

**PART VI**  
**FINANCIAL PROVISIONS**

Establishment of  
Pneumoconiosis  
Compensation  
Fund.

27. (1) There is hereby established a Pneumoconiosis Compensation Fund which shall consist of—

- (a) any moneys recovered by way of levy and surcharge;
- (b) any moneys provided by the Government for the purposes of the Fund; and
- (c) any other moneys lawfully received by the Board for its purposes.

(2) The Fund shall be vested in the Board.

Payments by  
the Board from  
the Fund.

28. The Board shall pay from the Fund the following—

- (a) compensation under this Ordinance;
- (b) damages, interest and costs payable or settled under section 13;
- (c) any sums payable under section 19;
- (d) medical expenses;
- (e) medical examination fees for medical examinations under section 23;
- (f) expenses incurred by the Board for the purposes of this Ordinance;
- (g) any other sums payable by the Board by virtue of or under this Ordinance.

Estimates and  
financial year.

29. (1) In each financial year, before a date to be appointed by the Governor, the Board shall submit to the Governor a programme of its proposed activities and estimates of its income and expenditure for the next financial year:

Provided that the programme and estimates for the first financial year of the Board shall be forwarded as soon as is practicable after the commencement of this Ordinance.

(2) The Board may, from time to time, with the prior approval of the Governor, fix a period to be the financial year of the Board.

Bank account.

30. (1) The Board shall open and maintain an account with a bank approved by the Director of Accounting Services.

(2) The Board shall pay all moneys received by it into the account referred to in subsection (1).

Investment of  
funds.

31. All funds of the Board that are not immediately required may be—

- (a) deposited on fixed term or call deposit or in a savings account in any bank nominated by the Financial Secretary either generally or in any particular case, for that purpose; or
- (b) subject to the prior approval of the Financial Secretary, invested in such investments as the Board thinks fit.

Accounts.

32. (1) The Board shall maintain proper accounts and records of all income and expenditure.

(2) After the end of each financial year, the Board shall cause to be prepared statements of income and expenditure during the previous financial year and of the assets and liabilities of the Board on the last day thereof.

33. (1) The Board shall appoint auditors, who shall be entitled at any time to have access to all books of account vouchers and other financial records of the Board and to require such information and explanations thereof as they may think fit. Auditors.

(2) The auditors shall audit the statements prepared under section 32(2) and shall report thereon to the Board.

34. (1) The Board shall, within 6 months after the end of each financial year or such further time as the Governor may in any particular year allow, submit to the Governor a report on the activities of the Board and copies of the statements prepared under section 32(2) and the report made under section 33(2). Statements and reports to be laid on table of Legislative Council.

(2) The Governor shall cause the reports and statements received by him under subsection (1) to be laid on the table of the Legislative Council.

**PART VII**

**LEVY**

35. (1) A levy shall be imposed in accordance with this Ordinance on the value of all construction works undertaken in Hong Kong on or after the date of commencement of this Part and shall be payable by every contractor who undertakes any such works. Imposition of levy.

(2) A levy shall be imposed in accordance with this Ordinance on the value of quarry products produced on or after the date of commencement of this Part and shall be payable by every quarry operator.

36. (1) The Legislative Council may by resolution prescribe the rate of levy. Rate of levy.

(2) The rate of levy prescribed under subsection (1) shall be based on the value of construction works or quarry products, as the case may be.

(3) The rate of levy prescribed under subsection (1) shall come into effect 30 days after the publication of the resolution in the *Gazette*.

(4) A resolution under subsection (1) may provide that construction works the value of which does not exceed an amount specified in the resolution shall not be liable to the levy.

37. (1) The amount of levy, or of any surcharge that may be imposed in such circumstances as may be prescribed, shall be paid by the contractor or quarry operator, as the case may be, to the Board within such time as may be prescribed. Payment of levy and surcharge.

(2) Payment shall be made in accordance with subsection (1) notwithstanding that the contractor or quarry operator may wish to object to the levy assessed or surcharge imposed under this Ordinance.

38. (1) Any amount of levy or surcharge due and payable under this Ordinance shall be recoverable as a debt due to the Board. Recovery of levy.

(2) An action under subsection (1) may be brought in the Court notwithstanding that the amount due exceeds the civil jurisdiction of the Court as may from time to time be determined under the District Court Ordinance. (Cap. 336.)

Evasion of payment of levy.

39. Any person who is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of the payment of a levy, whether due from him or from any other person, commits an offence and is liable to a fine of \$10,000 or 3 times the amount of levy that was or was intended to be evaded by his conduct, whichever is the greater.

PART VIII  
MISCELLANEOUS

Variation of compensation limits and daily rates for medical expenses.  
First Schedule.  
Second Schedule.

40. The Legislative Council may by resolution amend the amounts of compensation specified in the First Schedule and the daily rates specified in the Second Schedule.

Compensation not to be assigned, charged or attached.

41. Compensation shall not be capable of being assigned, charged or attached, and shall not pass to any other person by operation of law nor shall any claim be set off against such compensation.

Supply of particulars.

42. (1) For the purposes of assessing compensation under section 15, the Commissioner may require—

- (a) a person who was engaged in any employment during the period of 12 months immediately preceding the date of incapacity to provide particulars of—
- (i) his employment and earnings; and
  - (ii) the names and addresses of his employers, during such period of 12 months;
- (b) an employer of a person referred to in paragraph (a) to provide particulars of the earnings of the person during such period of 12 months arising out of the employment by him of the person.

(2) The Commissioner may require a person referred to in subsection (1) or his employer to provide such other particulars as the Commissioner may think necessary for the purposes of this Ordinance, and particulars under this section shall be provided orally, or in writing, or by the production of documents as the Commissioner may direct.

(3) Any person or employer who, without reasonable excuse, fails or refuses to provide any particulars required to be provided under this section, or who wilfully and with intent to deceive provides any particulars which are false in any material particular, commits an offence and shall be liable to a fine of \$1,000.

Evidence by certificate etc.

43. A certificate purporting to be signed by an officer of the Board authorized for the purposes of section 44—

- (a) that any notice required by or under this Ordinance has or has not been given or has or has not been given at any date; or
- (b) that any amount of levy or surcharge due under this Ordinance has not been paid,

shall be sufficient evidence of that fact until the contrary is proved.

44. (1) Any notice or other document given or issued by the Board may be signed by an officer of the Board, authorized by the Board for the purposes of this subsection.

Authentication, and production in evidence of documents.

(2) Any document purporting to be a notice or other document given or issued by the Board and purporting to be signed by an officer of the Board authorized under subsection (1) shall be received in evidence and shall until the contrary is proved be deemed to be such a notice or other document.

45. Any person who—

False statements.

- (a) with intent to deceive, produces, supplies or sends for the purposes of this Ordinance or otherwise makes use for those purposes of any document or record which is false in a material particular; or
- (b) in providing any information for the purposes of this Ordinance, makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,

commits an offence and is liable to a fine of \$5,000 or 3 times the amount of any levy that was or was intended to be evaded by his conduct, whichever is the greater.

46. (1) Where the Board does not pay compensation or any other payment which it is required by this Ordinance to pay, such compensation or other payment shall be recoverable as a debt due from the Board.

Jurisdiction of Court.

(2) Subject to subsection (3), an action under subsection (1) may be brought in the Court notwithstanding that the amount due exceeds the civil jurisdiction of the Court as may from time to time be determined under the District Court Ordinance.

(Cap. 336.)

(3) Notwithstanding subsection (2), where any amount to be recovered from the Board is within the jurisdiction of the Small Claims Tribunal established under the Small Claims Tribunal Ordinance, an action for the recovery of the amount shall be brought in that Tribunal.

(Cap. 338.)

(4) The Chief Justice may make rules regulating proceedings before and appeals to the Court under this Ordinance and for the fees payable in respect of such proceedings and appeals.

47. The Governor in Council may by regulation provide for—

Regulations.

- (a) the definition and computation of earnings;
- (b) the method of assessing the levy payable under section 35, including—
- (i) the valuation of construction works and quarry products;
  - (ii) the notification of construction works and quarry operations;
  - (iii) the notification of payments made in respect of construction works and quarry products;
  - (iv) the imposition and amount of surcharges where there has been a failure to make a notification;
  - (v) objections to assessments of levies and the imposition of surcharges and appeals;
  - (vi) information to be supplied by employers, contractors, authorized persons or quarry operators;
  - (vii) prohibiting the disclosure of information;
  - (viii) the appointment of authorized persons for the purposes of this Ordinance;

- (c) records to be kept by employers, contractors and authorized persons or by quarry operators;
- (d) prescribing procedure and fees;
- (e) any matter which is to be or may be prescribed;
- (f) generally for the better carrying out of the provisions and purposes of this Ordinance.

Consequential  
amendments.  
(Cap. 282.)

48. (1) The Workmen's Compensation Ordinance is amended, in section 36—

- (a) by deleting "Nothing" and substituting the following—  
"(1) Subject to subsection (2), nothing"; and

- (b) by inserting, after subsection (1), the following—  
"(2) Subsection (1) shall not apply to any incapacity resulting from pneumoconiosis in respect of which compensation is recoverable under the Pneumoconiosis (Compensation) Ordinance 1980."

(51 of 1980.)

(2) Section 18(6) of the Pensions Ordinance is amended—

- (a) by inserting after "Ordinance" in the first place where it occurs the following—  
"or section 2 of the Pneumoconiosis (Compensation) Ordinance 1980"; and
- (b) by deleting "that Ordinance" and substituting the following—  
"those Ordinances".

(Cap. 89.)

(3) Regulation 31(6) of the Pensions Regulations is amended by inserting after "Ordinance" the following—  
"or the Pneumoconiosis (Compensation) Ordinance 1980".

(Cap. 89,  
sub. leg.)

49. The Workmen's Compensation (Amendment) (No. 2) Ordinance 1978 is repealed.

Repeal.  
(45 of 1978.)

## FIRST SCHEDULE

[ss. 5, 6, 10,  
11 & 40.]

### AMOUNTS OF COMPENSATION

#### PART I

##### *Compensation for Death*

1. In the case of a person under 40 years of age at the date of death, a lump sum equal to 84 months' earnings or \$168,000, whichever is the less.
2. In the case of a person of or over 40 years of age but under 56 years of age at the date of death, a lump sum equal to 60 months' earnings or \$168,000, whichever is the less.
3. In the case of a person of or over 56 years of age at the date of death, a lump sum equal to 36 months' earnings or \$168,000, whichever is the less.
4. Compensation payable under section 5 and this Part shall in no case be less than \$56,000.
5. For the purposes of section 5(5), the amount of burial expenses shall not exceed a total of \$3,000.

## PART II

### *Compensation for Permanent Total Incapacity*

1. In the case of a person under 40 years of age at the date of incapacity, a lump sum equal to 96 months' earnings or \$192,000, whichever is the less.
2. In the case of a person of or over 40 years of age but under 56 years of age at the date of incapacity, a lump sum equal to 72 months' earnings or \$192,000, whichever is the less.
3. In the case of a person of or over 56 years of age at the date of incapacity, a lump sum equal to 48 months' earnings or \$192,000, whichever is the less.
4. Compensation payable under section 6(1) and this Part shall in no case be less than \$64,000.

## PART III

### *Compensation for Temporary Incapacity*

1. Compensation for temporary incapacity shall be either by way of periodical payments or by way of a lump sum, calculated having regard to the probable duration and probable change in the degree of the incapacity.
2. Such periodical payments shall be, or shall be at the rate proportionate to, a monthly payment of two-thirds of the difference between the monthly earnings which the person entitled to the compensation was earning or immediately preceding the date of the temporary incapacity and the monthly earnings which he is earning, or is capable of earning, in some suitable employment or business during the period of temporary incapacity.
3. For the purposes of this Part a period of absence from duty due to pneumoconiosis certified to be necessary by a medical practitioner, or a certificate by a medical practitioner that a person is incapable of taking up any employment for a specified period due to pneumoconiosis, shall be deemed to be a period of total temporary incapacity.
4. Periodical payments under this Part shall be payable at two-weekly intervals or at such shorter intervals as the Commissioner may direct.
5. In the event of death or permanent incapacity following a period of temporary incapacity, whether total or partial, no periodical or lump sum payments paid or payable under this Part shall be deducted from any amount of compensation payable under section 5, 6 or 11.
6. In fixing the amount of the periodical payment, any payment, allowance or benefit which the person may receive from his employer during the incapacity shall be taken into consideration.
7. On the ceasing of the temporary incapacity before the date on which any periodical payment falls due, there shall be payable in respect of that period a sum proportionate to the duration of the incapacity in that period.
8. Without prejudice to paragraph 10, periodical payments under this Part shall cease—
  - (a) when the person resumes employment and his earnings are not less than the earnings which he was obtaining before the date of the temporary incapacity;

- (b) when the permanent incapacity of the person is determined under section 24(1);
  - (c) after a period of 24 months from the date of the temporary incapacity; or
  - (d) when the person dies,
- whichever is the earlier.

9. Where a person in respect of periodical payments under this Part intends to leave Hong Kong for the purpose of residing elsewhere, he shall give notice of such intention to the Board which shall redeem such periodical payments and determine the amount to be paid:

Provided that any lump sum so paid together with the periodical payments already made to the person shall not exceed the lump sum which would be payable in respect of the same degree of incapacity under section 6, if the incapacity were permanent.

10. If a person in respect of periodical payments under this Part leaves Hong Kong for the purpose of residing elsewhere without giving notice in accordance with paragraph 9, he shall not be entitled to any compensation or other benefits under this Ordinance during or in respect of the period of his absence.

11. If the period of such absence shall exceed 3 months, the person shall cease to be entitled to any such compensation or benefits.

#### PART IV

##### *Compensation for Constant Attention*

1. Compensation for constant attention shall either be—
  - (a) a lump sum payment calculated with regard to the probable duration and cost of the constant attention; or
  - (b) periodical payments, payable at such intervals as the Commissioner may think fit, to cover periods not exceeding a total of 2 years after the date on which the person becomes entitled to receive compensation under section 6.
2. If on the expiry of the period of 2 years prescribed in paragraph (1)(b) the Commissioner considers that the person is still in need of constant attention, compensation shall be such lump sum payment, as the Commissioner may think fit, calculated with regard to the probable duration and cost of the constant attention.
3. No compensation under this Part shall be payable in respect of any period during which the person is receiving free medical treatment as an in-patient in a hospital or otherwise.
4. Compensation under this Part shall not exceed \$77,000.

#### SECOND SCHEDULE

[ss. 12(3) & 40.]

##### MEDICAL EXPENSES PAYABLE UNDER SECTION 12

1. Subject to paragraph 3, where a person is given medical treatment as an in-patient in a hospital, the medical expenses payable are—
  - (a) the total amount of the medical expenses incurred in respect of the medical treatment; or

- (b) the total amount at the rate of \$20 for each day of stay in the hospital,

whichever total amount is the less.

2. Subject to paragraph 3, where a person is given medical treatment other than as an in-patient in a hospital, the medical expenses payable are—

- (a) the total amount of the medical expenses incurred in respect of the medical treatment; or
- (b) the total amount at the rate of \$10 for each day on which medical treatment is given,

whichever total amount is the less.

3. Where a person is given medical treatment on any day both as an in-patient in a hospital and other than as an in-patient in a hospital, the daily rate for the purposes of this Schedule shall be \$20.

#### THIRD SCHEDULE

[s. 25.]

##### PNEUMOCONIOSIS COMPENSATION FUND BOARD

1. The Board shall be a body corporate with perpetual succession and capable of suing and being sued. Incorporation and states.
2. The Board shall not act or be treated as the servant or agent of the Crown. Status of Board.
3. (1) The Board shall have a common seal, the affixing of which shall be authenticated by the signature of any 2 members. Seal.
  - (2) Any document purporting to be a document duly executed under the seal of the Board shall be received in evidence and shall, unless the contrary is proved, be deemed to be a document so executed.
4. (1) A member of the Board who is not a public officer shall, unless his appointment is terminated or otherwise ceases, hold office for such period as the Governor may specify. Tenure of members.
  - (2) On the expiry of his period of appointment or re-appointment, any member to whom sub-paragraph (1) applies shall be eligible for re-appointment for such further term as the Governor may specify.
  - (3) Any member to whom sub-paragraph (1) applies may at any time resign from office by giving notice in writing to the Governor, and he shall cease to be a member from the date specified in the notice or, if no date is specified, from the date of the receipt by the Governor of the notice.
  - (4) If any member of the Board, other than the chairman, is absent from Hong Kong or is for any other reason unable to exercise the powers or perform the duties of his office as member, the Governor may appoint another person to be a temporary member in his place during his absence or incapacity.
5. (1) The Governor shall appoint a member to be chairman of the Board. Chairman.
  - (2) If the chairman is absent from Hong Kong or is for any other reason unable to act as chairman, the Governor may appoint another member to be chairman in his place during his absence or incapacity.

Meetings and proceedings of the Board.

6. (1) Meetings of the Board shall be held at such times and places as the chairman may appoint.

(2) A quorum shall be 5 members.

(3) At any meeting of the Board the chairman shall preside.

(4) If the chairman is absent from any meeting of the Board, the members present at the meeting shall elect one of their number to act as chairman in his place.

(5) The chairman or the member acting in his place shall have a deliberative vote on all matters coming before the Board and in the case of an equality of votes he shall also have a casting vote.

(6) If a member has a pecuniary interest in any matter to be considered at a meeting of the Board and is present at such meeting, he shall as soon as practicable after the commencement of the meeting disclose to the Board the fact and nature of the interest.

(7) Such member shall, if so required by the meeting, withdraw from the meeting while the Board is considering the matter and in any case shall not vote thereon.

(8) Subject to this Schedule, the Board may determine its own procedure at meetings.

Transaction of business by circulation of papers.

7. The Board may transact any of its business by the circulation of papers, and a resolution in writing which is approved in writing by a majority of the members shall be valid and effectual as if it had been passed at a meeting of the Board by the votes of its members so approving the resolution.

Committees.

8. (1) Subject to sub-paragraph (2), the Board may appoint committees for the better discharge of its functions under this Ordinance.

(2) The Board shall appoint a committee, comprising 3 members of the Board, for the purpose of the determination of any objection under regulation 12 of the Pneumoconiosis (Compensation) (Assessment of Levy) Regulations.

(3) The Board may in writing delegate to any committee appointed under sub-paragraph (1) or (2) or to any employee any of its powers and functions:

Provided that no delegation under this sub-paragraph shall preclude the Board from exercising or performing at any time any power or function so delegated.

(4) Each committee may determine its own procedure at meetings.

Appointment of employees and conditions of employment.

9. The Board may appoint such employees as it thinks fit and determine all matters relating to their remuneration and terms and conditions of appointment or employment.

Staff benefits.

10. (1) The Board may—

(a) grant, or make provision for the grant of, pensions, gratuities and retirement benefits, to its employees;

(b) provide other benefits for the welfare of its employees and their dependants;

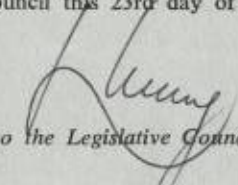
(c) make payments, whether *ex gratia* or legally due, to the legal personal representative of a deceased employee or to any person who was dependent on such employee at his death.

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

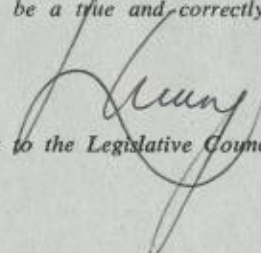
(3) The Board may make contribution to any fund or scheme referred to in sub-paragraph (1) and may require its employees to make contributions thereto.

(4) In this paragraph "employees" includes any class of employee which the Board may specify and in sub-paragraph (1) includes former employees.

Passed by the Hong Kong Legislative Council this 23rd day of July 1980.

  
Clerk to the Legislative Council.

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

  
Clerk to the Legislative Council.

No. 52 OF 1980



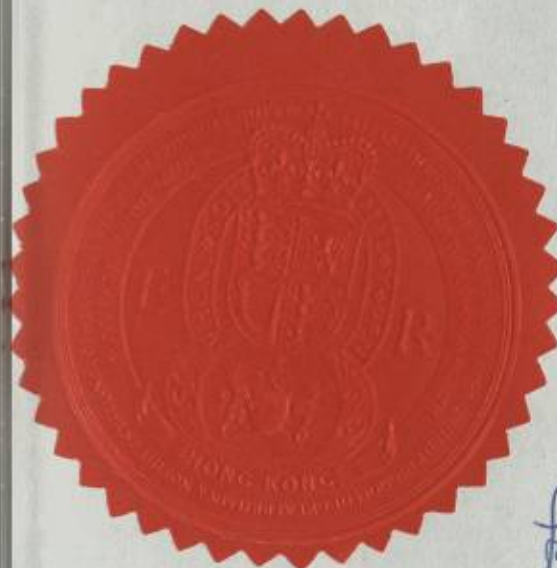
I assent.

*Paul E.*  
Acting Govern

24 July 1980

**HONG KONG**

No. 52 OF 1980



I assent.

*Paul C. Otter*  
Acting Governor.

24 July 1980.

An Ordinance to amend the Legal Practitioners Ordinance.

[1 May 1980]

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

1. This Ordinance may be cited as the Legal Practitioners (Amendment) Ordinance 1980, and shall be deemed to have come into operation on 1 May 1980. Short title.

2. The enactment specified in the second column of the Schedule are amended in the manner specified in relation thereto in the third column of the Schedule. Amendments.  
Schedule.

**SCHEDULE**

[s. 2.]

<i>Item</i>	<i>Enactment</i>	<i>Amendment</i>	
1.	Legal Practitioners Ordinance	1. Section 2 is amended— (a) by deleting the definition of "Committee" and substituting the following immediately below the definition of "Costs Committee"—	(Cap. 159.)

## Item Enactment

## Amendment

- “Council” means the council of the Society elected in accordance with the provisions of its articles of association;”;
- (b) in the definition of “Disciplinary Committee” by deleting “Committee” in the third place where it appears and substituting therefor the following—  
“Council”.
2. Section 6(1), (2), (3), (6), (10) and (11)(a) and section 8 are amended by deleting “Committee” wherever it appears and substituting therefor the following—  
“Council”.
3. Section 9(2) is amended by deleting “Committee” in the first and second places where it appears and substituting therefor the following—  
“Council”.
4. Section 10 is amended—
- (a) in subsection (3) by deleting “Committee” and substituting therefor the following—  
“Council”;
- (b) in subsection (4) by deleting “Committee” in the second place where it appears and substituting therefor the following—  
“Council”.
5. Sections 17, 19(1) and (3), 20(4), 21(1), 22, 26A(1) and (2), 26B(1), 26C(1)(a), 26D and 73(1), (1)(b)(iii) and (viii), (1)(e), (1)(f) and (2) are amended by deleting “Committee” wherever it appears and substituting therefor the following—  
“Council”.
6. Section 74(1) is amended by deleting paragraph (a) and substituting therefor the following—  
“(a) a judge of the High Court appointed by the Chief Justice as Chairman;”.
7. The Schedule is amended by deleting “Committee” where it appears in—
- (a) paragraph 1, thrice;  
(b) paragraph 2(b), thrice;  
(c) paragraph 3, once;  
(d) paragraph 4, once;  
(e) paragraph 5, twice;  
(f) paragraph 6, thrice;  
(g) paragraph 7, once;

## Item Enactment

## Amendment

- (h) paragraph—  
(i) 8(1), once,  
(ii) 8(2), once;
- (i) paragraph 9, once;  
(j) paragraph 10, twice;  
(k) paragraph 11, once;  
(l) paragraph 12, thrice;  
(m) paragraph—  
(i) 13(1), thrice,  
(ii) 13(2), thrice;  
(n) paragraph 14(b), once;  
(o) paragraph 15, twice;  
(p) paragraph 16, once,  
and substituting therefor the following—  
“Council”.
2. Accountant's Report Rules
1. Rule 3(2) is amended by deleting “Committee” in the second, third, fourth, fifth and sixth places where it appears and substituting therefor the following—  
“Council”. (Cap. 159, sub. leg.)
2. Rules 6, 9(2)(b), 10, 11 and 12 are amended by deleting “Committee” wherever it appears and substituting therefor the following—  
“Council”.
3. Form 1 in the Schedule is amended in the address at the end thereof—
- (a) by deleting “Committee” and substituting therefor the following—  
“Council”;
- (b) by deleting “Union” and substituting therefor the following—  
“Swire”.
3. Disciplinary Committee Proceedings Rules
1. Rule 3(2) is amended by deleting “Committee” and substituting therefor the following—  
“Council”. (Cap. 159, sub. leg.)
2. Rule 4 is amended by deleting “committee” in the first place where it appears and substituting therefor the following—  
“Council”.
3. Rule 5 is amended by deleting “Committee” in the second place where it appears and substituting therefor the following—  
“Council”.
4. Rule 18(2) is amended by deleting “Committee” in the first place where it appears and substituting therefor the following—  
“Council”.

## Item      Enactment

## Amendment

5. Rule 25 is amended by deleting "Committee" in the second, third and fourth places where it appears and substituting therefor the following—

"Council".

6. Rule 30(2) is amended by deleting "Committee" in the third place where it appears and substituting therefor the following—

"Council".

7. Form 3 in the Schedule is amended by deleting "/Committee" where it appears in the address at the beginning thereof and substituting therefor the following—

"/Council".

(Cap. 159,  
sub. leg.)

4. Solicitors' Accounts Rules

Rules 8(2), 9(4), 10(7), 11(1), (3) and (4), and 13 are amended by deleting "Committee" wherever it appears and substituting therefor the following—

"Council".

(Cap. 159,  
sub. leg.)

5. Solicitors' Practice Rules

1. Rules 2A(b)(ii), 5(1) and (2), 5A, 5B(1), (3) and (4), and rule 6 are amended by deleting "Committee" wherever it appears and substituting therefor the following—

"Council".

2. Forms 1 and 2 in the Schedule are amended by deleting "Committee" where it appears in the respective addresses at the beginning of the Forms and substituting therefor the following—

"Council".

(Cap. 159,  
sub. leg.)

6. Students Rules

1. Rules 3(4) and 13(1) and (4) are amended by deleting "Committee" wherever it appears and substituting therefor the following—

"Council".

2. Rule 21 is amended, in paragraphs (1) and (2), by deleting "Committee" in the second place where it respectively appears and substituting therefor the following—

"Council".

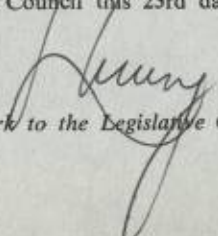
(Cap. 159,  
sub. leg.)

7. Practising Certificate (Solicitors) Rules

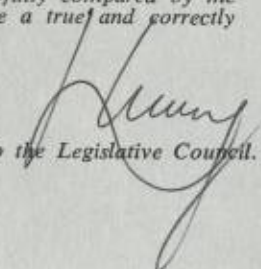
Form 1 in the Schedule is amended by deleting "Committee" where it appears in the address at the beginning thereof and substituting therefor the following—

"Council".

Passed by the Hong Kong Legislative Council this 23rd day of July 1980.

  
Clerk to the Legislative Council.

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

  
Clerk to the Legislative Council.

No. 53 of 1980



I assent.

*Sanku C*

Acting Governor

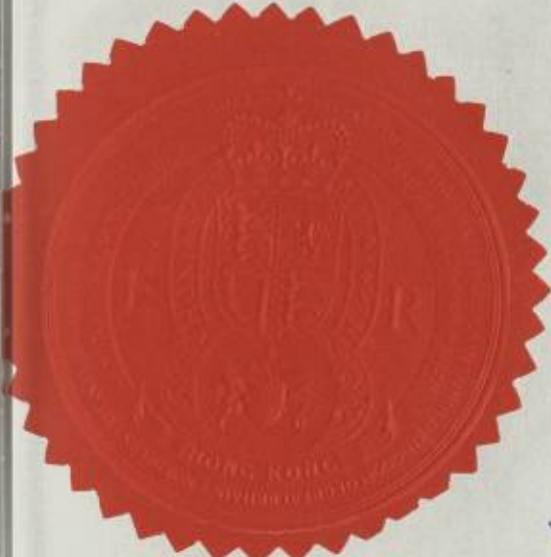
24 July 1980

to amend the Supreme Court

**HONG KONG**

No. 53 OF 1980

I assent.



*Jack Oates*

*Acting Governor.*  
24 July 1980.

An Ordinance to amend the Supreme Court Ordinance.

[25 July 1980]

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

1. This Ordinance may be cited as the Supreme Court (Amendment) Ordinance 1980. Short title.

2. Section 55(1) of the principal Ordinance is amended—

(a) by deleting the full stop at the end of paragraph (e) and substituting a semicolon; and

Amendment of section 55. (Cap. 4.)

(b) by inserting after paragraph (e) the following paragraph—  
“(f) the Attorney General or a legal officer appointed by him.”

Passed by the Hong Kong Legislative Council this 23rd day of July 1980.

*[Signature]*  
Clerk to the Legislative Council.

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

*Huang*

Clerk to the Legislative Council.



No. 54 OF 1980

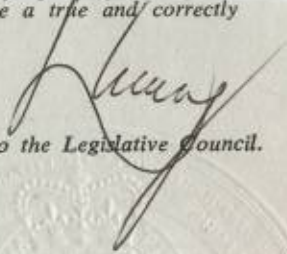


I assent.

*Pack*

Acting Gove

bill, and is found by me to be a true and correctly  
copy of the said bill.

  
Clerk to the Legislative Council.

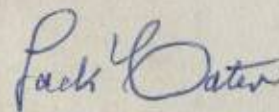


**HONG KONG**

No. 54 OF 1980



I assent.



*Acting Governor.*

*7 August 1980.*

An Ordinance to amend the Commodities Trading Ordinance.

[8 August 1980]

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

1. (1) This Ordinance may be cited as the Commodities Trading  
(Amendment) Ordinance 1980. Short title and  
commencement.

(2) Section 3 shall come into operation on a day to be appointed by  
the Governor by notice in the *Gazette*.

2. Section 26 of the principal Ordinance is amended—

Amendment of  
section 26.  
(Cap. 250.)

(a) in subsection (4)—

(i) in paragraph (a) by inserting after "trades" the following—  
"otherwise than as agent";

(ii) in paragraph (b) by deleting "(b), (c) or (d)" and substitut-  
ing the following—

"(b) or (c)"; and

(iii) by deleting the full stop at the end of paragraph (b) and  
substituting a semicolon; and

(iv) by adding after paragraph (b) the following—

“(c) to a person who trades in commodity futures contracts on a commodity exchange which was in operation on 20 June 1973 as a member of such commodity exchange.”;

(b) in subsection (5) by deleting “knowingly”; and

(c) by inserting after subsection (6) the following—

“(7) In this section “futures contract” includes a contract executed or represented as being for execution on any commodity exchange, to buy or sell a specified commodity or any other commodity prescribed by the Commission for the purposes of this definition, for delivery, whether immediately or in the future.”.

3. The principal Ordinance is amended by inserting after section 45 the following—

“Issue of contract notes.

45A. (1) A dealer shall, in respect of every contract for the purchase, sale or exchange of a futures contract entered into by him in Hong Kong whether as principal or agent, make out a contract note which complies with subsection (2) not later than the end of the next trading day after the date of execution, and—

- (a) where the transaction was entered into as agent, deliver the contract note to the client not later than 5 days after such date;
- (b) where the transaction was entered into as principal, retain the contract note for himself.

(2) A contract note made out by a dealer under subsection (1) shall include—

- (a) the name of the client under subsection (1)(a) to whom the dealer is required to give the contract note;
- (b) the name or style under which the dealer carries on his business as a dealer and the address of the principal place at which he so carries on business;
- (c) where the dealer is acting as principal, a statement that he is so acting;
- (d) the name of the commodity exchange on which the contract has been executed;
- (e) if the contract has been executed by an agent, the name of the agent;
- (f) the date of execution of the contract and the date upon which the contract note is made out;
- (g) whether the contract is a new contract or a contract for settlement;
- (h) whether the contract is by way of—
  - (i) purchase;
  - (ii) sale; or
  - (iii) exchange;
- (i) the name of the commodity being bought, sold or exchanged;
- (j) the trading unit of the commodity;
- (k) except in the case of a contract by way of exchange, the price per trading unit;

Addition of new sections 45A and 45B.

(l) the number of trading units;

(m) the delivery date of the commodity;

(n) the rate or amount of commission payable in respect of the contract.

(3) Any dealer who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months.

Dealers to provide certain information, etc. to client.

45B. (1) Subject to subsection (2), every dealer shall, on being requested to do so by a client—

- (a) provide the client with a copy of any contract note relating to the dealing, and a copy of the client's account with the dealer; and
- (b) if the Commissioner on the application of the client so directs, make available for inspection by the client, at all reasonable times during the dealer's ordinary hours of business, the dealer's copy of the contract note and the client's account with the dealer.

(2) Subsection (1) does not require a dealer to—

- (a) provide, or keep available for inspection, a copy of any contract note which relates to a dealing transacted more than 2 years before the date of the request; or
- (b) provide a copy of, or keep available for inspection, any account which relates to a dealing transacted more than 7 years before the date of the request.

(3) Any dealer who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months.”.

4. The principal Ordinance is amended by adding after section 60 the following—

Addition of new section 60A.

“Hawking of futures contracts.

60A. (1) Subject to subsections (2) and (3), a person shall not, whether on his own behalf or otherwise and whether by appointment or otherwise, call from place to place—

- (a) making or offering to make with any person—
  - (i) an agreement for or with a view to having that other person purchase or sell a futures contract; or
  - (ii) an agreement the purpose or pretended purpose of which is to secure a profit to that other person from a futures contract; or
- (b) inducing or attempting to induce any other person to enter into any agreement referred to in paragraph (a),

whether or not in calling from place to place he does any other act or thing.

(2) Subsection (1) does not apply to—

(a) a person in so far as—

- (i) he calls at the place of another person who is a banker, solicitor, professional accountant,

dealer, commodity trading adviser, dealer's representative or commodity trading adviser's representative; and

(i) whether as principal or agent, he makes, or offers to make, with that other person an agreement referred to in subsection (1) or induces, or attempts to induce, that other person to enter into such an agreement; or

(b) any other person calling from place to place who belongs to a class of persons prescribed in regulations for the purpose of this subsection.

(3) Nothing in this section applies to any futures contract exempted by the Commission for the purposes of this section if any conditions subject to which the exemption is granted have been fulfilled.

(4) Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months.

(5) If in any proceedings under subsection (4) for a contravention of this section it is proved that the accused did any of the acts mentioned in subsection (1) on 2 or more occasions within any period of 14 days, he shall, until the contrary is proved, be presumed to have been calling from place to place.

(6) In this section—

"call" includes a visit in person and a communication by telephone;

"futures contract" includes a contract executed or represented as being for execution on any commodity exchange, to buy or sell a specified commodity or any other commodity prescribed by the Commission for the purposes of this definition, for delivery, whether immediately or in the future."

5. The sections of the principal Ordinance specified in the Schedule are amended to the extent and in the manner specified therein.

Other  
deletions.  
Schedule.

#### SCHEDULE

[s. 5.]

Sections 27(4), 28(2), 29(2) and 107(4) are amended by deleting "knowingly" wherever it occurs.

Passed by the Hong Kong Legislative Council this 6th day of August 1980.

*[Signature]*  
Clerk to the Legislative Council.

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

*[Signature]*  
Clerk to the Legislative Council.

No. 55 OF 1980



I assent.

*[Signature]*  
Acting Governor

7 August 1980

representative of commodity trading adviser's representative; and

(i) whether as principal or agent, he makes, or offers to make, with that other person an agreement referred to in subsection (1) or induces, or attempts to induce, that other person to enter into such an agreement; or

(b) any other person calling from place to place who belongs to a class of persons prescribed in regulations for the purpose of this subsection.

(3) Nothing in this section applies to any futures contract exempted by the Commission for the purposes of this section if any conditions subject to which the exemption is granted have been fulfilled.

(4) Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months.

(5) If in any proceedings under subsection (4) for a contravention of this section it is proved that the accused did any of the acts mentioned in subsection (1) on 2 or more occasions within any period of 14 days, he shall, until the contrary is proved, be presumed to have been calling from place to place.

(6) In this section—

"call" includes a visit in person and a communication by telephone;

"futures contract" includes a contract executed or represented as being for execution on any commodity exchange, to buy or sell a specified commodity or any other commodity prescribed by the Commission for the purposes of this definition, for delivery, whether immediately or

## HONG KONG

No. 55 OF 1980



I assent.

*Jack Oates*

Acting Governor.

7 August 1980.

An Ordinance to provide for the establishment of a single, unified stock exchange in Hong Kong; to provide for an Exchange Company to operate the Unified Exchange; to provide for the winding up of existing exchanges; to make consequential and incidental amendments to the Securities Ordinance; and to provide for related matters.

[ ]

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

### PART I

#### PRELIMINARY

1. This Ordinance may be cited as the Stock Exchanges Unification Ordinance 1980 and shall, subject to section 43, come into operation on a day to be appointed by the Governor by notice in the *Gazette*. Short title and commencement.

2. (1) In this Ordinance, unless the context otherwise requires— Interpretation.  
"appointed day" means the day appointed by the Financial Secretary under section 27;

"articles of association" means the articles of association of the Exchange Company;

"associate member" means—

- (a) in relation to the Exchange Company, a shareholder of the Exchange Company defined as an associate member by the articles of association; and
- (b) in relation to an existing exchange, a member of an existing exchange expressed or deemed by or under the constitution of the existing exchange to be an associate or overseas member (by whatever name called);

(Cap. 333.) "Commission" means the Securities Commission established under Part II of the Securities Ordinance;

"Commissioner" means the Commissioner for Securities appointed under section 6 of the Securities Ordinance;

"Committee" means the Committee elected under section 9 and any succeeding committee, by whatever name called, for the management and control of the Exchange Company;

"constitution", in relation to the Exchange Company or an existing exchange means the memorandum and articles of association of the Exchange Company or existing exchange, as the case may be;

"corporation" means any company or other body corporate formed or incorporated either in Hong Kong or elsewhere;

"Council" means the Council of the Hong Kong Federation of Stock Exchanges, established under section 32 of the Securities Ordinance;

"Court" means the High Court;

"dealer" has the same meaning as in section 2 of the Securities Ordinance;

"dealing in securities" has the same meaning as in section 2 of the Securities Ordinance;

"document" has the same meaning as in section 2 of the Securities Ordinance;

"Exchange Company" means the company recognized as the Exchange Company under section 3;

"existing exchanges" means the Far East Exchange Limited, the Hong Kong Stock Exchange Limited, the Kam Ngan Stock Exchange Limited and the Kowloon Stock Exchange Limited, and "existing exchange" means any one of them;

"firm" means an unincorporate body of 2 or more persons—

- (a) who have entered into partnership with one another within the meaning of section 3 of the Partnership Ordinance; or
- (b) who have formed a limited partnership under the Limited Partnerships Ordinance and registered it as such under that Ordinance, and a reference to a partnership shall be construed as a reference to such a partnership or limited partnership;

(Cap. 38.)

(Cap. 37.)

(Cap. 333.)

"Hong Kong Federation of Stock Exchanges" means the Hong Kong Federation of Stock Exchanges established under section 31 of the Securities Ordinance;

"investment adviser" has the same meaning as in section 2 of the Securities Ordinance;

"listing" has the same meaning as in section 2 of the Securities Ordinance;

"member" means—

- (a) in relation to the Exchange Company, a shareholder of the Exchange Company other than an associate member; and
- (b) in relation to an existing exchange, a member of the existing exchange other than an associate member;

"memorandum" means the memorandum of association of the Exchange Company;

"securities" has the same meaning as in section 2 of the Securities Ordinance;

"stock market" has the same meaning as in section 2 of the Securities Ordinance;

"transitional committee" means the transitional committee of the Exchange Company established under section 5;

"Unified Exchange" means the stock market established, operated and maintained under section 27.

(2) For the purposes of any provision of this Ordinance relating to membership or associate membership of the Exchange Company or an existing exchange, each—

- (a) share in the Exchange Company; and
- (b) seat on an existing exchange,

shall be deemed to constitute a separate membership or associate membership of the Exchange Company or existing exchange, as the case may be.

## PART II

### THE EXCHANGE COMPANY

3. (1) Subject to this section, the Commission may, by certificate in writing under its seal, recognize as the Exchange Company for the purposes of this Ordinance a company formed and registered under the Companies Ordinance.

Recognition of company as the Exchange Company.  
(Cap. 32.)

(2) The Commission shall not recognize a company pursuant to subsection (1) unless it is satisfied that the company complies with the requirements of subsection (3).

(3) The requirements referred to in subsection (2) are that—

- (a) the objects contained in the company's memorandum of association include—
  - (i) the establishment and operation of a stock market; and

(ii) the provision and maintainance, to the satisfaction of the Commission, of adequate and properly equipped premises for the conduct of the business of a stock market;

- (b) the memorandum and articles of association of the company provide for 2 classes of members to be known as members and associate members respectively;
- (c) the articles of association of the company provide for the exclusion from membership or associate membership of any corporation, firm or individual which or who would be disqualified under this Ordinance from being a member or associate member of the Exchange Company;
- (d) the articles of association of the company make effective provision for requiring the registration by or on behalf of a member or associate member of any deed of trust and of the details of any other arrangement concerning the financing or pledging, or use by any other person, of any membership or associate membership held by such member or associate member;
- (e) the articles of association of the company make effective provision for prohibiting—
- (i) any member from entering into partnership with any person who is not a member; and
- (ii) any associate member from entering into partnership with any person who is not an associate member, for the purpose of a business of dealing in securities;
- (f) the memorandum and articles of association of the company provide for the making of rules for the proper and efficient operation and management of a stock market;
- (g) the memorandum and articles of association of the company provide that the company will make the deposits required to be made to any compensation fund established under Part X of the Securities Ordinance in respect of the Exchange Company;
- (h) the articles of association of the company have been approved by the Commission.
- (4) The Commission may—
- (a) where it intends to recognize a company under subsection (1); and
- (b) for the purposes of enabling that company to comply to the satisfaction of the Commission with the requirements of subsection (3),

cause the articles of association of the company to be drawn up and delivered to the Registrar of Companies.

(5) Notwithstanding anything in the Companies Ordinance, the Registrar of Companies may register articles of association delivered under subsection (4), notwithstanding that the articles have not been signed by all or any of the subscribers to the memorandum of association of the company; and the articles so registered shall be as valid and binding as if they had been signed by each subscriber and witnessed in the manner provided by that Ordinance.

(Cap. 333.)

(Cap. 32.)

4. The provisions of the Companies Ordinance shall apply to the Exchange Company to the extent that they are not inconsistent with this Ordinance.

Application of Companies Ordinance to Exchange Company. (Cap. 32.)

5. (1) There shall be a committee to be known as the transitional committee which shall consist of the members for the time being of the Council.

Transitional committee.

(2) The chairman of the transitional committee shall be elected by the members of the committee.

(3) At any meeting of the transitional committee—

(a) 4 members shall form a quorum;

(b) the chairman shall have a deliberative vote, and, in the case of an equality of votes shall also have a casting vote; and

(c) all questions before the transitional committee shall be decided by a majority of the members present and voting thereon.

(4) Subject to subsection (3) the procedure at meetings of the transitional committee shall be determined by the committee.

(5) The members of the transitional committee shall hold office until such time as the Committee of the Exchange Company is first elected under section 9.

(6) The transitional committee may appoint sub-committees of its members and may delegate to any such sub-committee any of its powers or functions, other than the power of delegation conferred by this subsection.

(7) A delegation under subsection (6) may be revoked at any time, and no such delegation shall prevent the exercise or performance of any power or function by the transitional committee.

6. (1) Notwithstanding anything in the Companies Ordinance or in the constitution of the Exchange Company, the management and control of the Exchange Company shall, until such time as the Committee is first elected under section 9, be vested in the transitional committee.

Functions of the transitional committee. (Cap. 32.)

(2) The transitional committee shall, in the exercise of its functions under subsection (1), promote by all practicable means the attainment of the objects of the Exchange Company, and in particular the establishment and operation of a stock market, and the provision of adequate and properly equipped premises therefor.

(3) The transitional committee shall have such additional functions and duties as are specified in this Ordinance.

7. (1) The transitional committee shall have all such powers as may be necessary to enable it to carry out its functions, and without limiting the generality of the foregoing but subject to this Ordinance—

Powers of the transitional committee.

(a) shall have the powers vested in the Committee of the Exchange Company by the articles of association; and

(b) in the name and on behalf of the Exchange Company may do all acts and execute all deeds, receipts and other documents, and for that purpose may use, when necessary, the Exchange Company's seal.

(2) The powers of the transitional committee shall not be affected by any vacancy in the membership of the Council or any irregularity in the appointment of any member thereof.

8. (1) The Financial Secretary may—

(a) on the advice of the Commission; and

(b) if he considers it in the public interest to do so,

appoint, by notice in the *Gazette*, a person to act in place of the transitional committee for such period as is specified in the notice.

(2) Notwithstanding subsection (1), an appointment under that subsection may be revoked at any time by the Financial Secretary by notice in the *Gazette*.

(3) Notwithstanding anything in sections 5, 6 and 7, a person appointed under subsection (1)—

(a) shall have and may exercise any of the powers and carry out any of the functions of the transitional committee under this Ordinance; and

(b) in the name and on behalf of the Exchange Company, may do all acts and execute all deeds, receipts and other documents, and for that purpose may use, when necessary, the Exchange Company's seal.

(4) Upon the appointment of a person under subsection (1) and until such time as his appointment expires or is revoked, whichever is the earlier—

(a) the transitional committee shall be deemed to be suspended; and

(b) the purported exercise of any power or carrying out of any function of the transitional committee by any member or members of the transitional committee shall be void.

(5) A person appointed under subsection (1) may, with the approval of the Commission, delegate to any person any of his powers and functions, other than the power of delegation conferred by this subsection.

(6) A delegation under subsection (5) may be revoked at any time, and no such delegation shall prevent the exercise or performance of any power or function by the person appointed under subsection (1).

9. (1) Within a period of not less than 3 months nor more than 4 months after the last date for applications specified under section 19(3), the transitional committee shall cause an election to be held by secret ballot for the purpose of electing members of the Committee of the Exchange Company.

(2) The Commissioner may—

(a) if no election has taken place within the period specified for such election in subsection (1); and

(b) after consultation with the transitional committee as to the reasons for such election not having taken place,

cause an election to be held in such manner as he thinks fit.

Appointment of person to replace transitional committee.

Election of the Committee.

(3) No person other than a member of the Exchange Company shall be qualified to be a member of the Committee.

(4) The Committee shall have a chairman who—

(a) shall be elected in the first year and in each year thereafter by secret ballot of members of the Exchange Company; and

(b) may be re-elected, but shall not be elected on more than 2 consecutive occasions.

(5) Subject to this Ordinance and to any other law, the election of the Committee and all matters relating to the Committee shall be governed by the articles of association.

10. Upon the election of the Committee under section 9 the management and control of the Exchange Company shall, subject to this Ordinance and to the constitution of the Exchange Company, be vested in the Committee.

Committee to manage the Exchange Company.

11. (1) The Financial Secretary may—

(a) on the advice of the Commission; and

(b) if he considers it in the public interest to do so,

appoint, by notice in the *Gazette*, a person to act in place of the Committee for such period, ending not later than the appointed day, as is specified in the notice.

(2) Notwithstanding subsection (1), an appointment under that subsection may be revoked at any time by the Financial Secretary by notice in the *Gazette*.

(3) Notwithstanding section 10, a person appointed under subsection (1)—

(a) shall have and may exercise any of the powers and carry out any of the functions of the Committee under this Ordinance or the constitution of the Exchange Company; and

(b) in the name and on behalf of the Exchange Company may do all acts and execute all deeds, receipts and other documents, and for that purpose may use, when necessary, the Exchange Company's seal.

(4) Upon the appointment of a person under subsection (1) and until such time as his appointment expires or is revoked, whichever is the earlier—

(a) the Committee shall be deemed to be suspended; and

(b) the purported exercise of any power or carrying out of any function of the Committee by any member or members of the Committee shall be void.

12. Subject to this Ordinance and to any other law, the rights, liabilities and privileges of members and associate members of the Exchange Company shall be governed by the constitution of the Exchange Company.

Membership of the Exchange Company.

13. (1) Subject to subsections (2), (3) and (4), an individual shall not be qualified to be a member or associate member of the Exchange Company if he—

(a) is a director or employee of a bank licensed under the Banking Ordinance to carry on business in Hong Kong;

Disqualifications from being an individual member. (Cap. 155.)

- (Cap. 328.) (b) is a director or employee of a deposit-taking company registered under the Deposit-taking Companies Ordinance;
- (Cap. 50.) (c) is a solicitor or a professional accountant (within the meaning of the Professional Accountants Ordinance) in either case holding a current practising certificate, or is a barrister in actual practice;
- (Cap. 333.) (d) is not a dealer registered under Part VI of the Securities Ordinance;
- (e) is not of good character and integrity;
- (f) is not a person who was born in Hong Kong or who has been ordinarily resident in Hong Kong for 5 out of the 7 years immediately preceding his application for membership or associate membership of the Exchange Company; or
- (g) being an individual who is not otherwise disqualified, fails to comply with section 15.

(2) Subsection (1) shall apply to the subscribers to the memorandum of the Exchange Company to the extent and in the manner provided by section 24.

(3) Subsection (1)(c) shall not apply to any individual who is, at the date of commencement of this Ordinance, a member or associate member of an existing exchange.

(4) Notwithstanding anything in subsection (1)(f) or in the constitution of the Exchange Company, the Commission may, on application made to it in writing by the Exchange Company, authorize the Exchange Company to admit to membership or associate membership an individual who would otherwise be disqualified under subsection (1)(f), if, in the opinion of the Commission, he is a person of good reputation experienced in dealing in securities.

Disqualifications from being a corporate member or member firm.

14. (1) A corporation or a firm shall not be qualified to be a member of the Exchange Company.
- (2) A corporation or a firm shall not be qualified to be an associate member of the Exchange Company unless it—
- (a) was at all times during the period of 6 months immediately preceding the date of commencement of this Ordinance an associate member of an existing exchange;
- (b) carries on a business solely as a dealer or as a dealer and investment adviser; and
- (c) complies with section 15.

Financial status required for membership.

15. (1) An applicant for membership or associate membership of the Exchange Company, being an individual, shall, at the time of making his application, provide proof to the satisfaction of the transitional committee or the Committee, as the case may be, and the Commissioner, that his financial position is such as—

- (a) would enable him at the time of making such application; and
- (b) would be likely to enable him, for so long as he remains a member or associate member,

to comply with the requirements of section 25.

(2) An applicant for associate membership of the Exchange Company, being a corporation or a firm, shall, at the time of making its application, provide proof to the satisfaction of the transitional committee or the Committee, as the case may be, and the Commissioner, that its financial position is such as—

- (a) would enable it at the time of making such application; and
- (b) would be likely to enable it, for so long as it remains an associate member,

to comply with the requirements of section 25.

(3) Any person who, for the purposes of complying with the requirements of subsection (1) or (2), and whether for himself or for any other person, makes any representation, whether in writing, orally or otherwise, which he knows to be false or misleading as to a material particular commits an offence and is liable to a fine of \$50,000 and to imprisonment for 6 months.

(4) For the purposes of subsection (3), "representation" means a representation or statement—

- (a) of a matter of fact, either present or past;
- (b) about a future event; or
- (c) about an existing intention, opinion, belief, knowledge or other state of mind.

16. (1) An applicant for membership or associate membership of the Exchange Company shall, at the time of making an application, deposit with the Exchange Company—

- (a) in the case of an application for membership, the sum of \$40,000 in respect of each membership for which application is made; or
- (b) in the case of an application for associate membership, the sum of \$20,000 in respect of each associate membership for which application is made.

(2) The Exchange Company shall—

- (a) if the applicant is accepted for membership or associate membership, apply the sum deposited by the applicant under subsection (1) as part payment for the shareholding of the applicant in the Exchange Company; or
- (b) if the applicant is rejected, refund to the applicant the sum so deposited.

17. (1) Except as provided by this section, no corporation, firm or individual may, within 3 years after the date of commencement of this Ordinance, apply for membership or associate membership of the Exchange Company.

Restriction on right to apply for membership.

(2) Subject to subsection (3), every—

- (a) member of an existing exchange at the date of commencement of this Ordinance may, in respect of each membership of an existing exchange held by such member at that date, apply for membership or associate membership of the Exchange Company;
- (b) associate member of an existing exchange at the date of commencement of this Ordinance may, in respect of each associate membership of an existing exchange held by such associate member at that date, apply for associate membership of the Exchange Company.

(3) Subsection (2) shall not apply to any subscriber to the memorandum of the Exchange Company in respect of any membership or associate membership of the Exchange Company held as a subscriber.

(4) Subsection (1) shall not apply to any individual to whom it is proposed that a membership or associate membership be transferred under section 18(2).

Restriction on transfer of membership.

**18.** (1) Subject to subsections (2) and (3), no membership or associate membership of the Exchange Company may, within 3 years after the date of commencement of this Ordinance, be transferred.

(2) Where within the period referred to in subsection (1) a member or associate member—

- (a) dies, or in the case of a firm or corporation is dissolved;
- (b) becomes bankrupt or makes an arrangement with his creditors or assigns his estate for their benefit;
- (c) becomes a mentally disordered person or a patient within the meaning of section 2 of the Mental Health Ordinance;
- (d) is expelled from the Exchange Company under the articles of association; or
- (e) satisfies the Committee that there exist exceptional circumstances which justify the transfer,

(Cap. 136.)

the membership or associate membership of such member or associate member may, with the approval of both the Committee and the Commission, be transferred to an individual in accordance with this section and the articles of association.

(3) No membership or associate membership shall be transferred under subsection (2) to any individual who—

- (a) is a member or associate member of the Exchange Company; or
- (b) may apply for membership or associate membership of the Exchange Company under section 17(2),

unless such transferred membership or associate membership is, or is intended to be, in substitution for membership or associate membership already held by such individual, or in substitution for the making of an application by him under section 17(2).

(4) Notwithstanding anything in the constitution of the Exchange Company, any sum received by or on behalf of or payable to the transferor of any membership or associate membership under subsection (2) in excess of the sum paid for such membership or associate membership pursuant to section 16 and to the articles of association shall be paid to and retained by the Exchange Company.

Invited applications for membership of the Exchange Company.

**19.** (1) Subject to subsection (2), the transitional committee shall, within 1 month after the date of commencement of this Ordinance, cause to be sent to every member and associate member of an existing exchange who may, under section 17(2), apply for membership or associate membership of the Exchange Company, an invitation, in a form approved by the Commission, to apply for membership or associate membership, as may be appropriate, of the Exchange Company in accordance with this Ordinance and with the articles of association.

(2) Where the membership or associate membership of an existing exchange is held—

- (a) by the personal representative of a deceased member; or

(b) by the trustee in bankruptcy of a bankrupt member,

the transitional committee shall cause an invitation under subsection (1) to be sent to the personal representative or trustee, as the case may be.

(3) The transitional committee shall, at the time of inviting applications under this section, specify a date, which shall be not less than 1 month nor more than 3 months after the date on which the transitional committee invites such applications, as the last date by which applications shall be delivered to the transitional committee.

(4) Any application under this section received after the date specified under subsection (3) may be accepted only with the approval of both the transitional committee and the Commission.

**20.** (1) Within 3 months after the date on which an application for membership or associate membership is received in accordance with section 19, the transitional committee shall examine the application and shall—

Acceptance or rejection of invited applicants.

- (a) accept the applicant for membership or associate membership as the case may be; or
- (b) reject the applicant,

and shall notify the applicant of such acceptance or rejection accordingly.

(2) Subject to the right of appeal under section 23, the decision of the transitional committee under subsection (1) shall be final.

**21.** The Commissioner may, for the purposes of sections 19 and 20—

Commissioner to assist transitional committee.

- (a) provide such administrative assistance and support to the transitional committee as he thinks fit; and
- (b) in consultation with the transitional committee, carry out the processing of applications received by the transitional committee.

**22.** An application for membership or associate membership of the Exchange Company—

Late and uninvited applications.

- (a) being an application other than an application pursuant to an invitation under section 19; or
- (b) being an application pursuant to an invitation under section 19 which—
  - (i) is received after the date specified under section 19(3); and
  - (ii) is not accepted under section 19(4),

shall, subject to this Ordinance, be treated as an application pursuant to the articles of association.

**23.** (1) Where an applicant for membership or associate membership is rejected by the transitional committee under section 20 or by the Commission pursuant to section 22, the applicant may, within 1 month after service upon the applicant of the notice of rejection, by notice in writing appeal against such rejection to the Commission.

Appeal to Commission where applicant rejected.

(2) The Commission may after considering any representations made by or on behalf of the applicant and any reasons given or representations made by or on behalf of the transitional committee or the Committee—

- (a) confirm the rejection of the applicant; or
- (b) direct the transitional committee or the Committee to accept the applicant for membership or associate membership, as the case may be.

(3) The decision of the Commission under subsection (2) shall be final.

24. (1) Within 6 months after the date of commencement of this Ordinance, each subscriber to the memorandum of the Exchange Company shall provide proof to the satisfaction of the Commission that he—

- (a) was, on the date upon which he subscribed to the memorandum, a member or associate member of an existing exchange;
- (b) is not disqualified under section 13 from being a member or associate member of the Exchange Company; and
- (c) has deposited with the Exchange Company the sum specified under section 16(1)(a) or (b) in respect of his membership or associate membership, as the case may be.

(2) For the purposes of section 13(1)(g) in its application to a subscriber under subsection (1)(b), section 15 shall apply to such subscriber—

- (a) as if he were, for the purposes of subsection (1), making an application for membership or associate membership of the Exchange Company; and
- (b) as if for the reference in section 15(1) to the transitional committee or the Committee and to the Commissioner there were substituted a reference to the Commission.

(3) The Commission shall, in writing, notify each subscriber either—

- (a) that it is satisfied that he complies with the requirements specified in subsection (1); or
- (b) that it is not so satisfied.

and the decision of the Commission under this subsection in respect of any subscriber shall be final.

(4) Where the Commission notifies a subscriber in accordance with subsection (3)(b), the subscriber shall, with effect from the date of service upon him of such notification, cease to be a member or associate member of the Exchange Company, as the case may be, and, notwithstanding anything in the Companies Ordinance or in the constitution of the Exchange Company, his shareholding in the Exchange Company shall, for the purposes of this subsection, be deemed never to have been issued.

(5) The Exchange Company shall, in respect of any subscriber to whom subsection (4) applies—

- (a) refund to such subscriber any sum deposited by him under section 16(1)(a) or (b) or pursuant to the articles of association in payment of his shareholding; and
- (b) take such steps (including any amendment of its records) as are necessary to give effect to such subsection.

25. (1) A member or associate member of the Exchange Company, being an individual, shall provide and at all times maintain in his stockbroking business a net capital of not less than \$1,000,000 in respect of each membership or associate membership held by him.

(2) An associate member of the Exchange Company, being a corporation or a firm, shall provide and at all times maintain in its stockbroking business a net capital of not less than \$1,000,000 in respect of each associate membership held by it.

(3) The Legislative Council may, by resolution, vary the amounts specified in subsections (1) and (2).

Provisions applicable to subscribers to the memorandum.

(Cap. 32.)

Capital requirement.

(4) If any member or associate member to whom subsection (1) or (2) applies fails to comply with such subsection, the Exchange Company may, and shall if so directed in writing by the Commissioner, suspend any membership or associate membership to which the failure relates until such time as—

- (a) the Exchange Company is satisfied that the member or associate member again complies with the requirements of the subsection; or
- (b) the Commissioner revokes the direction, as the case may be.

(5) For the purposes of this section—

“net capital” means the excess of approved assets over ranking liabilities;

“approved assets” and “ranking liabilities” means such assets and liabilities of the member or associate member as are specified to be approved assets and ranking liabilities for the purposes of this section by the Commission by notice in the *Gazette*;

“stockbroking business” means—

- (a) the business of dealing in securities listed or quoted on the Unified Exchange or a foreign stock exchange as a member or associate member of the Exchange Company;
- (b) the administration of any trust, or the carrying on of the business of any company, in conjunction with, or as an adjunct to, a business specified in paragraph (a); and
- (c) the retention of securities whether for safe keeping or otherwise, and whether for specific consideration or otherwise, in conjunction with or as an adjunct to a business specified in paragraph (a).

26. (1) No person—

- (a) being a member or associate member of the Exchange Company; or
- (b) being a partner of a firm that is an associate member,

shall without the prior approval, in writing, of the Exchange Company enter into any deed of trust or other arrangement concerning the financing or pledging, or use that may be made by any other person, of any membership or associate membership of the Exchange Company held by such member or associate member.

(2) Where a person referred to in subsection (1)(a) or (b), with the approval of the Exchange Company, enters into any deed of trust or other arrangement referred to in that subsection, he shall, within 1 month of so doing, lodge a copy of such deed of trust or of any instrument containing the details of any such arrangement, as the case may be, with both the Committee and the Commissioner, in such form and manner as the Committee and the Commissioner, in each case, may require.

(3) The Committee shall register, in a book kept by it for the purpose, any deed of trust or instrument lodged under subsection (2).

(4) Any person who contravenes subsection (1) or (2) commits an offence and is liable to a fine of \$20,000 and to imprisonment for 3 months and, where the offence is a continuing one, to a further fine of \$100 for each day on which the offence continues.

(5) Except as provided by this section or any other law, all matters relating to the entering into by members and associate members of deeds of trust or other arrangements referred to in this section shall be governed by the articles of association of the Exchange Company.

Approval and registration of deeds of trust etc.

**PART III**  
**THE UNIFIED EXCHANGE**

**27.** (1) On and after a day to be appointed by the Financial Secretary by notice in the *Gazette*, the Exchange Company shall have the exclusive right to establish, operate and maintain a stock market in Hong Kong.

(2) The Financial Secretary shall appoint a day under subsection (1), which shall not be later than 3 years after the date of commencement of this Ordinance.

(3) The stock market established under subsection (1) shall, for the purposes of this Ordinance, be known as the Unified Exchange.

(4) The members and associate members of the Exchange Company shall be the members of the Unified Exchange.

**28.** (1) The Exchange Company shall pay to the Government, in respect of the exclusive right granted under section 27, such annual fee (if any) as may be determined by the Governor in Council.

(2) The fee determined under subsection (1) shall be payable on the appointed day and on each anniversary of that day thereafter.

**29.** (1) The Exchange Company shall at all times on and after the appointed day maintain to the satisfaction of the Commission adequate and properly equipped premises for the conduct of the business of the Unified Exchange.

(2) The Exchange Company shall not use any premises for the purposes of a trading floor or for any ancillary purposes or functions of the Unified Exchange without the prior approval of the Commission.

**PART IV**

**LIQUIDATION OF EXISTING EXCHANGES**

**30.** Within 1 year after the appointed day, every existing exchange shall, notwithstanding any provision to the contrary in its constitution governing the winding up of the company, commence its voluntary winding up.

**31.** (1) Notwithstanding anything in the Companies Ordinance, the Financial Secretary may—

- (a) where an existing exchange fails or refuses to resolve within the period specified in section 30 that it be wound up voluntarily, or fails or refuses to take all necessary steps to commence such voluntary winding up; and

(b) on the recommendation of the Commissioner, petition the Court for the winding up of the existing exchange.

(2) The existence of any of the circumstances set out in subsection (1)(a) shall be a sufficient ground for the Court to declare that it is just and equitable that the company be wound up.

**32.** If in the course of winding up an existing exchange, the liquidator is satisfied that the existing exchange is insolvent, then the liquidation shall, notwithstanding that a declaration of solvency has been made and delivered in accordance with section 233 of the Companies Ordinance, continue as a creditors' voluntary winding up within the meaning of that section.

The Unified Exchange.

Annual fee for right to operate stock market.

Premises of the Unified Exchange.

Liquidation of existing exchanges.

Financial Secretary may petition for winding up.  
(Cap. 32.)

Insolvency of existing exchange.  
(Cap. 32.)

**33.** The provisions of Part V of the Companies Ordinance shall apply to a winding up under this Part to the extent that they are not inconsistent with this Part.

**PART V**

**MISCELLANEOUS**

**34.** (1) The Exchange Company may, subject to this Ordinance and to the Securities Ordinance, make rules—

- (a) prescribing listing requirements for the quotation of securities on the Unified Exchange; and
- (b) in respect of such other matters as are necessary or desirable for the proper and efficient operation and management of the Unified Exchange.

(2) The Commission may in writing direct the Exchange Company to make or amend any rules referred to in subsection (1), if, after requesting the Exchange Company to make or amend such rules, the Commission is satisfied that such request has not been complied with.

**35.** (1) No—

- (a) rules under section 34, or any amendment thereto; or
- (b) amendment to the constitution of the Exchange Company,

shall have effect unless approved in writing by the Commission.

(2) Where it is proposed to make—

- (a) any rules under section 34, or any amendment thereto; or
- (b) any amendment to the constitution of the Exchange Company,

the Committee shall forward written notice thereof, together with a copy of such proposed rules or amendment, as the case may be, to the Commission for its approval.

(3) The Commission may, within 6 weeks after receipt of a notice under subsection (1), give notice to the Committee that it disallows the whole or any specified part of any such rules or of any amendment thereto, or of any amendment to the constitution; otherwise it shall, in writing, notify the Committee of its approval.

**36.** (1) Subject to subsection (2), the Commission may, by notice in the *Gazette*, withdraw its recognition given under section 3 if the Exchange Company—

- (a) ceases to comply with any requirement specified in subsection (3) of that section;
- (b) fails or ceases to comply with section 28(2), or 29(1) or (2);
- (c) fails to comply with a direction under section 25(4) or 34(2);
- (d) fails to make any deposit or payment into any compensation fund established under Part X of the Securities Ordinance in respect of the Unified Exchange; or
- (e) is being wound up or ceases to operate the Unified Exchange.

(2) The Commission shall give to the Exchange Company not less than 14 days' notice in writing of its intention to withdraw its recognition under subsection (1) and the notice shall specify the grounds therefor.

Part V of the Companies Ordinance to apply.  
(Cap. 32.)

Rules of the Unified Exchange.  
(Cap. 333.)

Commission to approve proposed rules and amendments to constitution, etc.

Withdrawal of recognition of the Exchange Company.

(Cap. 333.)

(3) Any withdrawal of recognition by the Commission under this section shall take effect immediately, notwithstanding that an appeal has been made or may be made under section 37.

(Cap. 333.)

(4) Nothing in this section shall derogate from any power given to the Commission or to the Commissioner under the Securities Ordinance in respect of the closure of the Unified Exchange.

Appeal against withdrawal of recognition.

37. (1) Where the Commission withdraws its recognition under section 36, the Exchange Company may, within 14 days after the publication in the *Gazette* of the notice of withdrawal, appeal to the Governor in Council against the withdrawal.

(2) After considering any appeal under subsection (1), the Governor in Council may confirm, reverse or vary the decision of the Commission; and the decision of the Governor in Council shall be final.

Delegations to committees, etc.

38. (1) The Commission may establish standing or special committees for the purposes of this Ordinance.

(2) The Commission may delegate any of its powers, functions and duties (other than the powers conferred by this section) to—

- (a) any committee established under subsection (1); or
- (b) the Commissioner.

(3) The Commission may appoint as a member of any committee established under subsection (1) any person who, in its opinion, appears to be qualified to be a member of the committee, whether that person is a member of the Commission or not.

(4) A delegation under subsection (2) and an appointment under subsection (3) may be revoked by the Commission at any time, and no such delegation shall prevent the exercise or performance of any power, function or duty by the Commission.

(5) A committee established under subsection (1) may elect any of its members to be chairman and may, subject to any direction of the Commission, regulate its procedure in such manner as it thinks fit.

(6) Where any committee established under subsection (1) purports to act pursuant to any delegation made under subsection (2), it shall be presumed, until the contrary is proved, to be acting in accordance with the terms of the delegation.

Commissioner may prosecute.

39. Without prejudice to the provisions of any other enactment relating to the prosecution of criminal offences, and without prejudice to the powers of the Attorney General in relation to the prosecution of such offences, the Commissioner may institute proceedings in respect of any offence against this Ordinance.

Extensions of time.

40. (1) The Governor in Council may by order extend the period prescribed under section 17(1), 18(1) or 27(2).

(2) The Financial Secretary may, on the advice of the Commission and either generally or in a particular case, extend the time prescribed or allowed for the doing of any act or thing under section 9, 19(1) or (3), 20(1), 23(1), 24(1), 26(2), 28(2), 30 or 35(3).

Regulations.

41. (1) The Governor in Council may, after consultation with the Commission, make regulations for the better carrying out of the purposes and provisions of this Ordinance.

(2) Regulations made under this section may provide that a contravention of any provision thereof shall be an offence, and may provide penalties therefor not exceeding a fine of \$20,000 and imprisonment for 3 months.

42. (1) Section 20 of the Securities Ordinance shall not apply to any act done pursuant to this Ordinance in furtherance of the establishment of the Unified Exchange.

Application of sections 20 and 21 of the Securities Ordinance. (Cap. 333.)

(2) Nothing in section 21 of the Securities Ordinance shall prevent the taking or use, or the attaching to or exhibition at any place of the title "stock exchange" or "exchange" or "Unified Exchange", or any title resembling any of such titles, for the purposes of any provision of this Ordinance in force.

43. (1) This section shall come into operation on the appointed day.

Consequential amendments and transitional provisions. (Cap. 333.) First Schedule.

(2) The sections of the Securities Ordinance specified in the first column of the First Schedule are amended to the extent and in the manner set out in the second column of that Schedule.

(3) The provisions of the Second Schedule shall, notwithstanding any amendment effected by subsection (2), have effect with respect to the matters contained in that Schedule.

Second Schedule.

(4) Unless the context otherwise requires, a reference in any Ordinance to a recognized stock exchange or to a stock exchange approved or deemed to have been approved under the Securities Ordinance, shall be construed as a reference to the Unified Exchange.

## FIRST SCHEDULE

[s. 43(2).]

## AMENDMENTS TO THE SECURITIES ORDINANCE

(Cap. 333.)

Section	Amendment
Long title	1. By deleting " <i>and a federation of stock exchanges</i> ". 2. By deleting " <i>exchanges</i> " and substituting " <i>markets</i> ".
2(1)	1. By deleting the definition of "committee" and substituting the following— " "committee", in relation to the Exchange Company, means the Committee of the Exchange Company elected under section 9 of the Stock Exchanges Unification Ordinance 1980, and any succeeding committee, by whatever name called, for the management and control of the Exchange Company;" 2. In the definition of "corporate member", by deleting "a stock exchange" and substituting "the Exchange Company". 3. By deleting the definition of "Council". 4. By inserting, after the definition of "document", the following— " "Exchange Company" means the company recognized as the Exchange Company under section 3 of the Stock Exchanges Unification Ordinance 1980;" 5. By deleting the definition of "Federation". 6. In the definition of "individual member", by deleting "a stock exchange" and substituting "the Exchange Company". 7. In the definition of "listing", by deleting "a stock exchange" and substituting "the Unified Exchange".
(55 of 1980.)	
(55 of 1980.)	

## Section

## Amendment

8. By inserting, after the definition of "listing", the following—  
 "member", in relation to the Exchange Company or the Unified Exchange, means a member and an associate member, within the meaning of section 2 of the Stock Exchanges Unification Ordinance 1980, of the Exchange Company;"
- (55 of 1980.)
9. In the definition of "member firm", by deleting "a stock exchange" and substituting "the Exchange Company".
10. By deleting the definition of "rules" and substituting the following—  
 "rules", in relation to the Exchange Company or the Unified Exchange, means the rules governing the operation and management of the Unified Exchange or the conduct of its members, by whatever name they may be called and wherever contained;"
11. By deleting the definition of "stockbroker" and substituting the following—  
 "stockbroker" means a dealer who is an individual member of the Exchange Company, partner of a member firm or director of a corporate member;"
12. By deleting the definition of "stock exchange" or "exchange".
13. In the definition of "stock market", by deleting "a stock exchange" and substituting "the Exchange Company".
14. By inserting, after the definition of "underwriter", the following—  
 "Unified Exchange" or "exchange" means the stock market established under section 27 of the Stock Exchanges Unification Ordinance 1980;"
- (55 of 1980.)
- 2(3) 1. By deleting "a stock exchange when the stock exchange has" and substituting "the Unified Exchange when the exchange has".  
 2. By deleting "that exchange" and substituting "the Unified Exchange".
- 13 1. In paragraph (c), by deleting "Federation" and substituting "Exchange Company and the Unified Exchange".  
 2. In paragraph (e), by deleting "Federation" and substituting "Unified Exchange".  
 3. In paragraph (f), by deleting "stock exchanges" and substituting "the Unified Exchange".
- 14(1) By deleting "Federation" and substituting "Exchange Company".
- 14(1)(a) 1. By deleting "stock exchanges" and substituting "the Unified Exchange".  
 2. In sub-paragraph (i), by deleting "exchanges" and substituting "the Unified Exchange".  
 3. In sub-paragraph (ii), by deleting "at exchanges" and substituting "on the Unified Exchange".  
 4. In sub-paragraph (iii), by deleting "at any stock exchange" and substituting "on the Unified Exchange".

## Section

## Amendment

- 14(1)(b) By deleting "any stock exchange" and substituting "the Exchange Company".
- 14(1)(d) By deleting the paragraph and substituting the following—  
 "(d) the qualifications for membership of the Exchange Company and the maximum number of persons that may be admitted to such membership;"
- 14(1)(e) By deleting "stock exchanges" and substituting "the Unified Exchange".
- 14(1)(f) 1. By deleting "a stock exchange" and substituting "the Unified Exchange".  
 2. By deleting "exchange" and substituting "Exchange Company".
- 14(1)(fa) 1. By deleting "the chairman of a stock exchange committee" and substituting "a chairman of the committee of the Exchange Company".  
 2. By deleting "exchange" and substituting "Exchange Company".
- 14(1)(fb) By deleting "a stock exchange which" and substituting "the Exchange Company when it".
- 14(3) By deleting the subsection and substituting the following—  
 "(3) Nothing in this section prevents the Exchange Company from making rules on any matter mentioned in subsection (1) under section 34 of the Stock Exchanges Unification Ordinance 1980 or the constitution of the Exchange Company if those rules have been approved by the Commission, but any such rules shall have effect only to the extent that they are not repugnant to any rule made by the Commission under subsection (1)."
- (55 of 1980.)
- 15(1)(a) By deleting "stock exchanges" and substituting "the Exchange Company".
- Heading to Part III By deleting "EXCHANGES" and substituting "MARKETS".
- 20 By deleting subsection (1) and substituting the following—  
 "(1) No person shall—  
 (a) establish or operate a stock market that is not the Unified Exchange; or  
 (b) assist in the operation of a stock market that, to his knowledge, is not the Unified Exchange."
- 21 By deleting subsection (1) and substituting the following—  
 "(55 of 1980.) (1) Subject to section 42(2) of the Stock Exchanges Unification Ordinance 1980, no person, other than the Exchange Company, shall—  
 (a) take or use the title "stock exchange" or "unified exchange" or "unified stock exchange" or "united exchange" or "united stock exchange"; or

## Section

## Amendment

- (b) take or use, or have attached to or exhibited at any place, any title which resembles any of the titles referred to in paragraph (a) or which so closely resembles any of such titles as to be calculated to deceive.”
- 22 By deleting “stock market of a stock exchange” and substituting “Unified Exchange”.
- 24(4) By deleting “exchange” and substituting “market”.
- 25 By repealing the section.
- 26, 27, 28 and 29 By repealing and replacing the sections by the following—

“Suspension of dealings for misconduct, etc.  
(55 of 1980.)

## 26. (1) The Commission may—

- (a) on any of the grounds specified in section 36 of the Stock Exchanges Unification Ordinance 1980; and
- (b) instead of withdrawing its recognition of the Exchange Company pursuant to that section,

direct that the premises of the Unified Exchange be closed forthwith for the transaction of dealings in securities and remain closed until the Commission revokes the direction.

(2) Without prejudice to the exercise of its powers under subsection (1), the Commission may, where it has received a recommendation from the Disciplinary Committee pursuant to section 39(2)(a) in respect of the Exchange Company, which the Committee has found guilty of misconduct under that section, direct that the premises of the Unified Exchange be closed for the transaction of dealings in securities and remain closed until the Commission revokes the direction.

(3) The Commission shall give to the Exchange Company not less than 14 days’ notice in writing of its intention to issue a direction under subsection (1) or (2) and the notice shall specify the grounds therefor.

(4) While a direction under subsection (1) or (2) remains in force, the recognition of the Exchange Company given under section 3 of the Stock Exchanges Unification Ordinance 1980 shall, for the purposes of the application of sections 20, 21 and 22, be deemed to have been withdrawn.

(5) Where any direction under subsection (1) or (2) is in force, any authorized officer may take such steps as may be necessary to ensure that the premises to which the direction relates are locked and secured.

(6) Any person who enters or attempts to enter any premises in respect of which a direction under subsection (1) or (2) is in force without the authority of an authorized officer shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000.

## Section

## Amendment

(7) Where any direction is issued under subsection (1) or (2), that direction shall take effect immediately, notwithstanding that an appeal has been made or may be made under section 29.

(8) In this section “authorized officer” means the Commissioner or any police officer.

Commissioner may order closure of Unified Exchange in emergencies, etc.

27. (1) Without prejudice to the powers of the Commission under section 26, the Commissioner may, after consultation with the Exchange Company, order that the Unified Exchange be closed for the transaction of dealings in securities for a period not exceeding 5 bank trading days.

(2) The Commissioner may make an order under subsection (1) on the ground that, in his opinion, the orderly transaction of business on the Unified Exchange is being or is likely to be prevented because—

- (a) an emergency or natural disaster has occurred in Hong Kong; or
- (b) there exists an economic or financial crisis, whether in Hong Kong or elsewhere, or any other circumstance, which is likely to prevent orderly trading on the Unified Exchange.

(3) An order made under subsection (1) may be renewed by a further order for a further period of not more than 10 bank trading days.

(4) Any dealer who deals in securities listed on the Unified Exchange while an order made under subsection (1) or (3) is in force (being an order which has been notified to the committee of the Exchange Company) shall be guilty of an offence, and shall be liable on conviction to a fine of \$50,000.

(5) Where an order under subsection (1) or (3) has been made, the Commissioner may take such steps as are necessary to secure compliance with the order and may, in particular, cause the premises of the Unified Exchange to be locked and secured.

(6) Any person who, without the authority of the Commissioner, enters or attempts to enter the premises of the Unified Exchange which have been locked and secured under subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine of \$20,000.

Publication of direction or order in the Gazette.

28. Where the Commission issues any direction under section 26(1) or (2), or the Commissioner makes any order under section 27(1) or (3), notice of the direction or order, as the case may be, shall be published in the *Gazette*.

Appeal against direction, etc.

## 29. (1) Where—

- (a) the Commission has issued a direction under section 26(1) or (2); or

## Section

## Amendment

- (b) the Disciplinary Committee has imposed any penalty on the Exchange Company, or on any member of the committee of the Exchange Company, pursuant to paragraph (b) or (c) of section 39(2),

the Exchange Company or such member of the committee may, within 14 days—

- (i) after the publication in the *Gazette* of notice of the direction; or
- (ii) after being notified of the decision of the Disciplinary Committee imposing the penalty,

appeal to the Governor in Council against the direction of the Commission or against the decision of the Disciplinary Committee.

(2) After considering any appeal under subsection (1) the Governor in Council may confirm, reverse or vary the direction of the Commission or the decision of the Disciplinary Committee, as the case may be; and the decision of the Governor in Council shall be final."

- 30 By repealing the section.
- Part IV By repealing the Part.
- 38(2)(c) By deleting "Federation" and substituting "Exchange Company".
- 39(1) 1. By deleting "any stock exchange" and substituting "the Exchange Company".  
2. By deleting "any such exchange" and substituting "the Exchange Company".
- 39(2) 1. By deleting paragraph (a) and substituting the following—  
“(a) recommend to the Commission that it exercise the powers conferred on it by section 26(2);”.  
2. In paragraphs (b), (c) and (d), by deleting "stock exchange" wherever it occurs and substituting in each case "Exchange Company".
- 39(3) 1. By deleting "any stock exchange" and substituting "the Exchange Company".  
2. By deleting "of the exchange" in both places where it occurs and substituting in each case "of the Exchange Company".
- 39(4) 1. By deleting "Any stock exchange" and substituting "The Exchange Company".  
2. By deleting "a stock exchange" and substituting "the Exchange Company".
- 39(5) By deleting "a stock exchange" and substituting "the Exchange Company".

## Section

## Amendment

- 39(6) By deleting the subsection and substituting the following—  
“(6) For the purposes of this section "misconduct" means—  
(a) any failure by the Exchange Company or the committee thereof to comply with the requirements of this Ordinance or the Stock Exchanges Unification Ordinance 1980, or any rules, regulations or directions made or given thereunder;  
(b) any wilful contravention by the Exchange Company or the committee thereof of the constitution of the Exchange Company or the rules of the Unified Exchange;  
(c) any failure by the Exchange Company or by the committee thereof to ensure that the rules of the Unified Exchange are complied with by its members;  
(d) any act or omission relating to the operation of the Exchange Company or the Unified Exchange which, in the opinion of the Disciplinary Committee, is or is likely to be prejudicial to the interests of members of the investing public.”.
- (55 of 1980.)
- 52(6)(b) By deleting "a stock exchange" and substituting "the Exchange Company".
- 66(1)(b) By deleting "a stock exchange" and substituting "the Unified Exchange".
- 72(5)(d) By deleting "exchange" and substituting "Unified Exchange".
- 76(1)(a) By deleting "a stock exchange in Hong Kong" and substituting "the Unified Exchange".
- 79(2) By deleting "stock exchange of which he is a member" and substituting "Exchange Company".
- 80(1) By deleting "a stock exchange" and substituting "the Unified Exchange".
- 80(4)(c) By deleting "stock exchange of which he is a member" and substituting "Exchange Company".
- 90(2) 1. By deleting "stock exchange of which he is a member" and substituting "Exchange Company".  
2. By deleting "stock exchange" and substituting "the Exchange Company".
- 90(3) By deleting "stock exchange" and substituting "the Exchange Company".
- 97 1. By deleting "a stock exchange" and substituting "the Exchange Company".  
2. By deleting "exchange" and substituting "Exchange Company".

## Section

## Amendment

- 98(1) 1. By inserting, before the definition of "Committee" the following—  
 "appointed day" means the day appointed under section 27 of the Stock Exchanges Unification Ordinance 1980 for the commencement of operation of the Unified Exchange;"
2. In the definition of "default", by deleting "a stock exchange" and substituting "the Exchange Company".
3. By deleting the definition of "stockbroking business" and substituting the following—  
 "stockbroking business" means—  
 (a) a business of dealing in securities listed or quoted on the Unified Exchange carried on by a member of the Exchange Company;  
 (b) the administration of any trust, or the carrying on of the business of any company, in conjunction with, or as an adjunct to, a business specified in paragraph (a);  
 (c) the retention of securities whether for safe keeping or otherwise, and whether for specific consideration or otherwise, in conjunction with, or as an adjunct to, a business specified in paragraph (a)."
- 99 By deleting "Stock Exchanges" and substituting "Unified Exchange".
- 100(2) By deleting "Council of the Federation" and substituting "Exchange Company".
- 101(1) 1. In paragraph (a), by deleting "stock exchanges" and substituting "the Exchange Company".  
 2. By deleting paragraph (b).
- 103(4) By deleting "Council of the Federation and to each stock exchange" and substituting "Exchange Company".
- 104 By repealing and replacing the section by the following—  
 "Exchange Company to make deposits in respect of members."  
 104. (1) The Exchange Company shall, subject to the provisions of this Part, deposit with the Commission and keep deposited in respect of each membership of the Exchange Company a sum of \$50,000 payable in cash.  
 (2) The amount referred to in subsection (1) shall be deposited—  
 (a) in respect of every membership held on the appointed day, not later than 1 month after that date; and  
 (b) in respect of every membership taken up after the appointed day, not later than 1 month after the date on which such membership is taken up.  
 (3) For the purposes of this section and section 106, each share in the Exchange Company held by a member shall be deemed to constitute a separate membership.

## Section

## Amendment

- (4) Any amount due under this section may be sued for and recovered by the Commission as a debt in any court of competent jurisdiction."
- 105(2) By deleting "contributing stock exchanges" and substituting "Exchange Company".
- 106 and 107 By repealing and replacing the sections by the following—  
 "Repayment of deposits in certain cases."  
 106. (1) Where the Exchange Company has deposited a sum of money with the Commission under section 104 in respect of any membership and that membership for any reason ceases, the Commission shall, unless the money is required to satisfy any claims or liabilities arising before such membership ceased, within 6 months after the cessation of such membership, deliver to the Exchange Company the sum deposited in respect thereof.  
 (2) If any money has been delivered to the Exchange Company pursuant to subsection (1) in respect of any membership, the Exchange Company shall, if the member has satisfied all financial obligations due in respect of such membership from the member to the Exchange Company and is otherwise in good standing with the Exchange Company, deliver the money—  
 (a) to the member;  
 (b) where the member has died or is bankrupt, to his personal representative or trustee in bankruptcy, as the case may be; or  
 (c) where the member is a corporation in liquidation, to the liquidator thereof.
- Replenishment of fund in certain cases.  
 107. (1) Subject to subsection (2), if at any time resort has to be made to any money deposited under section 104 in order to satisfy any claim made against the compensation fund in relation to a stockbroker, or to a member firm or corporate member, the Exchange Company shall, on being required to do so by the Commission, replenish the fund by depositing with the Commission an amount that is equal to that paid in connexion with the satisfaction of the claim, including any legal and other expenses paid or incurred in relation to the claim.  
 (2) The Commission may not require the Exchange Company to make a deposit under subsection (1) in respect of any payment made to satisfy a claim under this Part unless it has first exhausted all relevant rights of action and other legal remedies, conferred by section 118, against the stockbroker, member firm or corporate member in relation to whom or to which the claim arose.

<i>Section</i>	<i>Amendment</i>
	(3) Any amount required to be deposited under this section may be sued for and recovered by the Commission as a debt in any court of competent jurisdiction."
108(1)	1. In paragraph (a), by deleting "Council of the Federation" and substituting "committee of the Exchange Company". 2. By deleting paragraph (c) and substituting the following— "(c) the amounts of all claims, including costs, allowed by the committee of the Exchange Company or established against the Exchange Company under this Part; and".
108(2) and (3)	By deleting the subsections.
109	1. In subsection (1), by deleting "a stock exchange" and substituting "the Exchange Company". 2. In subsection (2), by deleting "a stock exchange" and substituting "the Exchange Company". 3. In subsection (3), by deleting "\$1,000,000" and substituting "\$2,000,000". 4. In subsection (4), by deleting "commencement of this Part" and substituting "appointed day". 5. By deleting subsection (5) and substituting the following— "(5) Subject to this Part, the amount which any claimant is entitled to claim as compensation from the compensation fund is the amount of the actual pecuniary loss suffered by him, including the reasonable costs of and incidental to the making and proving of his claim." 6. In subsection (7), by deleting "a stock exchange" and "the exchange" wherever those expressions occur in paragraphs (a), (b) and (c) and substituting in each case "the Exchange Company".
110(1)	By deleting "Council of the Federation" and substituting "committee of the Exchange Company".
111(1), (2) and (3)	By deleting "Council of the Federation" wherever it occurs and substituting in each case "committee of the Exchange Company".
112(1), (2) and (3)	By deleting "Council of the Federation" wherever it occurs and substituting in each case "committee of the Exchange Company".
112(4)	By deleting the subsection and substituting the following— "(4) An action for damages shall not lie against the Exchange Company or against the committee or any member thereof, or any employee of the Exchange Company by reason of any notice published for the purposes of this section in good faith and without malice."

<i>Section</i>	<i>Amendment</i>
113	1. By deleting "Council of the Federation" wherever it occurs and substituting in each case "committee of the Exchange Company". 2. By deleting "Council" wherever it occurs and substituting in each case "committee".
114(1)	1. By deleting "Council of the Federation" and substituting "committee of the Exchange Company". 2. In paragraph (b), by deleting "a stock exchange" and substituting "the Exchange Company".
114(2)	By deleting "Council of the Federation" and substituting "committee of the Exchange Company".
115(1), (2) and (3)	By deleting "Federation" wherever it occurs and substituting in each case "Exchange Company".
116(a)	By deleting "Federation" and substituting "Exchange Company".
117	By deleting "Federation" and substituting "Exchange Company".
119	1. By deleting "Federation or to a stock exchange" and substituting "Exchange Company". 2. By deleting "Council of the Federation" and substituting "committee of the Exchange Company".
120(1) and (2)	By deleting "Council of the Federation" wherever it occurs and substituting in each case "committee of the Exchange Company".
121	1. By deleting "a stock exchange" and substituting "the Exchange Company". 2. By deleting "exchange" wherever it occurs and substituting in each case "Exchange Company".
121A	By adding, after section 121, the following new section—  "Commissioner may act where committee fails to do so." <b>121A.</b> Notwithstanding anything in this Part, where the Commissioner is satisfied that the committee of the Exchange Company has— (a) failed or refused to exercise any of its powers, functions or duties under this Part; or (b) has unreasonably delayed the making of any determination under section 113, he may, after consultation with the Commission, exercise all or any of the powers, functions or duties of the committee of the Exchange Company under this Part, and any act done or determination made by the Commission pursuant to his powers under this section shall be deemed, for the purposes of this Part, to be an act done or determination made by the committee."
135(1)	1. In paragraph (a), by deleting "any stock market in Hong Kong" and substituting "the Unified Exchange". 2. In paragraph (b), by deleting "any such stock market" and substituting "the Unified Exchange".

## Section

## Amendment

- 141A By deleting subsection (1) and substituting the following—  
 “(1) This Part applies to the securities of a corporation only if they are listed on the Unified Exchange or have been listed on the Unified Exchange or on an approved stock exchange at any time within 5 years immediately preceding any dealing in relation to those securities within the meaning of section 141B(1).  
 (1A) For the purposes of subsection (1), “approved stock exchange” means a company which was, immediately before the repeal of section 25, approved or deemed to have been approved as a stock exchange under that section.”
- 142(4) By deleting “stock exchange outside Hong Kong” and substituting “foreign stock exchange”.
- First Schedule—
- paragraph 1 1. By deleting “a stock exchange (including a foreign stock exchange)” and substituting “the Unified Exchange or a foreign stock exchange”.  
 2. In sub-paragraph (b), by deleting “at a stock exchange where they are listed” and substituting “on the Unified Exchange”.
- paragraph 2 By deleting “a stock exchange (including a foreign stock exchange)” and substituting “the Unified Exchange or a foreign stock exchange”.
- Second Schedule—
- paragraph 1 1. By deleting “a stock exchange (including a foreign stock exchange)” and substituting “the Unified Exchange or a foreign stock exchange”.  
 2. In sub-paragraph (b), by deleting “at a stock exchange where they are listed” and substituting “on the Unified Exchange”.
- paragraph 3 By deleting “a stock exchange (including a foreign stock exchange)” and substituting “the Unified Exchange or a foreign stock exchange”.
- paragraph 5(d) By deleting “a stock exchange” and substituting “the Unified Exchange or a foreign stock exchange”.
- paragraph 5(e)(iii) 1. By deleting “a stock exchange (including a foreign stock exchange)” and substituting “the Unified Exchange or a foreign stock exchange”.  
 2. By deleting “the stock exchange” and substituting “the exchange”.
- Securities (Stock Exchanges Compensation Fund) (Maximum Payments) Notice 1980. (L.N. 101/80.) By cancelling the Notice.

## SECOND SCHEDULE

[s. 43(3).]

## TRANSITIONAL ARRANGEMENTS

1. For the purposes of this Schedule—
  - (a) any term or expression not defined in this Ordinance shall have the same meaning as it had, immediately prior to the appointed day, in the Securities Ordinance; and (Cap. 333.)
  - (b) a reference to any provision in the Securities Ordinance shall be a reference to that provision in force immediately prior to the appointed day.
2. (1) All property of whatever kind and whether movable or immovable vested in or belonging to the Hong Kong Federation of Stock Exchanges immediately prior to the appointed day is as from such date transferred to and vested in the same interest in the Exchange Company without any further assurance; and the Exchange Company shall have all powers necessary to take possession of, recover and obtain the benefit of such property.  
 (2) Subject to paragraph 4, all obligations and liabilities of the Federation immediately prior to the appointed day are from such date the obligations and liabilities of the Exchange Company; and the Exchange Company may be sued in respect of and shall have all necessary powers to discharge the same.  
 3. The Securities Commission Disciplinary Committee as constituted immediately prior to the appointed day shall continue in existence for the purposes of completing any inquiry under section 39 of the Securities Ordinance, or hearing any appeal under section 58 of that Ordinance, commenced prior to that date but not at that date completed or disposed of, and for the purposes of this paragraph— (Cap. 333.)
  - (a) any such inquiry or appeal may be continued and completed or disposed of; and
  - (b) any order or decision of the Disciplinary Committee so constituted may be made or given and shall have the same force and effect,
 as if section 43 of this Ordinance had not been enacted.
4. (1) The provisions of Part X of the Securities Ordinance in force immediately prior to the appointed day, other than sections 112 and 121 shall, subject to this paragraph, continue to apply for the purposes of this paragraph as if references therein to the Federation and to the Council of the Federation were references, in either case, to the Commissioner, and in particular and without prejudice to the generality of the foregoing— (Cap. 333.)
  - (a) the Stock Exchanges Compensation Fund established and maintained under section 99 of the Securities Ordinance shall continue in existence and shall be maintained by the Commission until such time as it is paid out under this paragraph; and
  - (b) the Securities Commission Compensation Fund Committee established by section 100 of the Securities Ordinance shall continue in existence for the purposes of that section with such members as were immediately prior to the appointed day appointed thereto or as are appointed from time to time thereafter under that section.
 (2) Except as provided in this paragraph, no claim may be made for compensation from the compensation fund.

(3) Where in respect of a default occurring prior to the appointed day a person has claimed compensation from the compensation fund but the claim has not at that date been disposed of, such claim may be continued and disposed of under this paragraph.

(4) The Commissioner shall, as soon as practicable after the appointed day, cause to be published in one or more English language newspapers and one or more Chinese language newspapers, published daily and circulating generally in Hong Kong, a notice specifying a date, not being earlier than 6 months after publication of the notice, on or before which a claim for compensation from the compensation fund may be made by any person.

(5) Where, in respect of a default occurring prior to the appointed day, a person wishes to claim compensation from the compensation fund, he shall lodge his claim in writing with the Commissioner—

- (a) if a notice under sub-paragraph (4) has been published, on or before the date specified in the notice; or
- (b) if no such notice has been published, within 6 months after the claimant became aware of the default giving rise to the claim.

(6) Any claim that is not made within the time limited by sub-paragraph (5) shall, unless the Commissioner otherwise determines, be barred.

(7) In the event of an existing exchange being wound up (whether pursuant to Part IV of this Ordinance or otherwise), the Commission shall, after—

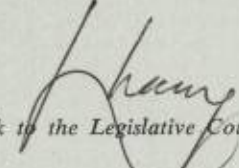
- (a) all claims made or continued under this paragraph have been disposed of; and
- (b) all outstanding liabilities against the compensation fund have been satisfied,

pay to the liquidator of the existing exchange the whole or any part remaining of the amounts contributed by the existing exchange under Part X of the Securities Ordinance, together with any income accrued in respect thereof; and on any such payment being made those amounts shall form part of the assets of the existing exchange and shall be available to the liquidator for distribution in accordance with the Companies Ordinance.

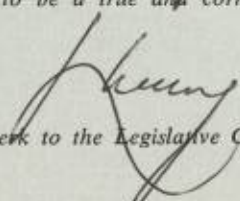
(Cap. 333.)

(Cap. 32.)

Passed by the Hong Kong Legislative Council this 6th day of August 1980.

  
Clerk to the Legislative Council.

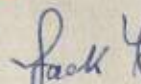
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

No. 56 OF 1980



I assent



Acting Governor

7 August 1980

to amend the Land Registration Ordinance

claimed compensation from the compensation fund but the  
at that date been disposed of, such claim may be continued  
of under this paragraph.

Commissioner shall, as soon as practicable after the appointed  
be published in one or more English language newspapers  
ore Chinese language newspapers, published daily and circulat-  
in Hong Kong, a notice specifying a date, not being earlier  
s after publication of the notice, on or before which a claim  
ion from the compensation fund may be made by any person.

e, in respect of a default occurring prior to the appointed  
wishes to claim compensation from the compensation fund,  
e his claim in writing with the Commissioner—

notice under sub-paragraph (4) has been published, on or  
e the date specified in the notice; or

o such notice has been published, within 6 months after the  
ant became aware of the default giving rise to the claim.

claim that is not made within the time limited by sub-  
o shall, unless the Commissioner otherwise determines, be

e event of an existing exchange being wound up (whether  
art IV of this Ordinance or otherwise), the Commission shall,

claims made or continued under this paragraph have been  
sed of; and

utstanding liabilities against the compensation fund have been  
ed,

iquidator of the existing exchange the whole or any part  
amounts contributed by the existine exchange

## HONG KONG

No. 56 OF 1980



I assent.

*Jack P. Oates*

Acting Governor.

7 August 1980.

An Ordinance to amend the Land Registration Ordinance.

[ ]

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

1. This Ordinance may be cited as the Land Registration (Amend- Short title and  
ment) Ordinance 1980 and shall come into operation on a day to be commencement.  
appointed by the Governor by notice in the *Gazette*.

2. The long title to the principal Ordinance is deleted and replaced Amendment of  
by the following— long title.  
(Cap. 128.)

*"To provide for the registration of deeds, conveyances, wills, judg-  
ments and other instruments affecting real or immovable property,  
the keeping of Land Office records, and for other matters relating  
to land registration."*

3. Section 2(1) of the principal Ordinance is amended by deleting Amendment of  
"manner hereinafter directed" and substituting the following— section 2.

"prescribed manner".

4. Section 3(1) of the principal Ordinance is amended by inserting Amendment of  
after "registration" the following— section 3.

"; which dates shall be determined in accordance with regulations  
made under this Ordinance".

Repeal of sections 6, 7, 8, 9, 10, 11, 12 and 13.

5. Sections 6, 7, 8, 9, 10, 11, 12 and 13 of the principal Ordinance and the heading thereto are repealed.

Repeal and replacement of section 23.

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

"Obligation of Land Officer to register.

23. The Land Officer shall register, in the manner prescribed by or under this Ordinance, any deed, conveyance or other instrument in writing, or will or judgment, delivered into the Land Office for registration if, but only if, he is satisfied that—

- (a) the deed, conveyance or other instrument in writing, or will or judgment, may be, or is under any other Ordinance required to be, registered under this Ordinance;
- (b) the provisions of this Ordinance and of any regulations made thereunder, and of any other Ordinance relating to the registration of an instrument under this Ordinance have been complied with; and
- (c) the prescribed fees have been paid.

Liability of Land Officer and others.

23A. If the Land Officer or any other person employed in the Land Office wilfully or negligently fails to comply with section 23, he shall be liable for any loss or damage thereby caused, but he shall not be liable in damages—

- (a) for registering, in good faith, any deed, conveyance or other instrument in writing, or will or judgment, notwithstanding any error, omission or defect therein;
- (b) for registering, in good faith, any deed, conveyance, or other instrument in writing, or will or judgment, which does not affect any parcels of ground, tenements or premises in Hong Kong; or
- (c) for any damage to or loss or destruction of any memorial or any deed, conveyance or other instrument in writing, or will or judgment, registered or delivered for registration or any document in his custody unless such damage, loss or destruction was due to his act and such act—
  - (i) was not authorized by or under this Ordinance; and
  - (ii) was done negligently or with intent to cause such damage, loss or destruction."

Repeal and replacement of section 24.

7. Section 24 of the principal Ordinance is repealed and replaced by the following—

"Dishonest destruction etc., of memorials and other documents.

24. Any person who dishonestly, with a view to gain for himself or another, or with intent to cause loss to another, destroys, removes, alters, defaces or conceals—

- (a) any memorial, or any deed, conveyance or other instrument in writing, or will or judgment, belonging to, or filed or deposited in, the Land Office, or any part thereof or endorsement thereon or any microfilm or other record thereof; or
- (b) any register, book, index, receipt, docket or other document belonging to, or filed or deposited in, the

Land Office, or any part thereof or any microfilm or other record thereof,

commits an offence and is liable on conviction upon indictment to imprisonment for 14 years."

8. Section 25 of the principal Ordinance is repealed.

9. The principal Ordinance is amended by adding, after section 26, the following—

"Copies of documents etc. admissible in evidence.

26A. (1) A document purporting to be a copy, print or extract—

(a) of or from—

(i) any memorial or any deed, conveyance or other instrument in writing, or will or judgment, belonging to, or filed or deposited in, the Land Office, or any part thereof or endorsement thereon or any microfilm or other record thereof; or

(ii) any register, book, index, receipt, docket or other document belonging to, or filed or deposited in, the Land Office, or any part thereof or any microfilm or other record thereof; and

(b) signed and certified as a true copy, print or extract by the Land Officer or any person authorized by him in that behalf,

(Cap. 117.)

shall, subject to the Stamp Ordinance, be admissible in evidence in criminal or civil proceedings before any court on its production without further proof and, until the contrary is proved, the court shall presume that—

(A) the signature and certification to the document is that of the Land Officer or a person authorized by him in that behalf; and

(B) the document is a true and correct copy, print or extract.

(2) Nothing in this section shall prejudice the admissibility of any evidence which would be admissible apart from the provisions of this section."

10. The principal Ordinance is amended by adding, after section 27, the following—

"Regulations.

28. (1) The Governor in Council may make regulations for all or any of the following matters—

(a) the manner in which entry and registration of memorials, deeds, conveyances, and other instruments in writing, and wills and judgments, and other documents in the Land Office shall be effected, and the withdrawal of any memorial, deed, conveyance, or other instrument in writing, or will or judgment, or other document from registration;

(b) determining the date of registration of registered instruments and the proof thereof;

(c) particulars and documents to be furnished for the purposes of registration;

(d) the method by which and the form in which memorials, deeds, conveyances, and other instru-

Repeal of section 25.  
Addition of section 26A.

Addition of sections 28, 29 and 30.

ments in writing, and wills and judgments, and other documents are to be recorded and the manner in which they are to be maintained;

- (e) the correction and amendment of any memorial or other document;
- (f) the keeping of indexes, registers and other records of the Land Office;
- (g) the use of microfilm or any other material or method for the recording of memorials, deeds, conveyances, and other instruments in writing, and wills and judgments, and other documents, including records of the Land Office;
- (h) the destruction or disposal of memorials and other documents, including records of the Land Office, recorded on microfilm or on other material;
- (i) fixing the hours during which the Land Office or any part thereof shall be open to the public and empowering the Land Officer to vary such hours;
- (j) regulating admission to the Land Office or any part thereof and the use of any equipment, facilities or material therein by members of the public;
- (k) regulating the conduct of persons in the Land Office;
- (l) enabling any person to be refused entry to the Land Office and the removal from the Land Office of any person;
- (m) prescribing anything that is required or permitted to be prescribed under this Ordinance.

(2) Regulations made under this section may provide that a contravention of any specified provision of any such regulation shall be an offence and may provide penalties therefor not exceeding a fine of \$10,000 and imprisonment for 2 years.

29. Where pursuant to regulations made under section 28 the memorial of any deed, conveyance or other instrument in writing, or will or judgment, is recorded on microfilm—

- (a) the microfilm record of the memorial shall be treated for all purposes as the original memorial; and
- (b) the registration of any such deed, conveyance or other instrument in writing, or will or judgment, registered prior to the date of commencement of the Land Registration (Amendment) Ordinance 1980, shall not be affected.

30. (1) Notwithstanding anything contained in this Ordinance, sections 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 25 and the Schedule in force immediately before the date of commencement of the Land Registration (Amendment) Ordinance 1980 and which are set out for convenience in the First Schedule shall continue to apply to the registration of deeds, conveyances, wills, judgments and other instruments affecting real or immovable property in—

- (a) any office specified in the Second Schedule; and
- (b) any place approved under section 11 of the New Territories Ordinance,

Effect of memorials recorded on microfilm.

(56 of 1980.)

Saving in respect of New Territories Land Offices, etc.  
(56 of 1980.)  
First Schedule.

Second Schedule.  
(Cap. 97.)

and a reference in any enactment to a section of this Ordinance referred to in this subsection shall be construed accordingly.

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

11. The Schedule to the principal Ordinance is deleted and replaced by the following—

Deletion and replacement of Schedule.

“FIRST SCHEDULE

[s. 30.]

PROVISIONS OF THE ORDINANCE IN FORCE IMMEDIATELY BEFORE THE DATE OF COMMENCEMENT OF THE LAND REGISTRATION (AMENDMENT) ORDINANCE 1980 WHICH SHALL CONTINUE TO APPLY IN THE CIRCUMSTANCES SET OUT IN SECTION 30

Establishment of Land Office for registration of instruments affecting land.

2. (1) The Land Office shall be a public office for the registration of deeds, conveyances, and other instruments in writing, and wills and judgments; and all deeds, conveyances, and other instruments in writing, and wills and all judgments, by which deeds, conveyances, and other instruments in writing, and wills and judgments, any parcels of ground, tenements, or premises in the Colony may be affected, may be entered and registered in the said office in the manner hereinafter directed.

(2) For the purpose of this Ordinance, “judgments” includes judgments and orders both of the High Court and of the District Court.

Priority of registered instruments; effect of non-registration.

3. (1) Subject to this Ordinance, all such deeds, conveyances, and other instruments in writing, and wills and judgments, made, executed, or obtained, and registered in pursuance hereof, shall have priority one over the other according to the priority of their respective dates of registration.

(2) All such deeds, conveyances, and other instruments in writing, and wills and judgments, as last aforesaid, which are not registered shall, as against any subsequent *bona fide* purchaser or mortgagee for valuable consideration of the same parcels of ground, tenements, or premises, be absolutely null and void to all intents and purposes:

Provided that nothing herein contained shall extend to *bona fide* leases at rack rent for any term not exceeding 3 years.

Delivery into Land Office of memorial of instrument to be registered.

6. The registration intended by this Ordinance shall be made in manner following, that is to say, a memorial containing the particulars hereinafter specified shall be delivered into the Land Office, signed, in the case of a deed, conveyance, or other instrument in writing, except a will, by some or one of the parties to the original instrument, or, if such parties are dead or absent from the Colony, then by one or more of the witnesses to such instrument, and in the case of a will by some or one of the devisees or his guardian or trustees, and in the case of a judgment by a party to the action in which such judgment is delivered or by his agent or by a person claiming under or through such party.

Verification  
of memorial.

7. Every such memorial shall contain a just and true account of the several particulars therein set forth and shall be verified—

- (a) by the oath of some competent person taken before any justice of the peace; or
- (b) by the certificate of a person admitted and enrolled as a solicitor in the Colony; or
- (c) where the memorial has been prepared in the Land Office, by the certificate of the Land Officer.

Particulars to  
be contained  
in memorial.

8. (1) The memorial of any deed, conveyance, or other instrument in writing, and of any will, shall contain the date of such deed, conveyance, or other instrument, or of such will, and the particular nature and object thereof, the names and additions of all the parties to such deed, conveyance, or other instrument, and of the devisor and devisee or devisees of such will, and the names and additions of all the witnesses thereto and shall especially particularize and express the parcels of ground, tenements and premises affected or intended to be affected by such deed, conveyance, or other instrument, or by such will, and the proper and ordinary or accustomed names of the places where the same are situate, and (except in the case of a will) the pecuniary or other consideration for the same, in the form or to the effect of the form in the Schedule.

Schedule.

(2) The memorial of any judgment shall contain the names and additions of the plaintiff and defendant, the sum thereby recovered or secured, if any, the time of entering up or recording the same, and the sum of money *bona fide* due thereon, if any.

(3) Provided always that when there are more writings than one for perfecting the same conveyance, devise or security affecting the same parcels of ground, tenements, and premises, all such writings shall be stated in one and the same memorial, in which it shall be sufficient to particularize such parcels, tenements and premises only once.

Numbering,  
receipt for, and  
endorsement  
of certificate  
of memorial.

9. (1) On the delivery of any such memorial as aforesaid, the Land Officer shall number the memorial according to the order of time in which it has been so delivered, and shall give a receipt for it, in which receipt shall be specified the certain day and time of day when the memorial was so delivered, and the proper number thereof in the register of the Land Office.

(2) The Land Officer shall also in like manner immediately endorse on the back of the memorial a certificate containing the day and the time of day when the memorial was so delivered, and the name and place of abode of the person verifying it, and shall sign the certificate when so endorsed.

(3) Such certificate shall be taken and allowed as evidence of the registration, and of the time of registration, of the deed, conveyance, or other instrument, or of the will or judgment, of which the memorial has been so made.

Registration  
and custody  
of memorial.

10. Every such memorial shall, as soon after the receipt thereof as practicable, be carefully registered by the Land Officer, in regular succession as received, according to its

proper number, in a particular book to be kept by him for that purpose, and shall afterwards be deposited by him in some secure place in his office, and there kept for future reference when required.

Indices of land  
registered and  
of parties to  
instruments.

11. The Land Officer shall also keep an index of the parcels of ground, tenements, and premises mentioned in every such memorial and also a like index or indices of the names of the several parties to deeds, conveyances, and other instruments in writing, and of the devisors and devisees in the case of wills, and of the plaintiffs and defendants in the case of judgments, with accurate references in all such indices respectively to the number and page of registry of the memorial to which any entry in such indices relates.

Entry of  
satisfaction of  
mortgage or  
judgment and  
registration of  
certificate of  
satisfaction.

12. In the case of any mortgage or judgment registered, if at any time afterwards such verified certificate as is hereinafter next mentioned is brought to the Land Officer, signed by the mortgagor and mortgagee or plaintiff and defendant or their agents as the case may be, and attested by 2 credible witnesses, whereby it appears that the whole of the moneys due on such mortgage or judgment have been fully paid, or that such mortgage or judgment is otherwise satisfied, then the Land Officer shall make a short entry or memorandum thereof on the memorial and on the margin of the registry of such mortgage or judgment, and shall afterwards carefully register the certificate in one of the registry books of his office, and the Land Officer shall make an entry thereof in his indices referring accurately to the page of registry of the certificate.

Contents,  
verification,  
and custody  
of certificate  
of satisfaction  
of mortgage  
or judgment.

13. (1) Every such certificate shall contain the following particulars, that is to say, in the case of a mortgage the names and additions of the original parties, the date of the instrument, the sum thereby secured, and the time of payment or other satisfaction thereof; and in the case of a judgment the names and additions of the plaintiff and defendant, the time of entering up or recording the same, the sum thereby recovered, if any, and the date of payment or other satisfaction of the amount *bona fide* due thereon, if any.

(2) Every such certificate shall contain a just and true account of the several particulars therein set forth and shall be verified—

- (a) by the oath of some competent person taken before any justice of the peace, or
- (b) by the certificate of a person admitted and enrolled as a solicitor in the Colony.

(3) On the back of such verified certificate the Land Officer shall immediately endorse the date when the same was received by him, and the name and place of abode of the person verifying the same, and the certificate shall, after being so endorsed and entered as aforesaid, be safely kept in his office for future reference when required.

Verification  
of correction  
in memorial  
of registry.

25. Any correction by erasure, interlineation, or otherwise in any memorial of the registry of any document shall be noted and set forth at length in red ink in the margin of the memorial wherein it is made, together with the reasons for making the same, and shall be attested and verified by the signature of the Land Officer.

## SCHEDULE

## PARTICULARS TO BE CONTAINED IN MEMORIAL [s. 8.]

1. Date of instrument or will.
2. Nature and object thereof.
3. Names and additions of the parties or of the devisors or devisees.
4. Names and additions of the witnesses thereto.
5. Description of the land or premises conveyed in or affected by the instrument or will.
6. Name and description of the place where situate.
7. Consideration and to whom and how paid.
8. Any other particulars which the case may require.

## SECOND SCHEDULE

[s. 30.]

## OFFICES SPECIFIED FOR THE PURPOSES OF SECTION 30

1. The District Land Office, Yuen Long.
2. The District Land Office, Tsuen Wan.
3. The District Land Office, Sai Kung.
4. The District Land Office, Islands.
5. The District Land Office, Sha Tin.
6. The District Land Office, Tuen Mun.
7. The District Land Office, Tai Po.
8. The District Land Office, North."

Amendment of  
references to  
the Colony.

12. (1) The principal Ordinance is amended in sections 2(1) and 18, by deleting "the Colony" where it appears in those sections and substituting, in each case, the following—

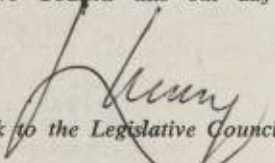
"Hong Kong".

(Cap. 128,  
sub. leg.)

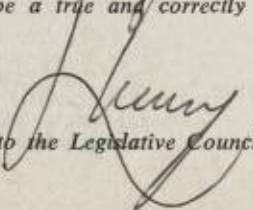
(2) The Land Registration Fees Regulations and the Land Registration (New Territories) Fees Regulations are amended by deleting "the Colony" where it appears in those regulations and substituting, in each case, the following—

"Hong Kong".

Passed by the Hong Kong Legislative Council this 6th day of August 1980.

  
Clerk to the Legislative Council.

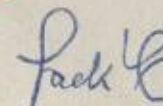
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

No. 57 OF 1980



I assent.



Acting Governor

7 August 1980

PARTICULARS TO BE CONTAINED IN MEMORIAL [s. 8.]

1. Date of instrument or will.
2. Nature and object thereof.
3. Names and additions of the parties or of the devisors or devisees.
4. Names and additions of the witnesses thereto.
5. Description of the land or premises conveyed in or affected by the instrument or will.
6. Name and description of the place where situate.
7. Consideration and to whom and how paid.
8. Any other particulars which the case may require.

SECOND SCHEDULE

[s. 30.]

OFFICES SPECIFIED FOR THE PURPOSES OF SECTION 30

- District Land Office, Yuen Long.
- District Land Office, Tsuen Wan.
- District Land Office, Sai Kung.
- District Land Office, Islands.
- District Land Office, Sha Tin.
- District Land Office, Tuen Mun.
- District Land Office, Tai Po.
- District Land Office, North."

The principal Ordinance is amended in sections 2(1) and 18, "the Colony" where it appears in those sections and subeach case, the following—

"Hong Kong".

HONG KONG

No. 57 OF 1980



I assent.

*Jack Bates*

Acting Governor.

7 August 1980.

An Ordinance to amend the Factories and Industrial Undertakings Ordinance.

[8 August 1980]

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

1. This Ordinance may be cited as the Factories and Industrial Undertakings (Amendment) (No. 2) Ordinance 1980. Short title.

2. The proviso to section 7(5) of the principal Ordinance is amended by deleting "\$10,000" and substituting the following— Amendment of section 7. (Cap. 59.)  
"\$50,000".

3. Section 11(3) of the principal Ordinance is amended by deleting "\$10,000" and substituting the following— Amendment of section 11.  
"\$50,000 and to imprisonment for 6 months".

Passed by the Hong Kong Legislative Council this 6th day of August 1980.

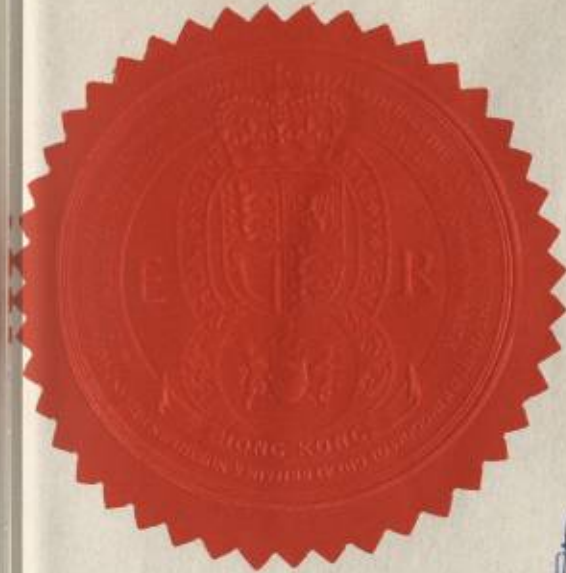
*Henry*  
Clerk to the Legislative Council.

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

*Huang*  
Clerk to the Legislative Council.



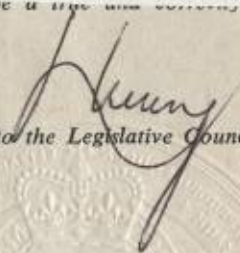
No. 58 OF 1980



I assent.

*Park*  
Acting Govern

and is found by me to be a true and correct copy of the said bill.

  
Clerk to the Legislative Council.

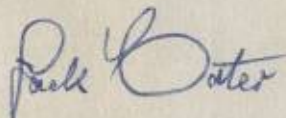


**HONG KONG**

No. 58 of 1980



I assent.



Acting Governor.

7 August 1980.

An Ordinance to amend the Wild Animals Protection Ordinance.

[1 January 1981]

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

1. This Ordinance may be cited as the Wild Animals Protection (Amendment) Ordinance 1980 and shall come into operation on 1 January 1981. Short title and commencement.
2. Section 2 of the principal Ordinance is amended— Amendment of section 2. (Cap. 170.)
  - (a) in the definition of "animal" by inserting after "life" the following—  
"other than fish and marine invertebrates";
  - (b) in paragraph (c) of the definition of "authorized officer" by deleting "game" wherever it occurs and substituting in each place the following—  
"nature";
  - (c) in the definition of "hunt" by deleting "eggs" and substituting the following—  
"egg"; and

(d) by deleting the definitions of "close season", "game", "game licence", "licensing authority" and "vermin".

Amendment of section 5.

3. Section 5 of the principal Ordinance is amended by deleting "or game".

Repeal and replacement of section 7.

4. Section 7 of the principal Ordinance is repealed and replaced by the following—

"Hunting by certain means prohibited.

of— 7. (1) No person shall hunt any wild animal by means

(a) a live decoy or the emission of recorded noises;

(b) any pitfall;

(c) any arms; or

(d) any hunting appliance other than a hunting appliance approved by the Director for the purposes of this section by notice in the *Gazette*.

(2) No person shall have in his possession any hunting appliance other than a hunting appliance approved by the Director for the purposes of this section by notice in the *Gazette*, or make a pitfall for the purpose of hunting any wild animal."

Repeal and replacement of section 8.

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

"Possession of protected wild animals.

his control— 8. No person shall have in his possession or under

(a) any live protected wild animal taken in Hong Kong;

(b) any dead protected wild animal, or part of a protected wild animal, killed or taken in Hong Kong; or

(c) any nest or egg of any protected wild animal taken in Hong Kong."

Amendment of section 9.

6. Section 9(b) of the principal Ordinance is amended by deleting "or game".

Amendment of section 13.

7. Section 13 of the principal Ordinance is amended—

(a) in subsection (1) by deleting "licensing authority" and substituting the following—

"Director"; and

(b) in subsection (3)(a) by inserting after "forces" the following—  
"or the Customs and Excise Service".

Amendment of section 16.

8. Section 16 of the principal Ordinance is amended by deleting "game" wherever it occurs and substituting in each place the following—  
"nature".

Amendment of section 17.

9. Section 17 of the principal Ordinance is amended—

(a) in subsection (1), by deleting "game licence or"; and

(b) in subsection (2), by deleting "or game" wherever it occurs.

Amendment of section 18.

10. Section 18(a) of the principal Ordinance is amended by deleting "6, 7, 8, 9, 10, 11, 12" and substituting the following—

"7, 8, 9".

11. Section 19 of the principal Ordinance is amended by deleting "or game" wherever it occurs. Amendment of section 19.

12. Section 20 of the principal Ordinance is amended by deleting "or game" wherever it occurs. Amendment of section 20.

13. Section 22(2) of the principal Ordinance is amended—

(a) by deleting "Fourth, Fifth or"; and

(b) by deleting "any such" and substituting the following—  
"that". Amendment of section 22.

14. The principal Ordinance is amended by deleting the Second Schedule and substituting the Schedule set out in the First Schedule hereto. Deletion and substitution of Second Schedule. First Schedule.

15. The principal Ordinance is amended to the extent indicated in the Second Schedule hereto. Other repeals and deletions. Second Schedule.

16. (1) All game licences issued under section 14 of the principal Ordinance are cancelled with effect from 1 January 1981. Cancellation of game licences and refund of fees.

(2) Any person who immediately before 1 January 1981 was the holder of a game licence which is cancelled by subsection (1) may apply for and be granted by the Director a refund of that proportion of his licence fee that the number of days remaining in the unexpired term of his licence bears to 365.

(3) Any refund of licence fee which has not been applied for within 12 months after 1 January 1981 shall be irrecoverable.

17. Regulation 40 of the Waterworks Regulations is amended in paragraph (d) by deleting "game" wherever it occurs and substituting in each place the following—  
"nature". Consequential amendment. (Cap. 102, sub. leg.)

FIRST SCHEDULE

[s. 14.]

NEW SCHEDULE TO REPLACE SECOND SCHEDULE IN THE PRINCIPAL ORDINANCE

"SECOND SCHEDULE

[ss. 2 & 22.]

PROTECTED WILD ANIMALS

Note: The protected wild animals are those specified in Column 2. The names given in Column 1, Column 3 and Column 4 are for information only.

Column 1	Column 2	Column 3	Column 4
CHIROPTERA	MAMMALIA Chiroptera, all species of all genera and all families	MAMMALS	哺乳類
PRIMATES	Primates, all species of all genera and all families except an individual of the family Hominiidae (man)	Primates (monkeys etc.)	靈長類(猴子等)
PHOLIDOTA	Manis pentadactyla	Chinese Pangolin	穿山甲
RODENTIA	Hystrix hodgsoni	Chinese Porcupine	箭豬
Hystriidae	Sciuridae, all species of all genera and all families	Squirrels	松鼠
SCURIDAE	Cetacea, all species of all genera and all families	Cetaceans (Dolphins, whales, porpoises)	鯨屬(海豚、鯨魚、小鯨)

4

Column 1

CARNIVORA

Canidae

Viverridae

Mustelidae

Felidae

SIRENIA

Dugongidae

ARTIODACTYLA

Cervidae

Column 2

MAMMALIA

Vulpes vulpes

Herpestes urva

Paguma larvata

Viverricula indica

Viverra zibetha

Lutra lutra

Melogale moschata

Felis bengalensis

Dugong, all species

Muntiacus reevesi

AVES

All wild birds

REPTILIA

Testudines, all species of all genera and all families

Python molurus bivittatus

INSECTA

Troides helena

Column 3

MAMMALS

Common Red Fox

Crab-eating Mongoose

Masked Palm Civet

Small Indian Civet

Large Indian Civet

Otter

Chinese Ferret Badger

Leopard Cat

Dugongs

Reeves' Muntjac or Barking Deer

BIRDS

(所有野生雀鳥)

REPTILES

Chelonians (Turtles, terrapins, tortoises etc.)

Burmese Python

INSECTS

Birdwing Butterfly

Column 4

哺乳類

紅狐

靈貓

果子狸

七間狸

水獺

黃鼬

豹貓

儒艮

黃麂

雀鳥類

爬蟲類

鱗蛇

昆蟲類

黃扇蝶

5

## SECOND SCHEDULE

[s. 15.]

## OTHER REPEALS AND DELETIONS

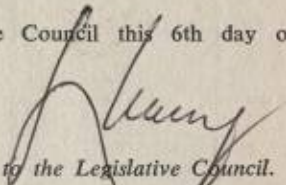
*Sections*

Sections 3, 6, 10, 11, 12 and 14 are repealed.

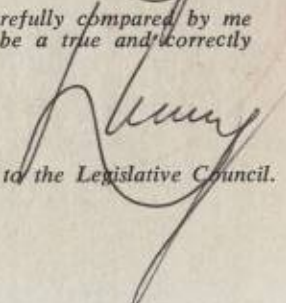
*Schedules*

The First, Third, Fourth, Fifth, Seventh and Eighth Schedules are deleted.

Passed by the Hong Kong Legislative Council this 6th day of August 1980.

  
Clerk to the Legislative Council.

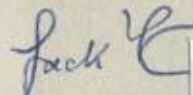
*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

  
Clerk to the Legislative Council.

No. 59 OF 1980



I assent.

  
Acting Govern

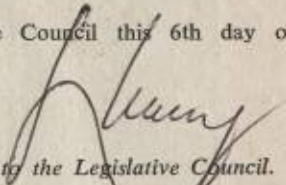
7 August 1980

OTHER REPEALS AND DELETIONS

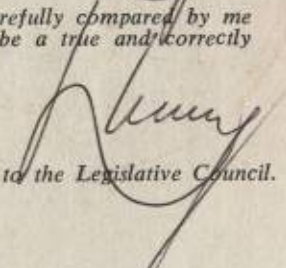
3, 6, 10, 11, 12 and 14 are repealed.

, Third, Fourth, Fifth, Seventh and Eighth Schedules are

by the Hong Kong Legislative Council this 6th day of

  
Clerk to the Legislative Council.

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

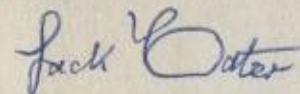
  
Clerk to the Legislative Council.

**HONG KONG**

No. 59 OF 1980



I assent.



Acting Governor.

7 August 1980.

An Ordinance to amend the Magistrates Ordinance.

[8 August 1980]

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

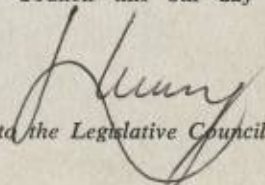
1. This Ordinance may be cited as the Magistrates (Amendment) Short title.  
Ordinance 1980.

2. Part III of the Second Schedule to the principal Ordinance is  
amended in paragraph 2 by inserting, after "imprisonment for life except",  
the following—

Cap. 115.) "an offence against section 37C, 37D, 37O or 37P of the  
Immigration Ordinance".

Amendment  
of Second  
Schedule.  
(Cap. 227.)

Passed by the Hong Kong Legislative Council this 6th day of  
August 1980.

  
Clerk to the Legislative Council.

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

*[Signature]*  
Clerk to the Legislative Council.



No. 60 OF 1980



I assent.

*[Signature]*  
Acting Governor

7 August 1980

ous, and is found by me to be a true and correct copy of the said bill.

*[Signature]*  
Clerk to the Legislative Council.



**HONG KONG**

No. 60 OF 1980



I assent.

*[Signature]*  
Acting Governor.

7 August 1980.

An Ordinance to amend the Import and Export Ordinance.

[8 August 1980]

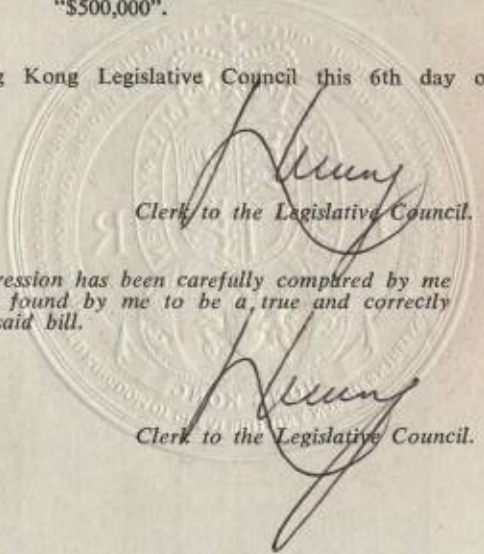
Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Import and Export (Amendment) Ordinance 1980. Short title.
2. Section 7(2) of the principal Ordinance is amended by deleting "fifty thousand dollars" and substituting the following— Amendment of section 7. (Cap. 60.)  
"\$500,000".
3. Section 10(2) of the principal Ordinance is amended by deleting "fifty thousand dollars" and substituting the following— Amendment of section 10.  
"\$500,000".
4. Section 18(1) of the principal Ordinance is amended by deleting "ten thousand dollars" and substituting the following— Amendment of section 18.  
"\$50,000".
5. Section 31(3) of the principal Ordinance is amended by deleting "one hundred thousand dollars" and substituting the following— Amendment of section 31.  
"\$500,000".

Amendment of section 36.

- 6. Section 36 of the principal Ordinance is amended—
  - (a) in subsection (1), by deleting "fifty thousand dollars and to imprisonment for one year" and substituting the following—  
"\$500,000 and to imprisonment for 2 years"; and
  - (b) in subsection (2), by deleting "one hundred thousand dollars" and substituting the following—  
"\$500,000".

Passed by the Hong Kong Legislative Council this 6th day of August 1980.



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

No. 61 of 1980



I assent.

*[Signature]*

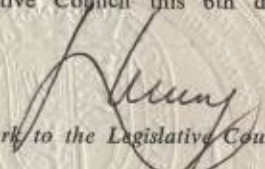
subsection (1), by deleting "fifty thousand dollars and to imprisonment for one year" and substituting the following—

"\$500,000 and to imprisonment for 2 years"; and

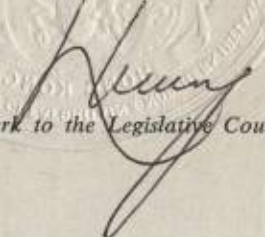
subsection (2), by deleting "one hundred thousand dollars" and substituting the following—

"\$500,000".

by the Hong Kong Legislative Council this 6th day of 1980.

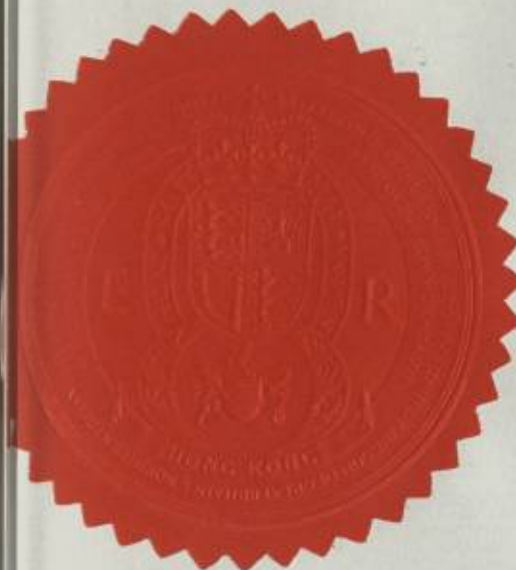
  
Clerk to the Legislative Council.

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

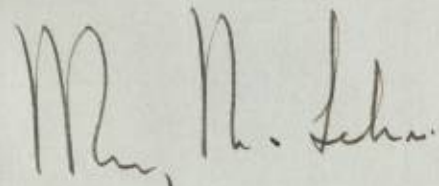
  
Clerk to the Legislative Council.

**HONG KONG**

No. 61 OF 1980



I assent.

  
Governor.

9 October 1980

An Ordinance to amend the Prevention of Bribery Ordinance and to validate certain orders made thereunder.

[10 October 1980]

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

1. This Ordinance may be cited as the Prevention of Bribery (Amendment and Validation) Ordinance 1980. Short title.

2. Section 12 of the principal Ordinance is amended by adding after subsection (4) the following— Amendment of section 12. (Cap. 201.)

"(5) An order may be made under subsection (3) in respect of an offence under section 10(1)(b) where the facts that gave rise to that offence arose before 15 February 1974."

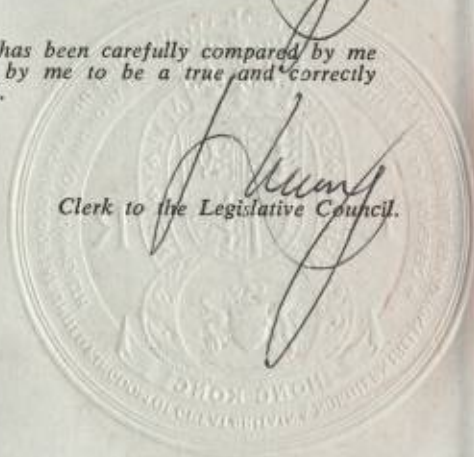
3. No order purporting to be made under section 12(3) of the principal Ordinance before the commencement of this Ordinance shall be or ever have been invalid by reason only that the order purported to have been made in respect of an offence under section 10(1)(b) where the facts that gave rise to that offence arose before 15 February 1974. Validation.

Passed by the Hong Kong Legislative Council this 8th day of October 1980.

*[Handwritten signature]*  
Clerk to the Legislative Council.

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

*[Handwritten signature]*  
Clerk to the Legislative Council.



No. 62 OF 1980



I assent.

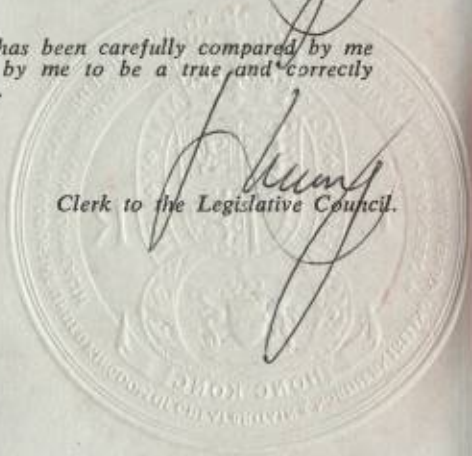
*[Handwritten signature]*

Governor.

*[Handwritten signature]*  
Clerk to the Legislative Council.

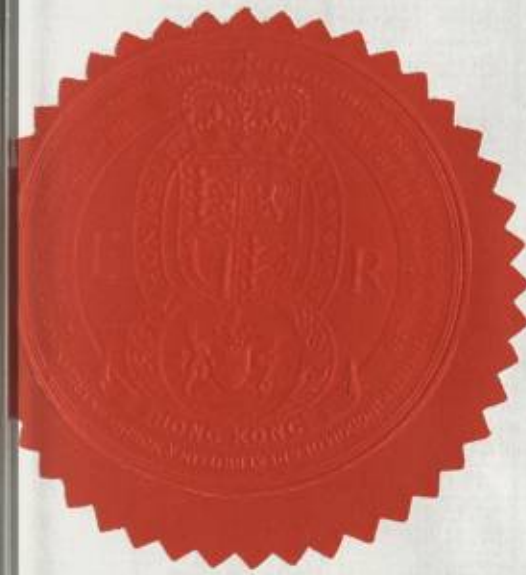
printed impression has been carefully compared by me  
bill, and is found by me to be a true and correctly  
copy of the said bill.

*[Handwritten signature]*  
Clerk to the Legislative Council.



**HONG KONG**

No. 62 OF 1980



I assent.

*[Handwritten signature]*  
Governor.

23 October 1980.

An Ordinance to amend the Immigration Ordinance.

[24 October 1980]

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

1. (1) This Ordinance may be cited as the Immigration (Amend-  
ment) (No. 2) Ordinance 1980. Short title and  
commencement.

(2) Sections 4, 5, 6, 8 and 10 of this Ordinance shall come into  
operation on 28 October 1980.

2. Section 2 of the principal Ordinance is amended—

(a) by inserting before the definition of "alien" the following  
definition— Amendment of  
section 2  
(Cap. 115.)

""adjudicator" means the chief adjudicator and any other  
adjudicator appointed under section 53F;"

(b) by inserting after the definition of "Chinese resident" the  
following definition—

(Cap. 177.) "Commissioner of Registration" means the person appointed  
as the Commissioner of Registration under the Registra-  
tion of Persons Ordinance;"

- (c) by inserting after the definition of "travel document" the following definition—

"Tribunal" means the Immigration Tribunal established by section 53F;"

- (d) in the definition of "United Kingdom belonger" by deleting the full stop and substituting a semicolon; and

- (e) by inserting after the definition of "United Kingdom belonger" the following definition—

"Vietnamese refugee card" means a card of identity issued by the Director to a person who—

- (a) was previously resident in Vietnam; and  
(b) is permitted to remain in Hong Kong as a refugee pending his resettlement elsewhere."

3. The principal Ordinance is amended by adding after Part IV the following new Parts—

#### "PART IVA

##### REQUIREMENT TO CARRY PROOF OF IDENTITY

Commencement and discontinuance.

17A. (1) The Governor in Council may from time to time, by order published in the *Gazette*, declare that this Part, or any provision of this Part specified in the order—

- (a) shall come into operation;  
(b) shall be discontinued in its operation.

(2) Where an order is made under subsection (1)(a), this Part or, as the case may be, any provision specified in the order, shall continue in operation until an order is made in relation to it under subsection (1)(b); and where an order is made under subsection (1)(b) in relation to this Part or any provision of it, the operation of this Part or, as the case may be, of that provision shall be discontinued until such time as a further order is made under subsection (1)(a) in relation to it.

(Cap. 1.)

(3) Section 23 of the Interpretation and General Clauses Ordinance shall have the same effect in relation to the discontinuance of the operation of any provision by virtue of an order under subsection (1)(b) as it would have if such provision had been repealed.

Interpretation.

17B. In this Part—  
"proof of identity" in relation to any person means—

- (a) his identity card;  
(b) a document issued by the Commissioner of Registration acknowledging that that person has applied—  
(i) to be registered under the Registration of Persons Ordinance; or  
(ii) for a new identity card under regulation 13 or 14 of the Registration of Persons Regulations;

(Cap. 177.)

(Cap. 177, sub. leg.)

- (c) a valid travel document held by him;  
(d) a current driving licence issued to him under the Road Traffic Ordinance;

(Cap. 220.)

- (e) documentary proof of identity officially issued to him for the purpose of his service in Her Majesty's regular naval, military or air forces;

- (f) a Vietnamese refugee card issued to him; or

- (g) any other document of a type approved by the Governor by order published in the *Gazette*.

Carrying and production of proof of identity.

(Cap. 177.)

17C. (1) Every person who—

- (a) has attained the age of 15 years; and  
(b) (i) is the holder of an identity card or is required to apply to be registered under the Registration of Persons Ordinance; or

(ii) is the holder of a Vietnamese refugee card, shall have with him at all times proof of his identity.

(2) A person who is required by subsection (1) to have with him proof of his identity shall on demand produce it for inspection by—

- (a) any police officer;  
(b) any immigration officer or immigration assistant; or  
(c) any person or member of a class of persons authorized for the purpose by the Governor by order published in the *Gazette*,

who is in uniform or who produces, if required to do so, documentary identification officially issued to him as proof of his appointment as a police officer, immigration officer, immigration assistant or, as the case may be, person authorized under paragraph (c).

(3) Any person who fails to produce proof of his identity for inspection as required by subsection (2) commits an offence and is liable on conviction to a fine of \$1,000:

Provided that it shall be a defence in proceedings for an offence under this subsection for the person charged to prove that he had reasonable excuse for failing to produce proof of identity.

(4) In respect of any failure to produce proof of identity for inspection as required by subsection (2), it shall be reasonable excuse for the purposes of subsection (3) if at the date of the alleged offence the defendant had no proof of identity with him because all proof of identity of which he was the holder, including any document specified in section 17B(b)(ii), had been lost or destroyed and—

- (a) he had reported the loss or destruction to a police officer at a police station or, in the case of an identity card, to the Commissioner of Registration or to any assistant commissioner, district registrar or registrar, of registration; or  
(b) he had had no opportunity so to report the loss or destruction.

(5) Where the Governor authorizes any person or class of persons for the purposes of subsection (2)(c) he may limit the authority of such persons to such area, place or occasion

or in such other manner as is specified in the order by which the authority is given.

(Cap. 177,  
sub. leg.)

(6) Nothing in this section shall affect the operation of any order made under regulation 11(1) of the Registration of Persons Regulations (relating to the compulsory carrying of identity cards).

Arrest.

**17D.** (1) A person referred to in section 17C(2)(a), (b) or (c) may arrest without warrant any person who fails to produce for inspection on demand proof of his identity, and in the case of such an arrest by a person referred to in section 17C(2)(a) or (c), the person arrested shall if not released be delivered as soon as reasonably practicable into the custody of the officer in charge of a police station.

(2) An arrest carried out under subsection (1) shall not be unlawful by reason only of the fact that the arrested person is a person not required by section 17C(1) to have proof of his identity with him.

(3) Where a person is arrested under subsection (1) otherwise than by an immigration officer or immigration assistant and it appears to the officer in charge of a police station that he may be guilty of an offence under section 38(1) or 41, he shall be taken as soon as is reasonably practicable to an immigration officer or immigration assistant for examination under section 17E.

(4) Where a person who is arrested under subsection (1) otherwise than by an immigration officer or immigration assistant and is not—

- (a) taken before an immigration officer or immigration assistant under subsection (3); or
- (b) proceeded against for an offence under section 17C(3),

he shall be released forthwith unless he may be held in lawful custody for some other reason.

Examination  
of persons not  
carrying proof  
of identity.

**17E.** Without prejudice to any other provision of this Ordinance, an immigration officer or immigration assistant may examine any person who is found not to have with him proof of his identity in order to determine whether that person is committing or has committed an offence under section 38(1) or section 41.

#### PART IVB

##### PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS

Commencement  
and discontinuance.

**17F.** (1) The Governor in Council may from time to time, by order published in the *Gazette*, declare that this Part, or any provision of this Part specified in the order—

- (a) shall come into operation;
- (b) shall be discontinued in its operation.

(2) Where an order is made under subsection (1)(a), this Part or, as the case may be, any provision specified in the order, shall continue in operation until an order is made

in relation to it under subsection (1)(b); and where an order is made under subsection (1)(b) in relation to this Part or any provision of it, the operation of this Part or, as the case may be, of that provision shall be discontinued until such time as a further order is made under subsection (1)(a) in relation to it.

(Cap. 1.)

(3) Section 23 of the Interpretation and General Clauses Ordinance shall have the same effect in relation to the discontinuance of the operation of any provision by virtue of an order under subsection (1)(b) as it would have if such provision had been repealed.

Interpretation.

**17G.** (1) In this Part—

“appointed day” means the day last declared under section 17F(1)(a) for section 17I to come into operation;

“approved document” means a document approved by the Governor under subsection (2)(c)(v);

“certificate of exemption” means a certificate issued by the Commissioner of Registration to a person who by virtue of regulation 25(e) of the Registration of Persons Regulations (relating to the aged, the blind and the infirm) is not required to be registered under the Registration of Persons Ordinance;

(Cap. 177,  
sub. leg.)

(Cap. 177.)

“contract of employment” means any agreement, whether in writing or oral, express or implied, whereby one person agrees to employ another and that other agrees to serve his employer as an employee and includes a contract of apprenticeship;

“employee” means any person who has entered into a contract of employment to be employed by any other person as an employee or apprentice;

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

“identity card” includes a document issued by the Commissioner of Registration acknowledging that the holder has applied—

(Cap. 177.)

(a) to be registered under the Registration of Persons Ordinance; or

(b) for a new identity card under regulation 13 or 14 of the Registration of Persons Regulations;

(Cap. 177,  
sub. leg.)

“official passport” means a passport issued by a foreign Government to an employee of that Government for the purpose of carrying out official duties;

“police warrant card” means a warrant card issued under the Police Force Ordinance;

(Cap. 232.)

“record of employees” means a record required to be kept under section 17K.

(2) Without prejudice to any provision of this Ordinance relating to conditions of stay which may be imposed on any person, a person is lawfully employable for the purposes of this Part only if—

- (a) he is the holder of an identity card;
- (b) he is the holder of an official passport; or
- (c) he is not required to be registered under the Registration of Persons Ordinance and is the holder of—
- (i) a valid travel document;
  - (ii) a police warrant card;
  - (iii) a Vietnamese refugee card;
  - (iv) a certificate of exemption; or
  - (v) any other document of a type approved by the Governor by order published in the *Gazette*.

Transitional powers of employers.

**17H.** (1) An employee may be required by his employer to produce for inspection within the time limited by subsection (3)—

- (a) the employee's identity card;
- (b) the employee's official passport; or
- (c) where the employee is not the holder of an identity card and is not required to be registered under the Registration of Persons Ordinance—
  - (i) a valid travel document;
  - (ii) a police warrant card;
  - (iii) a Vietnamese refugee card or a document issued by the Director acknowledging that the employee is the holder of a Vietnamese refugee card which is reported lost or destroyed;
  - (iv) a certificate of exemption; or
  - (v) any other approved document,
 held by the employee.

(Cap. 177.)

- (2) A requirement may be made under subsection (1)—
- (a) at any time prior to the appointed day in the case of an employee who—
    - (i) is in Hong Kong; and
    - (ii) is not absent from work; or
  - (b) upon the first return to work of an employee who between the day on which an order under section 17F(1)(a) was last made and the appointed day—
    - (i) was outside Hong Kong; or
    - (ii) was absent from work.
- (3) Where an employee fails—
- (a) by the appointed day to comply with a requirement made in accordance with subsection (2)(a); or
  - (b) within 72 hours of his return to work, to comply with a requirement made in accordance with subsection (2)(b),

his employer shall be entitled to terminate the employment of such employee without notice or payment in lieu and no

liability, either at common law or under any Ordinance, shall attach to the employer by reason of such termination or for any loss thereby suffered by the employee:

Provided that if at any time after the time limited by this subsection the employee produces to his employer for inspection any document which should have been produced within the time so limited, the employee's employment shall, if it has not already been terminated, cease upon such production to be liable to be terminated under this subsection.

Offence to be employer of a person who is not lawfully employable.

**17I.** (1) Any person who is the employer of an employee who is not lawfully employable commits an offence and is liable to a fine of \$50,000 and to imprisonment for 1 year.

(2) It shall be a defence in proceedings for an offence under this section for the person charged to prove that the employee in respect of whom the offence is alleged to have been committed had been absent from work continuously from the date when section 17H last came into operation until 72 hours before the date of the alleged offence.

(3) It shall not be a defence in proceedings for an offence under this section that the employee entered the employment of the employer before the appointed day.

Employers to inspect documents of new employee.

**17J.** (1) No person shall in Hong Kong enter into a contract of employment to employ any other person unless he first inspects—

(Cap. 177.)

- (a) the identity card held by such other person;
- (b) the official passport held by such other person; or
- (c) where such other person is not the holder of an identity card and is not required to be registered under the Registration of Persons Ordinance—
  - (i) a valid travel document;
  - (ii) a police warrant card;
  - (iii) a Vietnamese refugee card;
  - (iv) a certificate of exemption; or
  - (v) any other approved document,

held by him.

(2) Any person who contravenes subsection (1) commits an offence and is liable to a fine of \$50,000 and to imprisonment for 1 year.

Records to be kept by employers.

**17K.** (1) Every employer shall keep at the place of employment of each of his employees a record of—

- (a) the full name of the employee as shown in his identity card or other document by virtue of which he is lawfully employable; and
- (b) the type of document held by the employee by virtue of which he is lawfully employable, and the number of that document.

(2) Every employer shall, where he employs more than 10 employees at any one place of employment, keep at that

place the records of those employees in the form of a list of the names and particulars of those employees required under subsection (1).

(3) Every employer shall keep the record of each employee and every list required to be kept under subsection (2)—

- (a) up to date;
- (b) in a form which is capable of being produced on demand to a person authorized to inspect it; and
- (c) in a form which is legible and capable of being readily understood by any person authorized to inspect it.

(4) In this section "place of employment", in relation to an employee who has no single place of employment, means his principal place of employment.

Powers of  
enforcement.  
(Cap. 59.)

**17L.** (1) Every senior labour inspector and labour inspector appointed under section 3 of the Factories and Industrial Undertakings Ordinance shall, if in uniform or upon production of his authority if required, have authority to enter any premises or place where he has reasonable cause to believe that persons are in employment, other than such premises or place as are principally used for dwelling purposes, and—

- (a) to call for, inspect and copy any record of employees; and
- (b) to require an employee there to produce on demand for inspection any document which the employee is required by section 17C to have with him.

(2) Any immigration officer or immigration assistant and any police officer may, if in uniform or upon production of his authority if required, without prejudice to any other provision of this Ordinance or to any other law call for, inspect and copy any record of employees.

Offences.

**17M.** (1) Any person who—

- (a) contravenes section 17K(1), (2) or (3); or
- (b) fails to produce for inspection a record of employees when lawfully required to do so,

commits an offence and is liable to a fine of \$10,000.

(2) Any person who fails or refuses to produce for inspection a document the production of which is required under section 17L(1)(b) commits an offence and is liable to a fine of \$1,000.

(3) Any person who obstructs any public officer in the execution of his duty under this Part commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months;

Provided that it shall be a defence in proceedings for an offence under this subsection for the person charged to prove that he did not act unreasonably having regard to all the circumstances of the offence charged.

Presumption.

**17N.** Any person who is found at a place where employees are in the employment of an employer shall, unless it is proved that he is lawfully employable, be presumed until the contrary is proved—

- (a) to have entered into a contract of employment to be employed by that employer; and
- (b) to be an employee of that employer."

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

Repeal and  
replacement of  
section 19.

"Power to  
order removal.

**19.** (1) A removal order may be made against a person requiring him to leave Hong Kong—

- (a) subject to subsection (3), by the Governor if it appears to him that that person is an undesirable immigrant who has been ordinarily resident in Hong Kong for less than 3 years; or
- (b) subject to subsection (2), by the Director if it appears to him that that person—

(i) might have been removed from Hong Kong under section 18(1) if the time limited by section 18(2) had not passed; or

(ii) has committed or is committing an offence under section 38(1) or section 41, whether or not that person has been convicted of such offence and whether or not the time within which any prosecution may be brought has expired.

(2) A removal order shall not be made under subsection (1)(b)(ii) against a person who has the right to land in Hong Kong by virtue of section 8(1).

(3) A removal order shall not be made under subsection (1)(a) against an immigrant who is a United Kingdom belonger except after consideration by the Governor of the report of a Deportation Tribunal under section 23, unless the Governor certifies that the departure of the immigrant from Hong Kong is necessary in the interest of the security of Hong Kong or for political reasons affecting the relations of Her Majesty's Government in the United Kingdom with another country.

(4) A removal order made against a person shall invalidate any permission or authority to land or remain in Hong Kong given to that person before the order is made or while it is in force.

(5) Where the Director makes a removal order he shall cause written notice to be served as soon as is practicable on the person against whom it is made informing him—

- (a) of the ground on which the order is made; and
- (b) that if he wishes to appeal he must do so by giving to an immigration officer or immigration assistant written notice of his grounds of appeal and the facts upon which he relies within 24 hours of receiving the notice of the order.

(6) In this section "Director" means the Director of Immigration or the Deputy Director of Immigration."

Amendment of  
section 22.

5. Section 22(1)(a) of the principal Ordinance is amended by deleting "19(1)(c)" and substituting the following—

"19(1)(a)".

Amendment of  
section 32.

6. Section 32 of the principal Ordinance is amended—

(a) by inserting after subsection (1) the following—

"(1A) Where consideration is being given to applying for or making a removal order in respect of a person, that person may be detained as provided for in subsection (2) or (2A), whichever is appropriate in the particular case.";

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

"(2) A person may be detained under the authority of the Secretary for Security—

(a) for not more than 14 days pending the making of an application to the Governor for a removal order under section 19(1)(a) in respect of that person; and

(b) for not more than a further 14 days pending the decision of the Governor as to whether or not a removal order should be made under section 19(1)(a) in respect of that person.

(2A) A person may be detained pending the decision of the Director of Immigration or Deputy Director of Immigration as to whether or not a removal order should be made under section 19(1)(b) in respect of that person—

(a) for not more than 7 days under the authority of the Director of Immigration or Deputy Director of Immigration;

(b) for not more than a further 21 days under the authority of the Secretary for Security; and

(c) where inquiries for the purpose of such decision have not been completed, for a further period of 21 days under the authority of the Secretary for Security, in addition to the periods provided under paragraphs (a) and (b).";

(c) in subsection (3) by inserting after "removal order" the following—

"under section 19(1)(a)";

(d) by inserting after subsection (3) the following—

"(3A) A person in respect of whom a removal order under section 19(1)(b) is in force may be detained under the authority of the Director of Immigration or Deputy Director of Immigration pending his removal from Hong Kong under section 25."; and

(e) in subsection (4) by deleting "(2) and (3)" and substituting the following—

"(1A), (2), (2A), (3) and (3A)".

Amendment of  
section 42.

7. Section 42 of the principal Ordinance is amended—

(a) in subsection (1)(c) by deleting "or re-entry permit" and substituting the following—

"re-entry permit, certificate of identity, document of identity or Vietnamese refugee card";

(b) in subsection (2)(a) by deleting "or re-entry permit" and substituting the following—

"re-entry permit, certificate of identity, document of identity or Vietnamese refugee card";

(c) in subsection (2)(b) by inserting after "re-entry permit" the following—

"certificate of identity, document of identity, Vietnamese refugee card";

(d) in subsection (2)(c)(i) by deleting "or re-entry permit" and substituting the following—

"re-entry permit, certificate of identity, document of identity or Vietnamese refugee card";

(e) in subsection (3) by deleting "or re-entry permit" and substituting the following—

"re-entry permit, certificate of identity, document of identity or Vietnamese refugee card";

(f) in subsection (4)(a) by deleting "\$10,000" and substituting the following—

"\$50,000"; and

(g) in subsection (4)(b) by deleting "\$5,000" and substituting the following—

"\$20,000".

8. Section 53 of the principal Ordinance is amended—

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

"Subject to subsection (8), any person";

(b) by inserting after subsection (7) the following—

"(8) No objection shall be made under this section to a removal order made by the Director of Immigration or by the Deputy Director of Immigration, or to the decision of an adjudicator."

9. The principal Ordinance is amended by adding after section 53 the following sections—

"Appeal against  
removal orders  
made by  
Director or  
Deputy  
Director of  
Immigration.

53A. (1) A person against whom a removal order has been made by the Director of Immigration or the Deputy Director of Immigration may appeal to the Tribunal against the removal order on the ground that on the facts of his case—

(a) he has the right to land in Hong Kong under section 8(1); or

(b) he had at the date when the removal order was made the permission of the Director of Immigration to remain in Hong Kong.

(2) A person who wishes to appeal under subsection (1) shall serve written notice of appeal, stating his grounds of appeal and the facts upon which he relies, upon an immigration officer or immigration assistant, within 24 hours of being notified of the removal order under section 19(5):

Amendment of  
section 53.Addition of  
sections 53A,  
53B, 53C, 53D,  
53E, 53F and  
53G.

Provided that such notice shall not preclude such person from raising other facts prior to the determination of his appeal by the Tribunal and relying upon those facts.

Removal orders not to be executed pending appeal.

**53B.** A person shall not be removed pursuant to a removal order made by the Director of Immigration or the Deputy Director of Immigration—

- (a) until the time limited for an appeal has passed or the person against whom the removal order has been made declares in writing that he does not intend to appeal, whichever is the sooner; or
- (b) where an appeal against the order is commenced, until the appeal is determined by the Tribunal, or the appellant declares in writing that he is abandoning his appeal, whichever is the sooner.

Dismissal of appeal without hearing.

**53C.** Where the Tribunal, upon an examination of the written grounds of appeal on which a person appealing under section 53A seeks to rely, is satisfied that the facts or matters on which the appellant is seeking to rely are matters which would not entitle the appellant to succeed in the appeal, it may dismiss the appeal without a hearing and in any such case it shall cause written notice of such dismissal to be given to the appellant and to the Director of Immigration.

Determination of appeals.

**53D.** (1) On an appeal under section 53A against a removal order—

- (a) where the Tribunal determines that on the facts of the case as it finds them the appellant—
  - (i) does not have the right to land in Hong Kong under section 8(1); and
  - (ii) does not, disregarding the effect of the removal order under section 19(4), have the permission of the Director of Immigration to remain in Hong Kong,
 it shall dismiss the appeal; and
- (b) in any other case it shall allow the appeal and rescind the removal order.

(2) The decision of the Tribunal under this section or section 53C shall be final.

Release of successful appellant.

**53E.** Where an appeal under section 53A is successful the appellant shall be released forthwith unless he may be held in lawful custody on some other matter.

Establishment of Immigration Tribunal.

**53F.** (1) There is hereby established a tribunal to be known as the Immigration Tribunal.

(2) For the purpose of exercising the jurisdiction of the Tribunal, the Governor shall appoint a chief adjudicator and such number of other adjudicators as from time to time may be necessary.

(3) The remuneration, if any, of the chief adjudicator and other adjudicators shall be determined by the Governor.

Practice and procedure of Tribunal.

**53G.** (1) The practice and procedure on appeals under section 53A, and of the Tribunal shall be such as shall be prescribed, and without prejudice to the generality of the foregoing and of section 59, the following matters may be prescribed and provided for under section 59—

(Cap. 227.)

- (a) the number of adjudicators who shall hear and determine any appeal;
- (b) provision as to witnesses and the production of documents similar to that in sections 21 and 22 of the Magistrates Ordinance;
- (c) the hearing of an appeal in the absence of the appellant where he cannot attend by reason of illness or injury or where his attendance would present a threat to the health or safety of other persons at the hearing or in other circumstances; and
- (d) provision empowering the Tribunal to allow, if it thinks fit, the appellant and respondent to be represented by counsel or a solicitor.

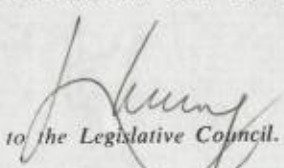
(2) The Tribunal and any adjudicator may in the discharge of any function under this Ordinance consult any member of a panel of legal advisers to the Tribunal appointed by the Attorney General."

**10.** Section 63(1) of the principal Ordinance is amended by deleting paragraph (a) and substituting the following—


Amendment of section 63.

"(a) a removal order signed by the Governor or by the Director of Immigration or Deputy Director of Immigration, or a deportation order signed by the Clerk of Councils; or".

Passed by the Hong Kong Legislative Council this 23rd day of October 1980.

  
Clerk to the Legislative Council.

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

  
Clerk to the Legislative Council.

No. 63 of 1980



I assent.

*Jack U*  
Acting Governor

6 November 1980

of the Island of

**HONG KONG**

No. 63 OF 1980



I assent.

*Park Water*  
Acting Governor.

6 November 1980.

An Ordinance to amend the Inland Revenue Ordinance.

[7 November 1980]

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

1. This Ordinance may be cited as the Inland Revenue (Amendment) (No. 4) Ordinance 1980. Short title.

2. The principal Ordinance is amended by adding, after section 36, the following section— Addition of new section 36A. (Cap. 112.)

\*Application of provisions to machinery or plant.

**36A.** (1) Except where otherwise provided, in relation to the initial and annual allowances on machinery or plant—

- (a) sections 37, 37A, 38 and 39 shall apply to the years of assessment up to and including the year of assessment commencing on the 1st April 1979; and
- (b) sections 39B, 39C and 39D shall apply to the year of assessment commencing on the 1st April 1980 and to subsequent years of assessment.

(2) Where in relation to any machinery or plant the Commissioner is satisfied that in respect of any year of assessment commencing on or after the 1st April 1980 the application of any of the provisions of the sections referred

to in subsection (1)(b) is impracticable or inequitable, he may direct that the provisions of the sections referred to in subsection (1)(a) shall apply to the extent and for the duration specified in the direction."

**3. The principal Ordinance is amended by adding, after section 39A, the following—**

"Initial and annual allowances on machinery or plant under the pooling system.

**39B. (1)** Where a person carrying on a trade, profession or business incurs capital expenditure on the provision of machinery or plant for the purposes of producing profits chargeable to tax under Part IV then, except where such expenditure is expenditure of a kind described in section 16B(1)(b), there shall be made to him, for the year of assessment in the basis period for which the expenditure is incurred, an allowance, to be known as an "initial allowance", equal to one-quarter of such expenditure.

(2) Where during the basis period for any year of assessment or during the basis period for any earlier year of assessment a person owns or has owned and has in use or has had in use any machinery or plant for the purposes of producing profits chargeable to tax under Part IV, there shall be made to him in respect of each class of machinery or plant for that year of assessment an allowance, to be known as an "annual allowance", for depreciation by wear and tear of such machinery or plant.

(3) The annual allowance shall be calculated at the rates of depreciation prescribed by the Board of Inland Revenue and shall be computed on the reducing value of each class of machinery or plant.

(4) Subject to subsections (5), (6) and (7), the reducing value of a class of machinery or plant shall be the aggregate capital expenditure incurred on the provision of the machinery or plant belonging to that class reduced by—

- (a) the aggregate of any initial allowances computed in accordance with section 37 in respect of any machinery or plant belonging to that class;
- (b) the aggregate of any annual allowances computed in accordance with section 37 in respect of any machinery or plant belonging to that class;
- (c) the aggregate of any initial allowances computed in accordance with this section in respect of any machinery or plant belonging to that class;
- (d) any annual allowance computed in accordance with this section;
- (e) any sale, insurance, salvage or compensation moneys received in respect of any machinery or plant belonging to that class; and
- (f) any reducing value of machinery or plant excluded from the total reducing value of a class of machinery or plant under section 39C(3).

(5) Where, prior to the commencement of the Inland Revenue (Amendment) (No. 4) Ordinance 1980, any machinery or plant has been the subject of a balancing allowance or balancing charge computed in accordance with section 38, such machinery or plant shall, for the purposes

(63 of 1980.)

Addition of new sections 39B, 39C and 39D.

of subsection (4), be excluded from the class of machinery or plant.

(6) Where any machinery or plant is owned and used by a person for any period immediately before he uses it for the purposes of producing profits chargeable to tax under Part IV, the capital expenditure incurred on the provision of the machinery or plant for the purposes of subsection (4) shall be computed by deducting from the actual cost the notional amount of the annual allowances which would have been made under section 37 to the owner if since acquiring the machinery or plant he had used it for the purpose of producing profits chargeable to tax under Part IV.

(7) If a person succeeds to any trade, profession or business which immediately before the succession—

- (a) was carried on by another person; and
- (b) the machinery or plant that was used at any time by that other person for the purpose of producing profits chargeable to tax under Part IV is not sold to the successor,

the reducing value of such machinery or plant shall, for the purpose of computing annual allowances under subsection (3), be taken to be the reducing value thereof still unallowed to that other person as at the time of succession.

(8) Notwithstanding subsection (7), no initial allowance shall be made under this Part by virtue of subsection (7).

(9) No annual allowance shall be made where the reductions made under subsection (4) exceed the aggregate capital expenditure incurred on the provision of the class of machinery or plant.

(10) Nothing in subsection (2) shall apply in respect of any machinery or plant owned and used by a person for the purposes of his trade or business where such machinery or plant represents scientific research expenditure of a capital nature which pursuant to section 16B(1)(b) has been allowed as a deduction in ascertaining the profits from such trade or business in respect of which such person is chargeable to tax under Part IV for any year of assessment.

(11) The Commissioner may in his discretion allow a higher rate of depreciation in respect of any class of machinery or plant than that prescribed by the Board of Inland Revenue.

**39C. (1)** The provisions of this Part which applied immediately prior to the commencement of the Inland Revenue (Amendment) (No. 4) Ordinance 1980 shall continue to apply—

- (a) subject to subsection (2), in respect of machinery or plant to which section 37A applies;
- (b) in respect of machinery or plant to which section 39A applies.

(2) Where, pursuant to the terms and conditions of a hire purchase agreement, machinery or plant to which

Pooling system when not to apply. (63 of 1980.)