The holiday pay shall be a sum equivalent to the average daily earnings of the worker during the period of twenty-eight days preceding the statutory holiday.

Rate of holiday pay and sickness allowance.

(2) The rate per day of the sickness allowance shall be one half of the average daily earnings of the worker during the period of twenty-eight days preceding the day on which, from time to time, he first absents himself from work by reason of the fact that he is unfit therefor on account of sickness or injury.

11. (1) In the case of a worker other than a worker who is normally paid his wages daily, any sickness allowance that he is then entitled to be paid shall be paid to the worker or to some person on his behalf not later than the day on which the worker is normally paid his wages.

Time for payment of sickness allowance.

(2) In the case of a worker who is normally paid his wages daily, any sickness allowance that the worker is then entitled to be paid shall be paid to him or to some person on his behalf not less often than once in every fourteen days.

PART III.

Provisions as to identification of workers and as to giving thereto of notice of days worked and of earnings, etc. and as to keeping of records.

12. (1) Whenever a person who employs or who has employed a worker considers it necessary to do so for the purpose of satisfying himself as to the identity of the worker or of checking the identity of the worker or of ascertaining or checking the number of his identity card, such person may, by notice in writing served on the worker personally, require the worker to produce to him his identity card, and if, without reasonable excuse, the worker fails to produce his identity card to that person within seven days of the service upon him of such notice, that person shall not be—

Power of employer to require worker to produce identity card.

- (a) obliged, for the purposes of this Ordinance, to treat as a day on which the worker worked for him any day on which the worker worked for him between the day on which the notice was served and the day on which the worker produces his identity card to him;
- (b) liable to pay any holiday pay or sickness allowance that he would otherwise be liable to pay in respect of any day between the day on which the notice was served and the day on which the worker produces his identity card to him.