

Regulations, Tables 9, 10 & 11.

or other expenses incurred by such surveyors in the execution of their duties. [10(6)]

Regulations, Table 15.

(2) Regulations may prescribe the persons by whom and the conditions under which any such payment shall be made. [10(6)]

(3) The power to make such regulations shall include a power to make such regulations applicable to passenger ships plying on international voyages as appear to the Governor in Council to implement the provisions relating to construction, machinery, equipment and marking of load-lines which are contained in the International Convention respecting Load Lines, 1930, the International Convention for the Safety of Life at Sea, 1948, and the regulations referred to therein, and to make further regulations implementing similar provisions of any subsequent international convention which may be applied to the Colony and any regulations which may be referred to therein except so far as the said provisions are otherwise implemented by the Merchant Shipping Acts or this Ordinance. [10(6)]

(4) Such instructions and regulations may modify any such requirement—

[cf. 22 Geo. 5, c.9, s.1 (1) (b).]

(a) with regard to passenger ships plying on any international coasting voyage, if and to the extent that the Governor in Council is satisfied that the risks incurred by passenger ships plying on that voyage are such as to make it unreasonable or unnecessary to require ships so plying to comply with that requirement; and

[cf. 22 Geo. 5, c.9, s.1 (1) (c).]

(b) with regard to ships for the time being engaged in any passenger trade in which they are employed in the carriage of large numbers of unberthed passengers, if the Governor in Council is satisfied that compliance with that requirement by ships so engaged is impracticable and to the extent that he is so satisfied that modifications are required by the conditions of the trade. [10(6)]

[cf. 22 Geo. 5, c.9, s.1 (1) (a).]

(5) The Governor may treat any passenger ship constructed before the 1st day of July, 1931, (not being a ship converted to passenger service on or after that date) as complying with any such requirement if he is satisfied that such steps, if any, as are reasonable and practicable have been taken to make the ship comply with that requirement. [10(6)]

(6) The Governor may, with regard to any ship plying on short international voyages, modify any of the requirements of the regulations relating to construction made under this section which implement the provisions of the International Convention for the Safety of Life at Sea, 1929, contained in Regulations IX, X, XV and XIX thereof, if and to the extent that he is satisfied that the requirement is neither reasonable nor practicable in the case of that ship. [10(6)]

[cf. 22 Geo. 5, c.9, s.1 (1) (d).]

(7) Except so far as such instructions and regulations are issued or made by the Governor in Council under this section the Government surveyors shall execute their duties in accordance with the instructions to surveyors and any subsequent rules, instructions and regulations issued by the Minister. [10(6)]

27. (1) The owner, agent or master of every passenger ship being within the waters of the Colony shall where such ship comes within the meaning of this Part cause the same to be surveyed by one or more of the Government surveyors, who shall thereupon if satisfied that it can properly be done complete a declaration or declarations of survey in a form prescribed by regulations. [10(8)]

Owner to have survey made. Declaration thereof.

Regulations, Table 15. 22 Geo. 5, c.9, s.2 (3).

(2) If in the judgment of any such surveyor a passenger ship is fit to ply on international voyages while engaged in a special passenger trade only, his declaration of survey shall state that fact. [10(8A)]

(3) Such declaration or declarations shall be produced for the inspection of such owner, agent or master, and upon his request a passenger certificate in duplicate shall be issued by or on behalf of the Governor and at the absolute discretion of the Governor to the effect that the provisions of the law with respect to the survey of the ship and the transmission of declarations in respect thereof have been complied with, and such certificate shall state the limits, if any, beyond which according to the declarations of the surveyor or surveyors such ship is not fit to ply, and shall also contain a statement of the number of passengers which according to the declaration of the surveyor or surveyors such ship is fit to carry, distinguishing (if necessary) between the respective numbers to be on the deck and in the cabins, such number to be subject to such conditions and variation according to the time of the year, the nature of the voyage, the cargo carried, and other circumstances as the case may require. [10(10)]

[cf. pr. Act, s.274.]

(4) Such certificate in duplicate, when completed, shall be delivered by the Director to the owner, agent or master applying for the same subject to payment of the fee and other sums, if any, payable in that behalf. [10(11)]

Pr. Act, s.281, (1), (2).

(5) The owner, agent or master of every such ship shall, upon the transmission of any such certificate as aforesaid to him or his agent, cause one of the duplicates thereof so transmitted to be exhibited in some conspicuous part of the ship so as to be visible to all persons on board the same, and shall cause it to continue to be exhibited so long as it remains in force and such ship is in use. In default such owner, agent or master shall be liable to a fine of five hundred dollars. [10(20)]

Appeal to court of survey. [cf. pr. Act, s.275 (1).]

28. (1) If an owner, agent or master is aggrieved—

- (a) by a declaration of a surveyor or surveyors under this Part, or by the refusal of a surveyor to give the said declaration; or
- (b) by the refusal of a certificate of clearance for an emigrant ship under the Chinese Passengers Act, 1855, or the Asiatic Emigration Ordinance, 1915; or
- (c) by the refusal of a certificate of clearance under this Ordinance,

(18 & 19 Vict. c.104.) (30 of 1915.)

the owner, agent, master or charterer may appeal, in manner prescribed by regulations, to a court of survey constituted under this Ordinance, and upon the constitution thereof by the Governor such court may make such order with respect to the costs of any such investigation as it thinks fit, and such costs shall be paid accordingly, and shall be recoverable in the same manner as costs in summary proceedings before any magistrate. [10(12)]

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[cf. pr. Act, s.275 (2).]

(2) On such appeal, the court of survey shall report to the Governor on the question raised by the appeal, and the Governor, when satisfied that the requirements of the report and the provisions of the enactments have been complied with, may give the certificates required. [10(13)]

(3) An owner, agent, master or charterer of any ship preferring an appeal under this section or under section 48, may give notice in and by the prescribed notice of appeal that he objects to any marine magistrate being a member of the court of survey, stating the grounds of his objection, and the Director shall forward such notice to the Governor, who may in his discretion direct that such marine magistrate shall not be a member of the court of survey. [10(10)]

(4) Subject to any order made by the court of survey, the costs of and incidental to an appeal under this section shall follow the event. [cf. pr. Act, s.275 (3).] [10(14)]

29. Where the survey of a ship is made for the purpose of a declaration under section 27, the person appointed to make the survey shall, if so required by the owner, agent or charterer, be accompanied on the survey by some competent person appointed by the owner, agent or charterer, to be approved by the Governor, and in such case, if the said two persons agree, there shall be no appeal to the court of survey as provided by section 28. [10(15)]

No appeal in certain cases. [cf. pr. Act, s.275 (4).]

30. (1) No certificate shall be held to be in force for the purposes of this Part beyond a period of twelve months from the date of its issue or any shorter time specified in the certificate; and no certificate shall be in force after notice is given by the Governor to the owner, agent or master of the ship to which the same relates that he has cancelled or revoked the same: Provided that if any ship is absent from the Colony at the time of expiry of any certificate granted under this section no penalty shall be incurred under this section until the said ship commences a voyage after the next return to the Colony. [10(18)]

Duration of certificate. [cf. pr. Act, s.278.]

[cf. pr. Act, s. 280.]

(2) The Governor may require any certificate which has expired or has been revoked or cancelled to be delivered up as he directs, and every owner, agent or master who, without reasonable excuse, refuses or neglects to comply with such requirement shall be liable to a fine of two hundred dollars. [10(18)]

31. (1) The Governor may revoke and cancel any such certificate in any case in which he has reason to believe—

- (a) that the declarations of the sufficiency and good condition of the hull, equipments and machinery of the ship have been fraudulently or erroneously made; or
- (b) that such certificate has otherwise been issued upon false or erroneous information; or
- (c) that, since the making of such declarations, the hull, equipments or machinery of the ship has or have sustained any injury or is or are otherwise insufficient,

Governor may cancel certificate and require fresh declaration. [cf. pr. Act, s.279.]

and in every such case the Governor may require the owner to have the hull, equipments or machinery of the ship again surveyed, and to transmit a further declaration or declarations of the sufficiency and good condition thereof, before re-issuing any certificate or granting a fresh one in lieu thereof. [10(19)]

(2) The Governor may revoke and cancel any such certificate in any case in which he has reason to believe that the certificated

master of the ship is not exercising, or is not permitted to exercise, proper control of the ship. [10(19A)]

Surveyors to make returns of build and other particulars of ship, and owner, etc., to give information. [cf. pr. Act, s.726.]

32. (1) A Government surveyor shall from time to time make such returns to the Governor as he may require with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel, and the nature and particulars of machinery and equipments of every ship surveyed by him. The owner, master and engineer of any such ship shall, on demand, give to such surveyor all such information and assistance within his power as he may require for the purpose of such returns. Any such owner, master or engineer who, on being applied to for that purpose, wilfully refuses or neglects to give such information or assistance shall be liable to a fine of one hundred dollars. [10(21)]

[cf. 22 Geo. 5, c.9, s.3 (1).]

(2) If any structural alteration is made in any passenger ship, the owners, agents, charterers and master shall, within twenty-four hours after the alteration is made or as soon thereafter as possible, report the same by letter to the Director, and in default without reasonable excuse therefor they shall be severally liable to a fine of one thousand dollars: Provided that the due receipt of a report from any one of the foregoing shall satisfy the provisions of this subsection. [10(23)]

Penalty for carrying passengers in excess of certificate and on excess passengers in uncertificated ship. [cf. pr. Act, s.283.]

33. (1) The owner, agent, charterer, master or comprador of any passenger ship shall not receive or have on board thereof at any place within the waters of the Colony any number of passengers which having regard to the time, occasion and circumstances is in excess of the number allowed by the passenger certificate, and in default he shall be liable to a fine of five hundred dollars, and to an additional fine of one hundred dollars for every excess passenger, or if the fare of any passenger on board exceeds one hundred dollars, a fine of double the amount of the fares of all excess passengers reckoned at the highest rate of fare payable by any passenger on board, and shall in any case be liable to imprisonment for six months. [10(25)]

(2) If the provisions of this Part which require a passenger ship to be surveyed and to have a passenger certificate are not complied with in the case of any ship, the owner, agent, charterer, master and comprador shall, without prejudice to any other remedy or penalty under this Ordinance, be liable to the like penalties in respect of all excess passengers and the like imprisonment as are specified in subsection (1) if he receives or has on board at any place within the waters of the Colony any number of passengers which having regard to the time, occasion and circumstances is in excess of the number which that ship is allowed to carry. [10(24)]

34. (i) If any person—

Offences. [cf. pr. Act, s.282 and 22 Geo. 5, c.9, s.71.]

(a) knowingly and wilfully makes, or assists in making, or procures to be made, a false or fraudulent declaration or certificate required by or under this Ordinance or the Merchant Shipping Acts; or

(b) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such declaration or certificate, or anything contained in, or any signature to any such declaration or certificate,

that person shall in respect of each offence be guilty of a misdemeanor. [10(26)]

(2) Any surveyor who demands or receives, directly or indirectly, from the owner, agent or master of any ship surveyed by him under the provisions of this Ordinance or from any other person, and any such owner, agent, master or other person who offers or gives any fee or remuneration whatsoever (otherwise than is permitted by this Ordinance) to any such surveyor for or in respect of such survey shall be liable to a fine of one thousand dollars. [10(7)]

[cf. pr. Act, s.724 (4).]

35. (1) Every passenger ship of which a survey is required by section 23 shall—

Equipment of passenger ship.

(a) be provided with means to prevent over pressure in any part of the boilers and machinery, and in particular every boiler and other pressure vessel used for generating steam shall be provided with not less than two safety valves;

[cf. pr. Act, s.285 (4).]

(b) have the ship's compasses properly adjusted from time to time, such adjustment to be made to the satisfaction of a Government surveyor and according to such regulations as may be issued by the Governor;

[cf. pr. Act, s.285 (1).]

(c) be provided with means for making the signals of distress at night specified in international collision regulations;

[cf. pr. Act, s.435 (1).]

(d) be provided (if a ship not coming within the provisions of the Chinese Passengers Act, 1855, or of the Asiatic Emigration Ordinance, 1915,) with such shelter for the protection of deck passengers, if any, as the Governor in Council, having regard to the nature of the passage, the

(18 & 19 Vict. c.104.)

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number of deck passengers to be carried, the season of the year, the safety of the ship and the circumstances of the case, may require. [11(1)]

[cf. pr. Act,
s.285 (5).]

(2) If any such passenger ship as aforesaid goes to sea from any port of the Colony without being so provided as hereinbefore required, then, for each default in any of the above requisites, the owner shall (if he appears to be in fault) be liable to a fine of one thousand dollars, and the master shall (if he appears to be in fault) be liable to a fine of five hundred dollars. [11(2)]

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[cf. pr. Act,
s.271 (2).]

(3) If any requirement of this section or of the regulations as to the number of permissible passengers is not complied with in the case of any passenger ship, the Director shall not grant a clearance, and if any such ship attempts to go to sea without a clearance, the Director may detain her. [11(3)]

[cf. pr. Act,
s.286.]

(4) Any person who places an undue weight on the safety valve of any steamship or increases such weight beyond the limits fixed by a Government surveyor, shall, in addition to any other liabilities, be liable to a fine of one thousand dollars. [11(4)]

Director may refuse clearance to ship carrying more passengers than allowed by certificate. Penalties, etc.

[cf. pr. Act,
s.283.]

36. (1) The master of every ship shall, on application to the Director for a port clearance, state the number of passengers he proposes to carry on the then projected voyage; and if such number is in excess of the number allowed by the passenger certificate, or exceeds twelve in the case of a ship which is not provided with a passenger certificate, the Director may refuse clearance. Any master who wilfully misrepresents the number of passengers so about to be carried, or leaves or attempts to leave any port of the Colony without a clearance, shall be liable to a fine of two thousand five hundred dollars and to imprisonment for six months. [12(1)]

[cf. pr. Act,
s.283.]

(2) The master of any ship who, after having obtained a port clearance, leaves or attempts to leave the waters of the Colony with any number of passengers greater than that allowed by the clearance shall be liable to a fine of five hundred dollars, in addition to a fine of twenty-five dollars for every such passenger in excess of the number permitted to be carried by the clearance. [12(2)]

(3) When the master of any ship has become liable under the provisions of subsection (2) to the penalty therein mentioned, the owner, agent or consignee of such ship shall be liable to a like penalty, unless he proves that such passengers were shipped without his knowledge or consent and that he derived no profit, benefit or advantage from the shipping of such passengers. [12(3)]

(4) The Director may refuse a clearance to any ship carrying more than twelve passengers, except on the production of the passenger certificate (being a certificate then in force and applicable), and he may detain such ship until such certificate is produced. [12(4)]

[cf. pr. Act,
s.271(2).]

(5) The Governor in Council may by regulations prohibit the conveyance of deck passengers by any ship. [12(5)]

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PART VII.

SAFETY PROVISIONS.

37. (1) The rules for life-saving appliances from time to time in force made by the Minister under section 427 of the principal Act as amended by subsection (1) of section 2 of the Merchant Shipping (Safety Convention) Act, 1949, shall apply to the Colony in respect of the following ships—

Application of rules for life-saving appliances.

(12 & 13
Geo. 6,
c.43.)

- (a) passenger steamers plying on international voyages;
- (b) passenger steamers plying on short international voyages;
- (c) foreign-going steamships (except steamships, such as salvage tugs, dredgers and the like, declared by the Governor in Council to be special service craft) not certified for the carriage of passengers:

Provided that the Governor in Council may, in addition to any powers of exemption given to the Governor under the Merchant Shipping (Safety Convention) Act, 1949, as extended to the Colony by Order of Her Majesty in Council, by regulations prescribe or provide for life-saving appliances for ships to which the said rules do not apply, and such regulations may without prejudice to the generality of the foregoing be made with respect to all or any of the matters provided for in subsection (1) of section 427 of the principal Act as so amended. [13(1)]

(2) In this section, "passenger steamer" means a steamer carrying more than twelve passengers, and "foreign-going" means plying outside the limits within which river steamers ply. [13(1)]

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38. In the case of any ship—

- (a) if the ship is required to be provided with life-saving appliances and proceeds on any voyage or excursion without being so provided in accordance with the rules or regulations applicable to the ship; or

Penalty for breach of rules or regulations applicable to ship. Pr. Act, s.430 (1).

- (b) if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful fault or negligence of the owner or master; or
- (c) if the master wilfully neglects to replace or repair, on the first opportunity, any such appliance lost or injured in the course of the voyage or excursion; or
- (d) if such appliances are not kept so as to be at all times fit and ready for use; or
- (e) if any provision of the rules or regulations in respect of life-saving appliances applicable to the ship is contravened or not complied with,

22 Geo. 5, c.9, s.5 (2).

then the owner of the ship (if in fault) shall for each offence be liable to a fine of two thousand dollars, and the master of the ship (if in fault) shall for each offence be liable to a fine of one thousand dollars. [13(3)]

Survey with respect to life-saving appliances. 22 Geo. 5, c.9, s.5 (3).

39. (1) A Government surveyor may inspect any ship for the purpose of seeing that the rules or regulations in respect of life-saving appliances applicable to the ship have been complied with in her case, and for the purpose of any such inspection shall have all the powers of an inspector appointed by the Minister under the Merchant Shipping Acts. [13(4)]

(2) If the surveyor finds that the rules or regulations have not been complied with he shall give written notice to the owner or master stating in what respect the said rules or regulations have not been complied with, and what, in his opinion, is required to rectify the matter. [13(5)]

(3) Every notice so given shall in manner directed by the Governor be reported to the Director and a clearance shall not be granted to the ship and the ship shall be detained until a certificate under the hand of a Government surveyor is produced to the effect that the matter has been rectified. [13(6)]

Entry in log-book of boat drill and examination of life-saving appliances. 6 Edw. 7, c.48, s.9 (1). 22 Geo. 5, c.9, s.5 (5).

40. (1) The master of every ship to which section 427 of the principal Act applies as being a British ship shall cause to be entered in the official log-book a statement, or, if there is no official log-book cause other record to be kept, of every occasion on which boat-drill or fire-drill is practised on board the ship, or on which the appliances and equipment required by the rules for life-saving appliances to be carried are examined to see whether they are fit and ready for use and of the result of any such examination; and if—

- (a) in the case of a passenger steamer, boat-drill or fire-drill is not practised on board the ship in any week;
- (b) in the case of any other ship, boat-drill or fire-drill is not practised on board the ship in any month;
- (c) in the case of any ship, the said appliances and equipment are not examined in any such period as is prescribed by the said rules,

the master shall cause a statement to be entered or other record to be kept as aforesaid of the reasons why the drill was not practised or the appliances and equipment were not examined in that week, month or period. [13(7)]

(2) The master shall if and when required by any officer of the Marine Department produce for inspection any such entry or record. [13(8)] [cf. 6 Edw. 7, c.48, s.9 (2).]

(3) If the master fails to comply with any requirement of this section, he shall be liable to a fine of two hundred dollars. [13(9)]

41. Sections 37 to 39 shall apply to all foreign ships while within the waters of the Colony to the same extent as they apply to British ships: Provided always that such sections and section 40 shall not apply to— Application to foreign ships. [cf. Edw. 7, c.48, s.4.]

- (a) any ship of a Safety Convention country which carries a valid safety certificate, or to
- (b) any ship of a non-Convention country with regard to which it has been declared by order of Her Majesty in Council that the provisions in force in that country relating to life-saving appliances are as effective as those of the Merchant Shipping Acts, on proof that such former provisions are complied with in the case of that ship. [13(9)]

42. A Government surveyor may go on board and inspect any vessel which is exempt from Part II of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932, as extended to the Colony by Order of Her Majesty in Council under section 64 thereof. [14] Inspection of non-load line vessels.

43. (1) Any person who sends or attempts to send, or is a party to sending or attempting to send, a British ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of a misdemeanor, unless Sending unseaworthy British ship to sea

a misdemeanor. [cf. pr. Act, s.457.]

he proves either that he used all reasonable means to ensure the ship being sent to sea in a seaworthy state, or that the going to sea in such an unseaworthy state was, in the circumstances, reasonable and justifiable. [17(1)]

(2) The master of a British ship who knowingly takes the same to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of a misdemeanor, unless he proves that the going to sea in such an unseaworthy state was, in the circumstances, reasonable and justifiable. [17(2)]

(3) A prosecution under subsection (1) or (2) shall not be instituted except with the consent of the Governor and a misdemeanor under such subsections shall not be punishable on summary conviction. [17(3), (4)]

Power to detain unsafe ship, and procedure for such detention. [cf. pr. Act, s.459 (1).]

44. (1) Where a British ship being in any port of the Colony is an unsafe ship, that is to say, is, by reason of the defective condition of the hull, equipment or machinery or by reason of undermanning or of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which the ship is intended, any such ship (hereinafter described as unsafe) may be provisionally detained, and afterwards either finally detained or released as provided in this section. [17(5)]

(2) The Director or any Government surveyor if he has reason to believe, on complaint or otherwise, that a British ship is unsafe, may order the provisional detention of such ship for a period not exceeding twenty-four hours, and subject to the further provisions of this section the Governor may by order extend such period either indefinitely or for such definite period as he may deem fit. [17(5)]

(3) When a ship has been provisionally detained, there shall be forthwith served on the master of the ship a written statement of the grounds of detention, and the Governor may if he thinks fit appoint some competent person to survey the ship and report to him. [17(5)]

(4) The Governor on receiving the report may either order the ship to be released or if in his opinion the ship is unsafe may order the ship to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations or the unloading or reloading of cargo or the manning of the ship as the Governor thinks necessary for

the protection of human life, and he may vary or add to any such order. [17(5)]

(5) Before the order for final detention is made, a copy of the report shall be served on the master of the ship, and within seven days of such service, the owner, agent or master of the ship may appeal in the manner prescribed by regulations to a court of survey constituted under section 57. [17(5)]

(6) Where a ship has been provisionally detained, the owner, agent or master of the ship at any time before the person appointed under subsection (3) to survey the ship makes such survey may require that he shall be accompanied by such person of nautical, engineering or other special skill and experience to be approved by the Governor as the owner, agent or master may select. In such case, if the surveyor and assessor agree, the Governor shall cause the ship to be detained or released accordingly, but if they differ, the Governor may act as if the requisition had not been made and the owner, agent and master shall have the like appeal touching the report of the surveyor as is before provided by this section. [17(5)]

(7) Where a ship is provisionally detained, the Governor may at any time, if he thinks it expedient, refer the matter to the court of survey. [17(5)]

(8) The Governor may at any time, if satisfied that a ship detained under this Ordinance is not unsafe, order such ship to be released, either upon or without any conditions. [17(5)]

45. (1) If it appears that there was not reasonable and probable cause by reason of the condition of the ship or the act or default of the owner or agent for the provisional detention of the ship under section 44, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship and compensation for any loss or damage sustained by him by reason of the detention or survey. [17(6)]

Liability of Government and of ship owner for costs and damages. [cf. pr. Act, s.460.]

(2) If a ship is finally detained under this Ordinance or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to the Government the costs of and incidental to the detention and survey of the ship, and such costs shall without prejudice to any other remedy be recoverable in a summary way before a magistrate. [17(6)]

(3) For the purposes of this Ordinance, the costs of and incidental to any proceeding before a court of survey and a reasonable amount in respect of remuneration of the surveyor appointed under subsection (3) of section 44 shall be part of the costs of the detention and survey of the ship. Any dispute as to the amount of costs under this Ordinance may be referred to the Registrar of the Supreme Court, who on request made to him for that purpose by the Governor shall ascertain and certify the proper amount of such costs. [17(6)]

(4) A claim for any costs or compensation payable by the Government under this section may be brought against the Attorney General in an action brought by the plaintiff as claimant against the Attorney General as defendant, and the provisions of the rules of court relating to actions against the Government shall apply to such action. [17(6)]

(Cap. 4, rules.)

Power to require security for costs from complainant. [cf. pr. Act, s.461.]

46. Where a complaint is made to the Governor that a British ship is unsafe, he may require the complainant to give security to his satisfaction for the costs and compensation which may be incurred by the Government and any action that may be necessary to enforce such security may be brought in the name of the Attorney General: Provided that where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship and is not in the opinion of the Governor frivolous or vexatious, such security shall not be required, and the Governor shall if the complaint is made in sufficient time before the sailing of the ship take proper steps for ascertaining whether the ship ought to be detained under this Ordinance. [17(7)]

Supplementary provisions as to detention of ships.

47. (1) An order for the detention of a ship, whether provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship. [17(8)]

(2) A ship which has been detained under this Ordinance shall not be released by reason of the British register of such ship being subsequently closed. [17(8)]

(3) For the purposes of a survey under this Part, any person authorized to make the same may go on board the ship and inspect the same and every part thereof and the machinery, equipment and cargo, and may require the unloading or removal of any cargo, ballast or tackle. [17(8)]

[cf. pr. Act, s.462.]

(4) The provisions of the Merchant Shipping Acts with respect to persons who wilfully impede an inspector shall apply as if those provisions were herein enacted, with the substitution for the inspector of any member of the court of survey, assessor or surveyor who, under this section, has the same powers as an inspector or has authority to survey a ship. [17(8)]

48. (1) When a foreign ship whilst in the waters of the Colony is unsafe by reason of the defective condition of the hull, equipments or machinery, or by reason of undermanning or of overloading or improper loading, the provisions of this Ordinance with respect to the detention of ships shall apply to that foreign ship as if such ship were a British ship, with the modifications contained in this section. [18]

Application to foreign ships of provisions as to detention. [cf. pr. Act, s.462.]

(2) A copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the state to which the ship belongs, and if there is no such consular officer on the master of the ship. [18]

(3) Where a ship has been provisionally detained, the consular officer on the request of the owner, agent or master of the ship and if there is no such consular officer the owner, agent or master of the ship, may require that the person, if any, appointed by the Governor to survey the ship shall be accompanied by such person as such officer, or owner, agent or master, as the case may be, may select. In such case if the surveyor and such person agree the Governor shall cause the ship to be detained or released accordingly, but if they differ, the Governor may act as if the requisition had not been made and the owner, agent or master shall have the like appeal to a court of survey touching the report of the surveyor as is hereinbefore provided. [18]

(4) Where the owner, agent or master of the ship appeals to the court of survey, the consular officer on the request of such owner, agent or master, or, if there is no such consular officer the owner, agent or master, may nominate any competent person or persons, not exceeding two, to be members of the court of survey. [18]

49. Nothing in this Part shall affect any foreign ship not bound to the Colony which comes into the waters of the Colony for any purpose other than that of embarking or landing passengers or taking in or discharging cargo or taking in bunkers. [18A]

Exemptions. [cf. 6 Edw. 7, c. 48, s. 6.]

PART VIII.

MARINE COURTS AND COURTS OF SURVEY.

50. (1) The Governor may whenever occasion may arise in the circumstances detailed in subsection (2) of section 51 by warrant under his hand and the seal of the Colony, form a court (which shall be called the marine court) to make investigations as to

Governor may appoint marine court;

constitution etc. Pr. Act, s. 478. casualties affecting ships, or to inquire into charges of incompetency or misconduct on the part of masters, mates or engineers of ships. [19(1)]

(2) Such court shall consist of not more than five or less than three members, of whom one shall be a judge, district judge or magistrate and shall be president of the court, and at least one shall be a commissioned officer in the Royal Navy, and the remainder masters of the British mercantile marine, or such persons of nautical, engineering or other special skill or knowledge as the Governor may appoint: Provided always that, where any investigation involves or appears likely to involve any question as to the cancellation or suspension of the certificate of a master, mate or engineer, the court shall include not less than two members having experience in the merchant service. [19(2)]

(3) Each of the unofficial members of such court shall be paid the sum of fifty dollars a day, or such other sum as the Governor may, in any special case, direct, during each day that the court sits. [19(3)]

Enumeration of casualties, causes for inquiry, etc. Pr. Act, s. 464.

51. (1) For the purpose of an investigation under this Part, a casualty shall be deemed to occur—

- (a) when on or near the coasts of the Colony any British ship is lost, abandoned or materially damaged;
- (b) when on or near the coasts of the Colony any British ship has been stranded or damaged, and any witness is found in the Colony;
- (c) when on or near the coasts of the Colony any British ship causes loss or material damage to any other ship;
- (d) when any loss of life ensues by reason of any casualty happening to or on board any British ship on or near the coasts of the Colony;
- (e) when in any place any such loss, abandonment, material damage or casualty as above mentioned has occurred, and any witness is found in the Colony;
- (f) when in any place any British ship has been stranded or damaged, and any witness is found in the Colony; and
- (g) when any British ship has been lost or is supposed to have been lost, and any evidence is obtainable in the Colony as to the circumstances in which such ship proceeded to sea or was last heard of. [19(4)]

- (2) In any of the following cases—
 - (a) where a casualty occurs to a British ship on or near the coasts of the Colony or to a British ship in the course of a voyage to the Colony;
 - (b) where a casualty occurs in any part of the world to a ship registered in the Colony;
 - (c) where some of the crew of a British ship to which a casualty has occurred, and who are competent witnesses to the facts, are found in the Colony;
 - (d) where the incompetency or misconduct has occurred on board a British ship on or near the coasts of the Colony, or on board a British ship in the course of a voyage to the Colony;
 - (e) where the incompetency or misconduct has occurred on board a ship registered in the Colony; and
 - (f) where the master, mate or engineer of a British ship who is charged with incompetency or misconduct on board that ship is found in the Colony,

Pr. Act, s. 478.

such court may make investigation respecting such casualty and may hear and inquire into any such charge of incompetency or misconduct, and for such purposes the court shall have the same jurisdiction over the matter in question as if it had occurred within its ordinary jurisdiction, but subject to all provisions, restrictions and conditions which would have been applicable if it had so occurred. Such court shall also have the powers given by the Merchant Shipping Acts to inspectors appointed by the Minister as well as all the powers of a magistrate acting as a court of summary jurisdiction. [19(5)]

[cf. pr. Act, s. 729.]

(3) An inquiry shall not be held into any matter which has once been the subject of an investigation or inquiry, and has been reported on by a competent court or tribunal in any part of the Commonwealth, or in respect of which the certificate of a master, mate or engineer has been cancelled or suspended by a naval court. [19(6)]

(4) Where an investigation or inquiry has been commenced in the United Kingdom with reference to any matter, an inquiry with reference to the same matter shall not be held under this Part. [19(7)]

Grounds for cancellation or suspension of certificate. 57 & 58 Vict. c. 60, s. 470(1).

52. (1) The certificate of a master, mate or engineer may be cancelled or suspended—

- (a) if the court finds that loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default; or
- (b) if the court finds that he is incompetent, or that he has been guilty of any gross act of misconduct, drunkenness or tyranny, or that, in a case of collision, he has failed to render such assistance or give such information as is required by the Merchant Shipping Acts. [19(8)]

[cf. pr. Act, s. 422.]

Pr. Act, s. 470(2).

(2) Where any case before any such court as aforesaid involves a question as to the cancellation or suspension of a certificate, the court shall at the conclusion of the case or as soon afterwards as possible state in open court the decision to which it has come with respect to the cancellation or suspension thereof. [19(9)]

(3) Any master, mate or engineer whose certificate is suspended or cancelled in pursuance of this Ordinance shall, on the demand of the court, deliver his certificate to the court, or if it is not demanded by the court deliver it to the Governor or as he directs, and in default he shall be liable to a fine of five hundred dollars. [19(16)]

Pr. Act, s.470(3).

(4) The court shall in all cases send a full report on the case with the evidence to the Minister, and shall also if it determines to cancel or suspend any certificate send the certificate cancelled or suspended to the Minister or other authority by whom the certificate was granted. [19(10)]

Pr. Act, s. 470(4).

(5) A certificate shall not be cancelled or suspended by a court under this Part unless a copy of the report, or a statement of the case on which the investigation or inquiry has been ordered, has been furnished before the commencement of the investigation or inquiry to the holder of the certificate. [19(11)]

Provisions for re-hearing and appeal. [cf. pr. Act, s. 478.]

53. (1) The Governor may, in any case where under this Part an investigation into the conduct of a holder of a certificate of competency granted under this Ordinance has been held, order the case to be re-heard either generally or as to any part thereof, either by the court by which it was heard in the first instance or by a marine court appointed under this Part or by a judge sitting in admiralty jurisdiction, and shall do so—

- (a) if new and important evidence which could not be produced at the investigation or inquiry has been discovered; or

- (b) if for any other reason there has in his opinion been ground for suspecting that a miscarriage of justice has occurred.

(2) Where an application under subsection (1) for a re-hearing is not made or is refused, and where an application under subsection (6) of section 478 of the principal Act for a re-hearing of any inquiry under this Part is not made or is refused, an appeal shall lie from any order or finding of the court or tribunal holding the inquiry to the Supreme Court: Provided that an appeal under this section shall not lie—

- (a) in any case, other than an investigation under paragraph (e) of subsection (2) of section 51, in which an appeal to the High Court of England under section 478 of the principal Act or under section 66 of the Merchant Shipping Act, 1906, is competent; or
- (b) from an order or finding affecting the certificate of a master, mate or engineer if that certificate has not been granted by a country within the Commonwealth under the Merchant Shipping Acts. [19(12), (17)]

(6 Edw. 7, c. 48).

(3) An appeal to the Supreme Court under this section shall be to one judge or to the Full Court as the Chief Justice may decide and shall be subject to any rules of court made under the Supreme Court Ordinance.

(Cap. 4, rules).

54. (1) A marine court shall have the following further powers—

Further powers of court.

- (a) it may remove the master of any ship if that removal is shewn to the satisfaction of the court by evidence on oath to be necessary. Such removal may be made upon the application of any owner of the ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one-third or more of the crew of the ship;
- (b) it may appoint a new master instead of the one removed: Provided that where the owner, agent or consignee of the ship is within the jurisdiction of the marine court, such an appointment shall not be made without the consent of that owner, agent or consignee;
- (c) it may make such order as it thinks fit respecting the costs of the investigation or any part thereof, and such order shall be enforced by the court in the same way as an order for costs under the Magistrates Ordinance. [19(14)]

(Cap. 227).

(2) Each member of the court shall either sign the report made on any investigation under this Part or report to the Governor his reasons for dissent therefrom. [19(15)]

Regulations as to procedure, fees, etc.

Regulations, Table 8.

55. (1) The Governor in Council may by regulations prescribe and provide for carrying into effect the enactments relating to formal investigations into casualties and into charges of incompetency or misconduct, and in particular, with respect to the procedure, the parties, the persons allowed to appear, the notice to such parties and persons or to persons affected, and the amount and application of fees. [19(18)]

(2) For the purposes of this Part a marine court shall have all the powers of a magistrate sitting under the Magistrates Ordinance. (Cap. 227).

(3) Every formal investigation shall be conducted in such a manner that, if a charge is made against any person, he shall have an opportunity of making a defence. [19(19)]

Report to Director of accident to ship. Pr. Act, s. 425.

56. When any steamship has sustained or caused any accident occasioning loss of life or serious injury or material damage to property or has received any material damage affecting the seaworthiness or the efficiency thereof, either in the hull or in any part of the machinery, the master shall, within twenty-four hours after the happening of the accident or damage or as soon thereafter as possible, report the same by letter to the Director, and in default without reasonable excuse therefor he shall be liable to a fine of five hundred dollars. [19A]

Constitution, powers and procedure of court of survey. [cf. pr. Act, s. 488.]

57. (1) The Governor whenever occasion may arise may appoint a court of survey in the same manner and composed of the same persons as in the case of a marine court, and in such case the following provisions shall have effect—

- (a) the case shall be heard in open court;
- (b) each member of the court may survey the ship, and shall have for such purpose all the powers of an inspector appointed by the Minister under the Merchant Shipping Acts;
- (c) the court may order the ship to be surveyed and may appoint any competent person to survey the ship and report thereon to the court and such person may in case of disagreement be appointed by a majority of the members;

(d) the court shall have the same power as the Governor has to order the ship to be released or finally detained, but unless a majority of the members concur in an order for the detention of the ship the ship shall be released; and

(e) the owner or agent and the master of the ship and any person appointed by the owner, agent or master, may attend at any inspection or survey made in pursuance of this section. [20(1)]

(2) The Governor in Council may by regulations prescribe and provide for carrying into effect the provisions of this Ordinance with respect to a court of survey and appeals thereto, and in particular with respect to the summoning of and procedure before the court, the requiring of security for costs and damages on an appeal under section 28 or section 44, and the amount and application of fees. [20(2)]

Regulations, Table 7.

(3) The court may make such order with respect to the costs of any investigation under this Part as it may think fit, and such costs shall be paid accordingly, and shall be recoverable in the same manner as a civil debt under the Magistrates Ordinance. [20(3)]

(Cap. 227.)

(4) Nothing in this Part shall be deemed to affect in any way the admiralty jurisdiction of the Supreme Court. [20(4)]

PART IX.

REGULATION AND CONTROL OF PORTS AND WATERS.

58. The Governor may declare by notification certain places in the waters of the Colony to be ports, and no master of any ship or junk shall, except from stress of weather or some other sufficient cause, anchor at any other place in the waters of the Colony without the written permission of the Director. [21]

Declaration of ports, and prohibition of ship or junk anchoring elsewhere.

59. (1) The master of every vessel arriving within signalling distance of any signal station shall hoist the national colours and (if one shall exist) the house flag and the signal letters of the ship, and shall identify the vessel to such station by visual signals. He shall also hoist the national colours of the vessel when entering or leaving any port of the Colony. [22(1)]

Signalling stations.

(2) The signal stations shall be Waglan, Green Island, and such signal stations in substitution therefor or in addition thereto as shall be notified by the Governor in the *Gazette*. [22(1)]

Director and Health Officer to be allowed on board at once.

Regulations, Table 4.

Ship to be moored where ordered, and not removed without permission.

Ship to be entered within 24 hours.

60. Every such master shall, on the arrival of his ship within the waters of the Colony, allow and assist on board without delay the Director and the Port Health Officer as soon as they come alongside, and shall furnish such information as may be prescribed by regulation, and every master or any officer of the ship who delays, obstructs or impedes the Director or the Port Health Officer, or refuses to give such information as may be required, or gives false particulars, shall be guilty of an offence.

[22(2)]

61. (1) Subject to the provisions of section 73 every such master shall take up the berth pointed out by the Director or by any person sent on board by him for that purpose, and shall moor his ship there properly to the satisfaction of the Director, and shall not move to take up any other berth without his permission, except in case of necessity to be decided by the Director, and in default shall be liable to a fine of two hundred dollars.

[22(3)]

(2) The master of a ship shall remove his ship to any new berth when required to do so by the Director, and in default without reasonable excuse therefor shall be liable to a fine of fifty dollars for every hour that the ship remains in the old berth, after notice to remove under the hand of the Director has been given on board such ship.

[22(3)]

(3) The Director may require all ships including ships of war of any foreign nation to anchor or secure in such place as he may direct or he may prohibit their anchoring or securing in any particular place.

[22(3)]

(4) The obligations as to proper mooring of a ship to the satisfaction of the Director imposed by this section shall fall on the owners, agents and charterers in the case of any ship without a master.

[22(3A)]

62. Any such master shall, within twenty-four hours after arrival at any port, enter his ship at the office of the Director or, if the said office is closed, as soon as possible after it is again open for business, and, in the case of a British ship or of a foreign ship which is not represented by a consular officer, shall deposit there the ship's articles, list of passengers, ship's register, clearance from last port, and true copy of manifest, if required. In the case of a foreign ship represented by a consular officer the said papers shall be lodged by the master at the proper consulate. Any master who offends against the provisions of this section shall be liable to a fine of five hundred dollars.

[22(4)]

63. Any such master shall immediately strike spars, clear hawse, or shift berth, and generally follow such directions as having regard to the state of the weather, the condition of the port, or any other circumstances, the Director may deem it necessary to give with a view to the safety of the shipping and the proper regulation thereof. Any master who wilfully disobeys or neglects or fails to comply with the provisions of this section shall be liable to a fine of five hundred dollars.

Directions of Director to be followed.

64. (1) Any such master about to proceed to sea shall hoist a Blue Peter not less than eighteen hours before the time of intended departure, and shall give notice thereof, and if required shall state the nature of the intended voyage and the general description of the cargo to the Director who if there is no reasonable objection will furnish a port clearance, return the ship's papers, and attest the manifest, if necessary. A master having obtained such clearance and not sailing within thirty-six hours thereafter shall report to the Director his reason for not sailing, and shall re-deposit the ship's papers, if required.

Blue Peter to be hoisted and port clearance to be obtained before departure.

[22(6)]

(2) Any master who wilfully neglects or disobeys or fails to comply with the provisions of this section, or wilfully gives false information, or goes to sea without having obtained a port clearance, shall be liable on summary conviction to a fine of two thousand five hundred dollars and to imprisonment for six months.

[22(6)]

(3) If the intended voyage is to any port in China which, at any time is not open to foreign trade the Director may in his absolute discretion refuse to furnish a port clearance.

[22(6)]

65. No vessel of any description, whether a ship of war or otherwise, shall be allowed to anchor within any fairway which is set apart by the Director for the passage of vessels, and the master or other person in charge of any boat or other vessel dropping anchor in or otherwise obstructing such fairway shall be liable to a fine of one hundred dollars.

Fairways to be kept clear.

[24]

66. (1) Every junk under way in the waters of the Colony which is not mechanically propelled shall, from sunset till sunrise, carry either—

Lights on junks and certain lights on other vessels.

(a) the lights prescribed for sailing vessels under way by the international collision regulations; or

- (b) two bright white lights, one of which shall be placed at the foremast head and shall be of such a character as to be visible all round the horizon on a dark night with a clear atmosphere at a distance of at least one mile, and the other of which shall be placed in the stern at a height above the hull of not less than six feet, and shall also be of such character as to be visible all round the horizon at the said distance.

For every omission to comply with the requirements of this subsection, the master, or other person for the time being in charge shall be liable to a fine of two hundred dollars. [25(1)]

(2) Any ship, hulk, junk or other vessel (not being a boat propelled by oars) being at anchor or at moorings or alongside any wharf in the waters of the Colony shall from sunset to sunrise if under one hundred and fifty feet in length carry forward where it can best be seen but at a height not exceeding twenty feet above the hull a bright white light, visible all round the horizon at a distance of at least one mile, and if of one hundred and fifty feet or upwards in length shall carry such light at a height not less than twenty and not exceeding forty feet above the hull, and in either of such cases shall carry a similar light at or near the stern, at such a height that it shall not be less than fifteen feet lower than the forward light, and in default the owner or master shall be liable to a fine of two hundred dollars. [25(2)]

(3) In case of police assistance being required on board any ship owing to an outbreak of fire, or to a riot or disturbance which the master and his officers are unable to quell, if by day, the signal "S T" shall be hoisted, and, if by night, three lights in a vertical line, the highest and lowest lights white and the middle red. The day signal may be supplemented by the signal "N Q"—"I am on fire", and "R X"—"Want assistance—mutiny", and the night signal by a "flare up" every minute in the case of fire, or "blue lights" in the case of disturbance. A continuous sounding with any fog signal apparatus may, in addition, be adopted to attract attention in either case. [25(3)]

Power to make regulations. Regulations, Table 4.

67. The Governor in Council may by regulations prescribe or provide for the protection, management and navigation of the waters of the Colony, for the better and more effectual keeping of order therein, and for the prevention of any nuisance in the same. [25(4)]

68. (1) Any person who in the waters of the Colony— Offences.

- (a) unlawfully cuts, damages or destroys any of the ropes, cables, cordage, tackle, headfasts or any other furniture of or belonging to any vessel lying therein, with intent to steal or otherwise unlawfully obtain the same or any part thereof;
- (b) for the purpose of preventing seizure or discovery of any materials, furniture, stores or merchandize belonging to or having been part of the cargo of any vessel lying therein, or of any other articles unlawfully obtained from any such vessel, wilfully lets fall or throws into the waters aforesaid, or in any manner conveys away from any vessel, wharf, quay or landing place any such article;
- (c) casts or deposits any dead body, ballast, rubbish, oil or other substance into such waters without the written permission of the Director, or neglects within a reasonable time to remove any sunken vessel or other obstruction therein belonging to him or in his charge or keeping;
- (d) not being in Her Majesty's service and not being duly authorized by law for the purpose, goes on board any ship in such waters without the permission of the master or officer in charge of such ship;
- (e) not being in Her Majesty's service, makes fast to or causes to be made fast to a ship under way within such waters any boat or other vessel without the permission of the master or officer in charge of such ship;
- (f) being in charge of any boat plying for hire receives or lands passengers after 8 p.m. and before 5 a.m., except at such wharf as may be specified by regulations which the Governor in Council is hereby empowered to make, or except at any private wharf with the consent of the owner thereof; or
- (g) hires any vessel and refuses or neglects on demand by the person thereof to pay the lawful fare,

Regulations, Table 4.

shall be liable to a fine of one thousand dollars, or to imprisonment for six months. [26(1)]

(2) A police officer may take into custody any person offending against paragraph (b) of subsection (1), and may seize and detain any boat in which such person is found or out of which any article is let fall, thrown, or conveyed away. It shall

be lawful for the master or other person in charge of any ship to take into custody and deliver up forthwith to a police officer any person offending against paragraph (d) of subsection (1). [26(1)]

(3) No vessel shall—

- (a) lie alongside any public wharf or public landing place or alongside any part of any praya wall except when engaged in taking on board or landing passengers or cargo;
- (b) without a written permit from the Director be moored or at anchor, between 9 p.m. and 5 a.m., within a distance of less than one hundred yards from low water mark of such part of the Colony as may for the time being be specified in regulations: Provided that nothing contained in this paragraph shall be construed as extending to any vessel moored or at anchor alongside any private wharf with the written consent of the owner of such wharf;
- (c) lie alongside any other vessel, or any wharf or landing place, public or private, or any part of any praya wall, in such manner as to obstruct the free access of any vessel thereto;
- (d) lie alongside any other vessel without the consent of the master thereof;
- (e) lie alongside any private wharf or landing place without the consent of the owner thereof;
- (f) lie alongside any private wharf or landing place between 9 p.m. and 5 a.m. except with the written permission of the owner thereof,

and no raft or floating logs shall be moored alongside any wharf or landing place, public or private, or any part of the praya wall, in such manner as to obstruct the free access of any vessel thereto. [26(2)]

(4) Where any of the provisions of this Part require a vessel to have a written permit or written permission such provision shall not be deemed to be complied with unless the written permit or written permission is kept on board the vessel in question during the period during which it is required. [26(2)]

Regulations,
Table 4.

(5) Upon proof before a magistrate of any contravention of any of the provisions of subsection (3) the master or other person in charge of the vessel in question shall be liable to a fine of five hundred dollars or to imprisonment for three months. If the master or the person who was in charge of the vessel in question at the time of the contravention cannot be found, or if there was no person in charge at the time of the contravention, the licensee of the vessel in question shall, upon proof before a magistrate of the fact of the contravention, be liable to a fine of two hundred and fifty dollars, whether such licensee was aware of the contravention or not. [26(2)]

(6) Except in cases of ships of war, no cannon, gun, firearm or firework of any description shall be discharged, without the sanction of the Director, within such portions of the waters of the Colony as the Governor in Council may by regulations prescribe, from any ship, junk or boat, under a penalty not exceeding five hundred dollars. [26(3)]

(7) Any person who, by any unlawful act, or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person conveyed or being in or upon any vessel, or aids or assists therein, shall be liable to imprisonment for six months and to a fine of one thousand dollars. [26(4)]

69. The Director may, by written notice, require any person to remove, within a reasonable time to be specified in such notice, any obstruction, whether floating, submerged or sunk, in the waters of the Colony, caused by such person or belonging to him or in his charge or keeping. If such person fails to remove the obstruction within the specified time, the Director shall cause it to be removed, and may recover the expenses of removal from the person named in the notice. If no such person can be found, the obstruction, when removed by the Director, may be sold to defray the expense of such removal. [27]

70. (1) In the case of a sunken, stranded or abandoned vessel the Governor may if he thinks fit cause the vessel or any part thereof to be raised, removed, blown up or destroyed: Provided that such power shall not be exercised unless the Director shall have given twenty-four hours notice to the owner of the vessel or such other notice by advertisement or otherwise as the Governor shall deem adequate.

(2) The Director may cause any such vessel and the furniture and tackle and apparel thereof and the cargo, goods, chattels and effects thereof or any part thereof which may be raised or salvaged

Regulations,
Table 4.

Director
may
remove
obstruction,
etc.

Removal of
sunken,
stranded or
abandoned
vessels.

to be sold after giving such notice as appears reasonable to the owner, consignee or any other person and out of the proceeds may reimburse the Governor for any expenses under this section and for any expenses adjudged by the Governor to be reasonable expenses for marking, buoying, watching, lighting or otherwise controlling the vessel and shall hold the surplus subject to any customs, duties or other charges on behalf of the persons entitled thereto.

(3) If any person shall be aggrieved at the exercise of the discretion of any person under this section he may appeal to the Governor in Council and the provisions of the Administrative Appeals Rules shall apply thereto.

(Cap. 1, rules).

Breaking up and removal of vessels.

71. (1) If any person being the owner of any vessel or any wrecked, submerged, sunken or stranded vessel, or the duly authorized agent or servant of such owner, is desirous of breaking up such vessel prior to removal thereof from the waters of the Colony, such person shall, before commencing breaking up operations, obtain the written permission of the Director who shall be entitled to grant permission and in his discretion to require security in such reasonable amount as the Director may consider necessary to ensure the effective removal of such vessel or any portion thereof from the waters of the Colony. [27A(1)]

(2) Any person who, without the previous written permission of the Director, does or causes to be done any breaking up operations of any vessel or any wrecked, submerged, sunken or stranded vessel lying within the waters of the Colony shall be liable to a fine of three thousand dollars or to imprisonment for six months. [27A(2)]

Foreign wrecks, etc.

72. Where a foreign ship has been wrecked on or near the coasts of the Colony and such ship or any part thereof or any article belonging thereto or belonging and forming part of the cargo are found on or near such coasts, or are brought into the Colony, the consul general of the country to which the ship or in the case of cargo to which the owners of the cargo may have belonged, or any consular officer of that country authorized in that behalf by any treaty or arrangement with that country, shall in the absence of the owner and of the master or other agent of the owner be deemed to be the agent of the owner so far as relates to the custody and disposal of such ship and of any such articles as aforesaid. [27B]

73. (1) The Director shall place in the waters of the Colony such Government moorings and buoys as may in his discretion be required and shall allow the use thereof on such terms and conditions and for such fees as are prescribed by regulations. [28(1)]

Moorings and buoys.

Regulations, Table 4.

(2) No person shall keep or place moorings or buoys in the waters of the Colony except with the sanction of the Director and except on the conditions prescribed by regulations. Such moorings and buoys shall be of such nature and construction as the Director may approve. [28(2)]

(3) No person shall moor or anchor hulks or vessels within the waters of the Colony except with the sanction of the Director and except on such conditions and subject to the payment of such fees as may be prescribed by regulations. [28(3)]

(4) Moorings and buoys sanctioned by the Director under subsection (2) shall not be made use of by any ship other than the ships of the person to whom such sanction has been granted, except with the consent of such person or by the direction of the Director. The master of any ship using any such moorings and buoys without such consent or direction shall be liable to a penalty of fifty dollars for every day or part of a day during which he so uses such moorings and buoys after he has been requested to remove therefrom. [28(4)]

(5) The Governor in Council may by regulations prescribe and provide for the terms, conditions and fees for any of the purposes mentioned in this section. [28(5)]

74. (1) The Governor in Council may by regulations applicable to the waters of the Colony control, prescribe and provide for—

Regulations for control of fishing and fishing stakes and consequences of breach.

Regulations, Table 5.

(a) the management and working of all fishing operations generally in the waters of the Colony;

(b) registration, licensing, erection, maintenance, management and working of fishing stakes, including the places where the same may be erected, the distances of such stakes from the shore and from other such stakes, the depth of water for the same, their removal when out of repair or not in use, and the lighting, repair and cleaning of such stakes;

(c) generally in connexion with fishing stakes whether *ejusdem generis* with paragraph (b) or not;

(d) the fees to be charged for fishing stakes, according to their extent, situation and method. [29(1)(3)(4)]

(2) For the purpose of this section "fishing stakes" shall include any fishing station, fishing stakes and fishing stake-nets. [29(1)]

(3) Any fishing stakes established, renewed, altered or repaired contrary to the provisions of regulations made hereunder may be removed by the Director, and the owner or occupier thereof shall in addition to any penalty be bound if so required by the Director to pay the expenses of such removal and such expenses may be recovered by the Director by summary distress upon the property of such owner or occupier and by the sale of a sufficient portion of such property to pay such expenses. [29(2)]

Powers of police etc. to board, arrest and stop ship, etc.

75. (1) The Commissioner or any police officer not below the rank of sub-inspector and the Director or any officer of the Marine Department not below the rank of Assistant Marine Officer may enter at all times, with such police officers as he may think necessary, as well by night as by day, into and upon every ship, boat, junk or other vessel (not being or having the status of a ship of war) in the waters of the Colony, and into every part thereof, for the purpose of inspection, and of directing the conduct of any police officer who may be stationed on board, and of inspecting and observing the conduct of all other persons who may be employed on board, in or about lading or unlading, as the case may be, and for the purpose of taking all such measures as may be necessary for providing against fire or other accidents and preserving peace and good order on board, and for the effectual prevention or detection of any felonies or misdemeanors. [30(1)]

(2) The Commissioner or any police officer not below the rank of sergeant, having just cause to suspect that any felony or misdemeanor has been or is about to be committed in the waters of the Colony, may enter at all times, as well by night as by day, into and upon any ship, boat, junk or other vessel (not being or having the status of a ship of war), and take into custody all persons suspected of being concerned in such felony or misdemeanor, and may take charge of any property suspected of having been stolen or unlawfully obtained. [30(2)]

(3) Where, under this section, authority is given to any officer to enter upon any ship, boat, junk or other vessel, such officer may require the master or person in charge to stop such ship, boat, junk or other vessel to enable him to make such entry. Any master or person in charge who refuses or wilfully neglects to comply with such requirement shall be liable to a fine of one thousand dollars. [30(3)]

(4) Where any ship, boat, junk or other vessel has been lawfully required to stop under subsection (3) by a police officer in charge of a police launch flying the customary flag, or exhibiting a recognition signal authorized by the Commissioner of Police, and such ship, boat, junk or other vessel refuses to stop, it shall be lawful for such officer after causing a gun to be fired as a signal, to fire at or into such ship, boat, junk or other vessel, and such officer and every person acting in his aid or by his direction shall be and is hereby indemnified and discharged from any indictment, penalty, action or other proceeding for so doing: Provided that the Governor in Council may, in any case in which he considers that compensation should be made, order that compensation be paid out of the public revenue of the Colony for injury to person or property caused as a result of such firing. [30(4)]

[cf. 39 & 40 Vict. c. 36, s. 181.]

PART X.

LIGHTHOUSES, BUOYS AND BEACONS.

76. In this Part "buoy" and "beacon" include all other marks and signs of the sea, and "lighthouse" includes lightships and all floating and other lights exhibited for the guidance of ships. [31(1)]

Interpretation. [cf. pr. Act, s. 742.]

77. (1) The Governor may erect and maintain such light-houses, buoys or beacons for the guidance of ships, and lay, erect and maintain such cables, wires and other necessary apparatus for the purpose of telegraphic or other communication in connexion therewith or for such other purpose as the Governor in Council may think necessary. [31(2)]

Power to erect light-houses, etc.

(2) The Governor with the assent of the Legislative Council may raise by way of public loan on the security of the general revenue such sums of money as may be necessary for the purposes aforesaid and every loan so raised shall be a charge upon the said revenues. [31(3)]

(3) The Governor in the meanwhile with such assent as aforesaid may order the payment by way of temporary advance out of the Treasury of such sums of money arising from the general revenues as may be required for the purposes aforesaid: Provided always that all sums of money so advanced shall be repaid into the Treasury out of the sums which may be raised by way of loan under the provisions hereinbefore contained. [31(4)]

[31(4)]

Owner, etc., of ship to pay dues.

78. (1) The owner, agent or master of every ship which enters the waters of the Colony shall pay such dues as may be fixed by order of the Governor, pursuant to resolution of the Legislative Council, to such officer as the Governor may appoint to collect the same. All British and foreign ships of war and all vessels of less than twenty tons shall be exempt from the payment of the said dues. [32(1)]

Regulations, Table 4.

(2) The Governor in Council may by regulations prescribe or provide for the times, places and modes at and in which the dues shall be payable. [32(2)]

[cf. pr. Act, s. 647.]

(3) Tables of all dues and a copy of regulations in respect thereof shall be posted up at the office of the Director. [32(3)]

[cf. pr. Act, s. 651.]

(4) A receipt for the said dues as well as for any fees payable in respect of moorings or buoys shall be given by the person appointed to collect the same (hereafter in this section referred to as the collector) to every person paying the same, and the Director may refuse to grant a clearance to any ship if such receipt is not produced to him. [32(4)]

[cf. pr. Act, s. 650.]

(5) If the owner, agent or master of any ship fails on demand of the collector to pay the said dues in respect thereof the collector may in addition to any other remedy which he is entitled to use enter upon such ship and distrain the goods, guns, tackle or any other things of or belonging to or on board such ship, and detain such distress until the said dues are paid. If payment of the same is not made within the three days next ensuing such distress, the collector may at any time during the continuance of such non-payment cause the distress to be appraised by two sufficient persons and thereupon sell the same and apply the proceeds in payment of the dues unpaid together with reasonable expenses incurred by him under this section, paying the surplus, if any, on demand to the said owner, agent or master. [32(5)]

(6) In order to ascertain the burden of any ship liable to pay dues under this section, the collector may require the owner or master to produce the register of such ship for his inspection, and on the refusal or neglect of such owner or master to produce such register or to satisfy the collector as to what is the true burden of the ship he may cause such ship to be measured, and any expenses incurred in such measurement shall be recoverable from the owner or master of such ship in the same manner as dues payable under this section. Such measurement shall be deemed to be the real burden of the ship and may be treated as such for all the purposes of this section. [32(6)]

(7) The master of any ship who—

- (a) departs or attempts to depart from any port leaving unpaid the dues required to be paid under this section; or
- (b) refuses to have his ship measured to ascertain her burden in tons; or
- (c) obstructs any person in the duties of his office,

shall be liable to a fine of one thousand dollars. [32(7)]

79. (1) Any person who wilfully or negligently—

- (a) injures any lighthouse or the lights exhibited therein, or any buoy or beacon, or any cables, wires or other apparatus, either in connexion therewith or otherwise; or
- (b) removes, alters, injures or destroys any lightship, buoy or beacon, or any cables, wires or other apparatus, either in connexion therewith or otherwise; or
- (c) rides by, makes fast to, or runs foul of any lightship, buoy or beacon,

Penalty for injuring light-house, etc. [cf. pr. Act, s. 666.]

shall, in addition to the expenses of making good any damage so occasioned, be liable to a fine of five hundred dollars. [33(1)]

(2) The Governor in Council may by regulations provide for the protection of telegraph cables or wires, either in connexion with any lighthouse, lightship, buoy or beacon, or otherwise. [33(2)]

Regulations, Table 4.

80. (1) Whenever any fire or light is burnt or exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, the Director may serve a notice on the owner of the place where the fire or light is burnt or exhibited or on the person having charge of such fire or light either personally or by delivery at the place of abode of such owner or person, or by affixing the same in some conspicuous spot near to such fire or light, and by such notice may direct such owner or person within a reasonable time to be therein specified to take effectual means for extinguishing or effectually screening such existing fire or light. Any owner or person who fails to comply with such notice shall be deemed guilty of a common nuisance, and, in addition to any other penalties or liabilities of any kind thereby incurred, shall be liable to a fine of five hundred dollars or to imprisonment for six months. [35(1)]

Director may prohibit false light. [cf. pr. Act, s. 667 (1) to (3).]

[cf. pr. Act, s. 667(4).]

(2) If any owner or person fails to comply with such notice as aforesaid, the Director may enter into the place wherein the same may be, and forthwith extinguish such fire or light, doing no unnecessary damage. All expenses incurred by the Director in such extinction may be recovered from such owner or person as aforesaid. [35(2)]

PART XI.

EXPLOSIVES AND DANGEROUS GOODS.

Storage of explosives.

81. (1) The Governor may provide all necessary vessels and buildings for the storage of gunpowder and other explosives. Such vessels or buildings shall be termed the Government Gunpowder Depot, and shall be under the control and management of the Director, subject to such orders as may be received from the Governor, and such vessels or buildings shall be fitted and manned in such manner as the Director, with the approval of the Governor, may deem expedient. [36(1)(2)]

(2) It shall not be lawful for the master of any vessel to anchor within five hundred yards of the Government Gunpowder Depot, except by permission of the Director. [36(3)]

Director to be furnished with particulars of explosives due to arrive in the Colony.

82. (1) The master, agent or consignee of every vessel due to arrive in the Colony, having on board thereof as cargo any quantity of gunpowder or other explosive, shall not less than forty-eight hours before the arrival of such vessel in the Colony furnish the Director with a copy of the manifest of the same, the marks of all packages, and the names of the consignees if he knows the same. [36(4)]

(2) The master of every such vessel—

(a) shall on arrival, take the same to the dangerous goods anchorage or to the place specified to him by the Director, and the said vessel shall not be removed therefrom, without the written permission of the Director, until the cargo of explosives has been discharged or for the purpose of going to sea;

(b) shall hoist by day a red flag and show at night a red light at the fore truck, or where there is only one mast at the mast head, or where there is no mast on a pole at the bow, and shall keep such red flag flying by day or such red light showing by night so long as any gunpowder or other explosive is on board;

(c) shall not anchor such vessel within five hundred yards of any other vessel, except by permission of the Director. [36(5)(6)(7)]

83. (1) The master of every vessel about to take on board as cargo any quantity of gunpowder or other explosive shall give notice to the Director, and shall take the said vessel into the dangerous goods anchorage or into such other anchorage as the Director may deem expedient, and shall not remove therefrom except for the purpose of proceeding on his voyage or for some other sufficient cause to be approved by the Director. [36(8)]

Notice to Director and procedure when explosives are to be exported, shipped or landed.

(2) No gunpowder or other explosive shall be shipped, landed or transhipped within the waters of the Colony except with the permission of the Director. [36(9)]

84. (1) The Governor in Council may by regulations prescribe and provide for carrying out the provisions of this Part, and for the control, movement, carriage, landing, shipment and transhipment of explosives and the precautions to be taken in connexion therewith, and the sums chargeable for the storage of gunpowder, safety cartridges or other explosives. [36(12)]

Regulations for explosives and fees for storage, etc. Regulations, Table 6.

(2) The sums charged in respect of the storage of such gunpowder or other explosive shall be paid monthly by the party in whose name the same is or are stored, and, in the event of non-payment within twenty-one days after the money has become due and payable, the Governor may direct the said gunpowder or other explosive to be sold in order to defray the expense of storage, and the proceeds thereof after deducting all Government charges and the expenses of sale shall be paid to the party who proves himself entitled thereto to the satisfaction of the Governor. [36(13)]

85. Any person who violates, or refuses or fails to comply with the provisions of subsection (2) of section 81, subsection (1) or (2) of section 82, subsection (1) or (2) of section 83 or section 84 shall be liable to a fine of five hundred dollars or to imprisonment for six months. [36(14)]

Penalty.

86. (1) Nothing in this Part shall be deemed to affect the provisions of the Dangerous Goods Ordinance, 1873. [36(15)]

Savings. (1 of 1873.)

(2) Nothing in this Part shall apply to Her Majesty's ships of war, or to the ships of war of any foreign nation, or to hired armed vessels in Her Majesty's service or in the service of any foreign nation, or to any Government storage places. [36(16)]

Restrictions on carriage of dangerous goods. (1 of 1873.)

87. (1) Any person who sends or attempts to send by, or not being the owner or master of the vessel carries or attempts to carry in any vessel, any dangerous goods as defined by the Dangerous Goods Ordinance, 1873, without distinctly marking their nature on the outside of the container or package containing the same and giving written notice of the nature of such goods and of the name and address of the sender or carrier thereof to the owner or master of the vessel at or before the time of sending the same to be shipped or taking the same on board the vessel, shall be liable to a fine of five thousand dollars: Provided that if such person shows that he was merely an agent in the shipment of any such goods and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were dangerous goods, the fine to which he shall be liable shall be one thousand dollars. [15(1)]

(2) Any person who knowingly sends or attempts to send by or carries or attempts to carry in any vessel any such dangerous goods under a false description, or falsely describes the sender or carrier thereof, shall be liable to a fine of five thousand dollars. [15(2)]

(3) The owner or master of any vessel may refuse to take on board any package or container which he suspects to contain such dangerous goods and may require it to be opened to ascertain the fact. [15(3)]

(4) The Director may refuse a port clearance to any vessel carrying more than twenty passengers if there are on board any such dangerous goods which are not stowed to his satisfaction. [15(4)]

(5) Where any such dangerous goods have been sent or carried, or attempted to be sent or carried, on board any ship or vessel without being marked as aforesaid or without such notice having been given as aforesaid, and where any such goods have been sent or carried, or attempted to be sent or carried, under a false description, or the sender or carrier thereof has been falsely described, a magistrate may declare such goods and any package or receptacle in which they are contained to be forfeited, and they shall thereupon be disposed of as the magistrate may direct. [15(6)]

(6) The magistrate shall have and may exercise the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods may not have committed any offence under the provisions of this section relating to dangerous goods, and may not be before the magistrate, and may not have notice of

the proceedings, and notwithstanding that there may be no evidence of the ownership of the goods, but the magistrate may in his discretion require notice of such proceedings to be given to the owner or shipper of the goods before the same are forfeited. [15(7)]

(7) The provisions of this section shall be deemed to be in addition to and not in substitution for or in restraint of any other enactment for the like object, so nevertheless that nothing in the said provisions shall be deemed to authorize that any person is sued or prosecuted twice in the same matter. [15(8)]

PART XII.

TRAWLERS.

88. In this Part—

Interpretation.

“trawler” means any mechanically propelled vessel of non-primitive design and build of whatever tonnage, which engages in fishing operations for profit upon the high seas with nets, lines or trawls and which operates from this Colony as a Hong Kong registered British ship, but excludes any sailing or mechanically propelled fishing boat, junk or dinghy licensed under regulations made under section 102;

“voyage” means a fishing trip commencing with a departure from a port for the purpose of fishing, and ending with the first return to a port thereafter upon the conclusion of the trip when one of such ports is within the Colony: Provided that a return due to distress only shall not be deemed to be a return if it is followed by a resumption of the trip. [40]

89. (1) A certificate of competency as a trawling master shall if endorsed with the word “limited” permit the holder to command a trawler not exceeding one hundred and twenty feet registered length for the purpose only of fishing in an area bounded on the North by the parallel of 25 degrees North and on the South by the parallel of 15 degrees North and on the East by the meridian of 122 degrees East. [41(1)]

Certificate of competency as a trawling master.

(2) A certificate of competency as a trawling master without endorsement of the word “limited” shall permit the holder to command a trawler of any registered length for the purpose of fishing: Provided that such certificate shall not enable such holder to operate a trawler not exceeding one hundred and twenty feet registered length outside the area specified in subsection (1). [41(2)]

(3) A holder of a certificate of competency as a trawling master whether so endorsed or otherwise shall in so far as the holder does not contravene the provisions of this section be a duly certificated trawling master, and a holder of a Ministry of Transport certificate of competency as skipper (full) or skipper (limited) shall be deemed to be a duly certificated trawling master subject to such conditions and limitations as the Director shall prescribe in any particular case. [41(3)]

Voyages without certificated officers.

90. (1) A trawler shall not commence any voyage unless such vessel is provided with at least a duly certificated trawling master and trawler engineer and the master for the time being of any trawler contravening the provisions of this subsection shall be liable to a fine of one thousand dollars. [42(1)]

(2) Any person who having been engaged as a trawling master or trawler engineer in a trawler goes to sea without being entitled to and possessed of a certificate of competency or commands a trawler of registered length exceeding that which he is entitled to command under this Ordinance or who uses the trawler of which he is in command for fishing in waters to which the certificate does not extend, and any person who employs any person as a trawling master or trawler engineer without ascertaining that he is entitled to or possessed of such certificate as is required by this section, shall be liable to a fine of one thousand dollars. [42(2)]

Regulations applicable to trawlers. Regulations, Table 17.

91. (1) Without prejudice to the generality of other powers to make regulations conferred by this Ordinance, and without prejudice to the application of regulations made under such other powers except so far as they are inconsistent with regulations made under this section, the Governor in Council may by regulations control, prescribe or provide for—

- (a) the registry and conditions of sale and mortgage of trawlers, and the keeping of a trawler register and issuance of identification letters and numbers to such vessel;
- (b) the forms, period and conditions of agreement of crew, of reports of crew and of statements of change of crew, of wage accounts and certificates of discharge of crew, of records and reports of death, injuries, ill-treatment or punishment of crew and of every casualty to a trawler;
- (c) maintenance of discipline on board trawlers and also for the prevention of disorder and confusion;
- (d) examination, certification of competency and maintenance of a register of trawling masters, trawler engineers and other seamen;

- (e) duties and obligations of the owners, agents, masters, masters for the time being, engineers and crew of trawlers and the institution of inquiries into disputes between the above persons, and of inquiries into deaths, injuries ill-treatment or punishment of crew;
- (f) adequate means for preventing, by force if necessary, any trawlers from leaving, or attempting to leave the waters of this Colony or any port thereof in contravention of this Ordinance or of any regulations made thereunder;
- (g) examination, approval of suitability and annual or periodic surveys of trawlers, including hulls, machinery and equipment, for the purpose of certifying in such form as may be prescribed that such vessels are fit for their intended service;
- (h) scale of manning suitable for the intended service of trawlers to ensure that trawlers are not over nor undermanned, and to ensure that trawlers are not carrying passengers, save that the Director may permit experts or observers to be signed on as members of the crew for specific purposes or duties;
- (i) regulation of entry of boys under sixteen years of age into the sea-fishing service, and prescribing of forms of indenture and agreements with such boys and their enforcement; and
- (j) fees in respect of registration, permits, clearances, certificates, surveys and other documents or services relating to trawlers not otherwise provided for under this Ordinance. [43(1)]

(2) The Director may exempt any trawler from the provisions of any regulation made hereunder if he is satisfied that compliance therewith is either impracticable or unreasonable. [43(2)]

92. (1) Every trawling master, owner and agent shall comply with—

- (a) paragraph (a) of subsection (1) of section 3 as if the trawler were a ship trading in or from the waters of the Colony;
- (b) Part III as to all matters relating to the engagement and discharge of crew;
- (c) Part V as to the provision of medicines and medical stores on the appropriate scale as if the trawler were proceeding to a place outside the Colony;

Application of other provisions of the Ordinance to trawlers.

(d) Part VII and the rules and regulations for vessels of the types to which such Part applies made by the Minister under section 427 of the principal Act, as amended by section 2 of the Merchant Shipping (Safety Convention) Act, 1949: Provided that the Director may in individual cases by notice in writing permit such relaxations of such rules and regulations as are deemed necessary by him. [44(1)]

(12, 13 & 14 Geo. 6, c. 43).

Pr. Act, s. 376 (1) (i).

(2) Any seaman lawfully engaged to serve in any trawler either on a voyage agreement or on a running agreement, and any apprentice or boy lawfully indentured in the sea-fishing service, shall be subject to the provisions of Part IV relating to desertion and other offences. In addition, for the offence of smuggling, that is to say for any act of smuggling of which any member of a crew is convicted and which causes loss or damage to the master or owner or agent, he shall be liable to forfeit a sum sufficient to reimburse that loss or damage. [44(2)]

(3) A master of a trawler shall be liable to punishment for the offences of desertion, absence without leave, wrongfully quitting the vessel, wilful damage, and smuggling, as if he were a seaman. [44(2)]

PART XIII.

FERRY VESSELS, LAUNCHES AND RIVER STEAMERS.

Application to ferry vessels, launches, etc. Interpretation.

93. (1) This Part applies to ferry vessels, launches and river steamers, which expressions in this Part shall be interpreted as follows—

“ferry vessel” means any steam or motor vessel which plies regularly for the conveyance of persons or of persons and things between two or more points within the Colony;

“launch” means any mechanically propelled vessel of European type not exceeding sixty tons, and includes motor-boat;

“river steamer” bears the meaning specified in section 2.

(2) In this Part,

“owner” includes charterer and agent;

“passenger” means any person carried in a vessel other than the master and crew, and other than a child under one year of age. [37(1)]

94. (1) Without prejudice to the generality of other powers to make regulations conferred by this Ordinance, and without prejudice to the application of regulations made under such other powers except so far as they are inconsistent with regulations made under this section, the Governor in Council may in respect of vessels to which this Part applies by regulations control, prescribe and provide for—

Regulations applicable to such vessels.

Regulations, Table 13.

(a) licensing, regulation and control of such vessels, and of the owners, masters and engineers thereof;

(b) fees in respect of licences, permits, clearances, certificates, surveys and other documents and services;

(c) duties of the owners, masters and engineers;

and generally for the purpose of carrying into effect the provisions of this Part. [37(2)]

(2) The Director shall by regulation appoint suitable anchorages in the waters of the Colony to be called anchorages for ferry vessels and launches. [37(2A)]

95. (1) If any unlicensed ferry vessel or launch carries more persons than might lawfully be carried under the regulations made under this Part, having regard to the size of such vessel, the amount of space available, and the part or parts of the waters of the Colony in which such vessel has carried such persons, or if any licensed ferry vessel or launch carries more person than may lawfully be carried under the conditions of the licence, the owner and master shall be liable to a fine of five hundred dollars, and also to an additional fine of one hundred dollars for every person above the number so allowed, and to imprisonment for six months. [37(4)]

Offences in respect of such vessels.

(2) Any person who places on the safety valve of any licensed ferry vessel or launch any greater pressure than is allowed under the conditions of the licence, shall be liable to a fine of five hundred dollars and to imprisonment for six months. [37(5)]

(3) Any person who places on the safety valve of any unlicensed ferry vessel or launch any greater pressure than would have been lawful if the ferry vessel or launch had been surveyed immediately before the occurrence of the alleged offence and had been licensed under this Part, shall be liable to a fine of five hundred dollars and to imprisonment for six months. [37(6)]

(4) Any owner or master of any ferry vessel or launch who permits the same to ply while in an unseaworthy or unsafe condition, whether by reason of overloading or from any other

cause whatsoever, shall be liable to a fine of two thousand dollars and to imprisonment for six months. [37(7)]

(5) Any person holding a licence by virtue of regulations made under section 94 who commits a breach of a condition of such licence shall be liable to a fine of one thousand dollars. [37(3)]

Inspection.

96. The Director or a Government surveyor, or any person so authorized by either of them, may go on board any ferry vessel or launch at any time for the purpose of inspecting the same, and any person who shall obstruct any such inspection shall be liable to a fine of five hundred dollars. [37(8)]

Cancellation or suspension of licence and of certificate of competency.

97. (1) The Director may cancel or suspend for any period, the licence of any ferry vessel or launch if a Government surveyor reports to him that from any cause the said ferry vessel or launch is unfit for the service for which it is intended, or if at any time he ceases to approve of the sureties to any bond given under the provisions of any regulation made under this Part, or if from any other cause any such bond is or becomes invalid or ceases to be in force. [37(9)]

(2) The Governor in Council, for any cause which he may think fit, may cancel the licence of any ferry vessel or launch or suspend it for any period. [37(10)]

(3) The Director may cancel, or suspend for any period, any local certificate of competency issued by virtue of the provisions of this Part, if it is proved to his satisfaction after due inquiry that the holder of the certificate has been guilty of any incompetency or negligence in the performance of his duties as master or engineer as the case may be: Provided that a person aggrieved by a decision of the Director under this subsection may within fourteen days thereof by notice in writing delivered to the Registrar of the Supreme Court appeal to such judge, district judge, or magistrate as the Chief Justice may nominate, and upon appeal such decision may be confirmed, varied or set aside as may seem just. [37(11)]

(4) The Governor in Council, for any cause which he may think fit, may cancel any local certificate issued by virtue of the provisions of this Part or suspend it for any period. [37(12)]

(5) If, upon the cancellation or suspension of any such licence or certificate the licensee or the holder of the certificate or any person in possession of such licence or certificate, fails to deliver up the licence or certificate to the Director forthwith upon demand he shall be liable to a fine of one thousand dollars. [37(13)]

98. Any master or other person in charge of any ferry vessel or launch who shall disobey any lawful order of the Director shall be liable to a fine of one thousand dollars. [37(14)] Dis-obedience of order of Director.

99. (1) The provisions of this Part, other than subsection (3) of section 97 and of subsection (2) hereof, shall not apply to any ferry vessel or launch which is the property of Her Majesty or of any foreign state. [37(15)] Exemption.

(2) Nothing in this Ordinance shall be construed as exempting ferry vessels or launches from compliance with international collision regulations insofar as such regulations are applicable. [37(16)] Pr. Act, s. 418.

100. (1) Every passenger certificate issued to a river steamer shall specify the number of passengers which she may lawfully carry. [38(1)] Regulations as to passenger certificates for river steamers.

(2) Such number shall be subject to such conditions as the Governor in Council by regulations may direct. [38(2)] Regulations, Table 12.

(3) The owner or master of any river steamer leaving or entering the waters of the Colony with passengers on board in excess of the number authorized by her passenger certificate shall be liable to a fine of five hundred dollars, and, in addition, to a fine of one hundred dollars for every passenger on board in excess of the number authorized by her passenger certificate, and to imprisonment for six months. [38(3)]

(4) The owner or master of any river steamer which has no valid passenger certificate, entering or leaving the Colony with passengers on board in excess of the number which having regard to the circumstances she is allowed to carry, shall be liable to a fine of five hundred dollars, and in addition to a fine of one hundred dollars in respect of each such excess passenger.

PART XIV.

SMALL CRAFT NOT OTHERWISE PROVIDED FOR.

101. (1) This Part shall apply to cargo junks, fishing junks, hulks, lighters, trading junks, waterboats, all small boats (except pleasure boats) and all boats included in the definition of junk contained in section 2, all of which such vessels are in this Part referred to by the term "vessel". Application to junks, lighters and other craft. Interpretation.

(2) In this Part—

“master” includes any person for the time being in charge or command of any vessel: Provided that no person under the age of sixteen years shall be deemed to be the master of any vessel and provided further that if any vessel is left in charge or command of a person under the age of sixteen, the person whose name appears in the licence book of that vessel as master shall be deemed to be the master thereof. [39(1)]

“passenger” means any person carried in a vessel other than the master and crew, and other than a child under one year of age.

Regulations,
Table 14.

102. The Governor in Council may by regulations in respect of vessels to which this Part applies control, prescribe and provide for—

- (a) licensing and regulation of such vessels, and of the owners, agents, masters, engineers and crew thereof;
- (b) fees in respect of licences, permits, clearances, certificates, surveys and other documents and services;
- (c) duties of the owners, agents, masters and engineers;
- (d) methods of enforcement of discipline within the waters of the Colony and for the prevention of disorder or confusion;
- (e) scales of fares to be charged in respect of cargo junks, lighters and all small boats;
- (f) registration of persons dwelling in such vessels;
- (g) adequate means for preventing by force when necessary any vessel leaving the waters of the Colony or any port in contravention of this Part or any regulation made thereunder;
- (h) suitable anchorages in the waters of the Colony to be called anchorages for junks,

and generally for the purpose of carrying into effect the provisions of this section. [40(2)]

Powers of
arrest,
provision
for sale of
vessels, etc.

103. (1) Any vessel, the master, owner or licensee of which is charged with having violated the provisions of this Part or of any regulation made thereunder may be forthwith arrested and detained unless bail to the satisfaction of a magistrate is given until he shall either have been acquitted or if found guilty shall have paid the fine inflicted upon him, and in case he shall fail to pay within ten days any fine inflicted upon him the same may

be recovered by the sale of such vessel, and the balance if any of the net proceeds thereof after deducting therefrom the expenses of such sale and the amount of such fine shall be paid to the owner of the vessel if claimed within six months from the date of the sale, and if not claimed within that period shall be forfeited: Provided that in case the master or licensee is convicted and it shall be brought to the knowledge of the magistrate that there is in the Colony any owner or agent of such vessel no sale thereof shall be made until three days notice shall have been given to him in writing. [39(4)]

(2) Any vessel forfeited or sold under this section shall be transferred to the purchaser thereof, at his expense, by a bill of sale from the Director which shall confer upon such purchaser, his executors, administrators and assigns an absolute title to such vessel. [39(5)]

104. (1) Any master of a vessel licensed to carry passengers which shall have on board thereof a greater number of passengers than the number allowed by the licence shall be liable to a fine of five hundred dollars and an additional fine of fifty dollars for every passenger above the number so allowed and to imprisonment for six months. [39(6)]

Penalties for carrying passengers in excess of number allowed by licence, or without a licence.

(2) If the master of any vessel carries passengers without a licence in that behalf issued by the Director he shall be liable to a fine of one thousand dollars and an additional fine of fifty dollars for every passenger so carried and to imprisonment for six months.

PART XV.

DETENTION OF SHIP IN CERTAIN EVENTS.

105. Where under this Ordinance it is enacted that, under certain conditions, a ship shall not leave the waters of or any port of the Colony, the Director may under such conditions detain the ship until he is satisfied that the provisions of the law have been fulfilled. [45(6)]

Power to detain ship in certain cases. [cf. pr. Act, s. 692 (3).]

106. (1) Where under this Ordinance a ship is authorized or ordered to be detained, if the ship, after such detention or after service on the master of any notice of or order for such detention, proceeds or attempts to proceed to sea before having been released by competent authority, the master of the ship, and also the owner or agent, and any person who sends the ship to sea, if such owner, agent or person is party or privy to the offence, shall be liable to a fine of five thousand dollars. [45(7)]

Penalty for taking detained ship to sea. [cf. pr. Act, s. 692 (1).]

[cf. pr. Act, s. 692 (2).]

(2) Where a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any officer authorized to detain the ship or any surveyor or officer appointed by the Governor, the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer or surveyor being so taken to sea, and shall also be liable to a fine of one thousand dollars, or, if the offence is not prosecuted summarily, of one hundred dollars for every day until the officer or surveyor returns or until such time as would enable him, after leaving the ship, to return to the port from which he was taken, and such expenses may be recovered in like manner as the penalty. [45(8)]

Notice to be given to nearest consular officer where proceedings taken in respect of a foreign ship. 22 Geo. 5, c. 9, s. 69 & 12, 13 & 14 Geo. 6, c. 43, s. 35.

107. Where any foreign ship is detained under the Merchant Shipping (Safety and Load Line Conventions) Act, 1932, or under the Merchant Shipping (Safety Convention) Act, 1949, as such have been extended to the Colony, and where any proceedings are taken under either such Acts against the master or owner of any such ship, notice shall forthwith be given to the nearest consular officer for the country to which the ship belongs, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken. [45(3A)]

PART XVI.

EVIDENCE, REGULATIONS, FEES AND ABSTRACT OF ORDINANCE.

Rule as to proof of exception, etc. [cf. pr. Act, s. 697.]

108. Any exception, exemption, proviso, excuse or qualification in relation to any offence under the Merchant Shipping Acts or under this Ordinance, whether it does or does not accompany in the same section the description of the offence, may be proved by the defendant, but need not be specified or negatived in any information or complaint, and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant. [45(9)]

Use of official log and articles of agreement as evidence. [cf. pr. Act, s. 239 (6).]

109. In any proceeding in court against any person for a breach of the provisions of this Ordinance, all entries in the official log and the articles of agreement shall be received in evidence subject to all just exceptions. [45(10)]

Service of documents. [cf. pr. Act, s. 696 (1).]

110. (1) Where, for the purposes of this Ordinance, any document is to be served on any person, that document may be served—

- (a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode; and

- (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship with the person being or appearing to be in command or charge of the ship;
- (c) if the document is to be served on the master of a ship, where there is no master and the ship is in the Colony on the managing owner of the ship, or if there is no managing owner on some agent of the owner residing in the Colony, or where no such agent is known or can be found by affixing a copy thereof to the mast of the ship.

(2) Any person who obstructs the service of any document on the master of a ship shall be liable to a fine of two hundred dollars, and if the owner, agent or master of the ship is party or privy to such obstruction, he shall be guilty of a misdemeanor. [45(5)]

[cf. pr. Act, s. 696(2).]

111. (1) In addition to the powers hereinbefore given the Governor in Council may by regulations control, prescribe or provide for—

Regulations. General powers.

- (a) prohibiting, restricting or regulating in any manner whatsoever the embarkation or landing of persons or things on or from vessels of all kinds including the ships of war of any foreign nation;
- (b) forms to be used for the purpose of this Ordinance or of regulations under the Ordinance;
- (c) fees to be paid in respect of registration or the grant of certificates, clearances, licences, permits and other documents, or the performance of services or surveys or grant of facilities under the Ordinance or regulations made under the Ordinance;
- (d) the better and more effectual carrying out of the provisions of this Ordinance.

Regulations, Tables 4, 15, 16, etc.

(2) Where power has been given under any Part of this Ordinance to make regulations it shall be deemed to include power to prescribe contraventions of such regulations which shall be offences and to prescribe penalties therefor: Provided that no penalty so prescribed shall exceed a fine of one thousand dollars and imprisonment for six months.

Payment of remuneration to certain persons.

112. (1) There may be paid out of the revenue to any officer or person appointed under this Ordinance, or to any member of a marine court or court of survey, or to any assessor, such remuneration as this Ordinance directs, or in so far as this Ordinance does not extend as the Governor may direct. [47(1)]

(2) There may be paid out of the revenue all costs and compensation payable by the Governor or the Government in pursuance of this Ordinance. [47(2)]

Regulations, Table 16.

(3) The fees prescribed by the Governor in Council are hereby declared to be payable to the collector appointed by the Governor, and the same and all other fees payable under this Ordinance may be recovered summarily before a magistrate. [47(3)]

Abstract of portions of Ordinance to be given to master on arrival.

113. An abstract of such portions of this Ordinance as the Governor may approve, together with such other information as he may deem expedient, the whole to be known as the Hong Kong Port Regulations, shall be delivered to the master of every vessel at the time when the vessel enters the waters of the Colony; and if, before obtaining clearance, the master does not return such abstract to the Director, he shall pay such fees as shall be prescribed by regulations. [48]

Regulations, Table 16.

PART XVII.

APPLICATION, EXEMPTIONS, CONSEQUENTIAL PROVISIONS AND SUSPENDING CLAUSE.

Modified application of Merchant Shipping Acts. [cf. pr. Act, ss. 264 & 735.]

114. (1) Such of the provisions of the Merchant Shipping Acts as apply to this Colony and are inconsistent with the provisions of this Ordinance are hereby repealed so far as they relate to ships registered in this Colony. But in all other respects the provisions of the said Acts shall be deemed to be in force in the Colony, so far as they are applicable thereto, and to extend, so far as they can be extended, to all ships registered in the Colony and to the owners, masters and crews of such ships: Provided however that the provisions of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932, and of the Merchant Shipping (Safety Convention) Act, 1949, shall extend to the Colony and to ships registered therein and their owners, masters and crews only to the extent that the same shall have been extended to the Colony by Order of Her Majesty in Council. [45(1)]

(22 & 23 Geo. 5, c.9).

(12, 13 & 14 Geo. 6, c.43.)

[cf. 22 Geo. 5, c. 9, s. 72.]

(2) Any misdemeanor or other offence under any of the said Acts or under this Ordinance may be prosecuted, heard and

determined summarily by any magistrate in accordance with the provisions of the Magistrates Ordinance: Provided that any fines expressed in terms of English currency that may be imposed shall be paid in local currency calculated at the rate of one shilling and threepence to the dollar. [45(3)] (Cap. 227).

115. (1) The Governor in Council may, if he thinks fit, and upon such conditions (if any) as he thinks fit to impose, exempt any vessel from any specified requirement contained in, or prescribed in pursuance of, this Ordinance, or dispense with the observance of any such requirement in the case of any vessel, if he is satisfied that that requirement has been substantially complied with in the case of that vessel, or that compliance with the requirement is unnecessary in the circumstances of the case, and that the action taken or provision made as respects the subject matter of the requirement in the case of the vessel is as effective as, or more effective than actual compliance with the requirement: Provided that the Colonial Secretary shall in the month of January in each year lay before Legislative Council a special report stating the cases in which the Governor in Council has exercised his powers under this subsection during the preceding year, and the grounds upon which action has been taken in each case. [4(19A)] Dispensing power and exemption. [6 Edw. 7, c. 48, s. 78.]

(2) This Ordinance shall not, except where otherwise specially provided, apply to Her Majesty's ships of war or to the ships of war of any foreign nation nor shall it apply except so far as regards Parts IX, X, XIII, XV and XVI to pleasure yachts, nor to the owners, masters and crews thereof. [49]

116. Without prejudice to the general application of subsection (2) of section 7 of the Interpretation Ordinance, the amendments specified in the second column of the First Schedule are made to the ordinances specified in the first column of such schedule. Consequential amendments. (Cap. 1). First Schedule.

117. (1) The enactments specified in the Second Schedule are hereby repealed. Repeal. Regulations. Second Schedule.

(2) Without prejudice to the general application of subsection (2) of section 9 of the Interpretation Ordinance the enactments, instruments, and regulations made or prescribed by or under any enactment repealed by this Ordinance shall remain in force so far as they are not inconsistent with the provisions hereof and until they shall have been expressly repealed or shall have been replaced by the rules and regulations specified in the Third Schedule. Third Schedule.

(3) Any of the tables specified in the Third Schedule and any other table of rules or regulations authorized in this Ordinance, together with any amendments thereto, may be promulgated by publication in the *Gazette* or if the Governor in Council thinks fit by publication in the *Gazette* of rules or regulations signifying the approval of the Governor in Council to the coming into operation of such tables.

Suspending clause.

118. This Ordinance shall not come into operation unless and until the Governor notifies by proclamation that it is Her Majesty's pleasure not to disallow the same and thereafter it shall come into operation upon such day as the Governor shall by the same or any other proclamation appoint.

FIRST SCHEDULE. [section 116]
Ordinances Amended.

Ordinance affected	Amendment
1. Carriage of Goods by Sea Ordinance (Chapter 46 of the Revised Edition, 1950).	Section 7 is amended by the deletion in subsection (1) of the words "section 15 of the Merchant Shipping Ordinance, 1899," and the substitution therefor of the following— "section 87 of the Merchant Shipping Ordinance, 1953,".
2. Light Dues (Bahamas and Leeward Islands) Ordinance (Chapter 79 of the Revised Edition, 1950).	Section 5 is amended by the deletion of the words "section 32 of the Merchant Shipping Ordinance, 1899," and the substitution therefor of the following— "section 78 of the Merchant Shipping Ordinance, 1953,".

SECOND SCHEDULE. [section 117]
Enactments repealed.

Short title.	Number and year.
1. Merchant Shipping Ordinance, 1899.	10 of 1899
2. " " Amendment Ordinance, 1901.	31 of 1901
3. " " Consolidation Amendment Ordinance, 1903.	2 of 1903
4. Merchant Shipping Amendment Ordinance, 1905.	5 of 1905
5. " " " " , 1906.	16 of 1906
6. " " " " , 1909.	9 of 1909

Short title.	Number and year.
7. Merchant Shipping Further Amendment Ordinance, 1910.	6 of 1910
8. Merchant Shipping Amendment Ordinance, 1911.	48 of 1911
9. " " " " , 1912.	34 of 1912
10. " " " " , 1913.	25 of 1913
11. " " " " , 1917.	13 of 1917
12. " " " " , 1931.	5 of 1931
13. " " " (No. 2) " , 1931.	11 of 1931
14. " " " " , 1932.	23 of 1932
15. " " " " , 1933.	28 of 1933
16. " " " " , 1934.	6 of 1934
17. " " " (No. 2) " , 1934.	25 of 1934
18. " " " " , 1935.	28 of 1935
19. " " " " , 1936.	47 of 1936
20. " " " " , 1937.	22 of 1937
21. " " " " , 1939.	22 of 1939
22. " " " " , 1940.	4 of 1940
23. " " " " , 1946.	28 of 1946
24. " " " " , 1949.	2 of 1949
25. " " " (No. 2) " , 1949.	32 of 1949
26. Emergency (Merchant Shipping Ordinance, 1899) (Amendment) Regulations, 1951.	G.N.A. 1 of 1951

THIRD SCHEDULE. [section 117].
Tables of Rules and Regulations.

Table.	Short title.
1.	Certificates of Competency (Masters & Mates) Rules.
2.	Certificates of Competency (Engineers) Rules.
3.	Mercantile Marine Office Regulations.
4.	Control of Ports and Waters Regulations.
5.	Control of Fishing Regulations.
6.	Explosives Regulations.
7.	Courts of Survey Regulations.
8.	Marine Courts Regulations.
9.	Instructions for Surveyors.
10.	Life Saving Appliances Regulations.
11.	Fire Appliances Regulations.
12.	Minimum Passenger Space Regulations.
13.	Ferries, Launches and River Steamers Regulations.
14.	Small Craft Regulations.
15.	Survey and Survey Fees Regulations.
16.	Registry & Other Fees Regulations.
17.	Trawlers Regulations.

Passed the Legislative Council of Hong Kong, this 24th day of June, 1953.

Deputy Clerk of Councils.

(Secretariat 1/7/2571/47)

HONG KONG

NO. 15 OF 1953.

I assent.



[Handwritten signature]
Governor.

25th June, 1953.

An Ordinance further to amend the Land Transactions (Enemy Occupation) Ordinance, Chapter 256.

[26th June, 1953.]

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

1. This Ordinance may be cited as the Land Transactions (Enemy Occupation) (Amendment) Ordinance, 1953. Short title.

2. Section 3 of the Land Transactions (Enemy Occupation) Ordinance (hereinafter referred to as the principal Ordinance) is amended by the deletion from the fifth line of subsection (2) of the words "five years" and the substitution therefor of the following— Amendment of section 3. (Cap. 256).

"six years".

Amend-
ment of
section 4.

3. Section 4 of the principal Ordinance is amended by the deletion from the first and fourth lines of the words "five years" and the substitution therefor of the following—

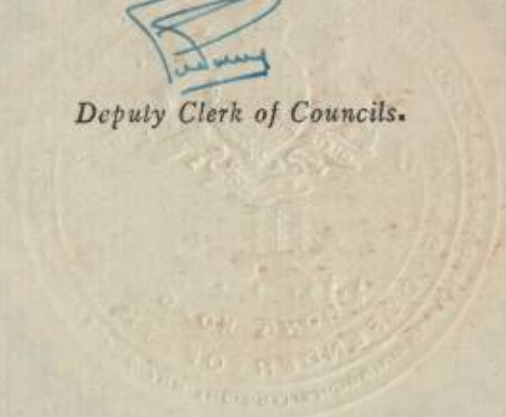
"six years".

Passed the Legislative Council of Hong Kong, this 24th day of June, 1953.



Deputy Clerk of Councils.

(Secretariat 4/741/52)



HONG KONG

No. 16 OF 1953.



I assent.



Governor.

25th June, 1953.

An Ordinance to amend the Supreme Court Ordinance, Chapter 4.

[26th June, 1953.]

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

1. This Ordinance may be cited as the Supreme Court Short title. (Amendment) Ordinance, 1953.
2. Section 8 of the Supreme Court Ordinance (hereinafter referred to as the principal Ordinance) is amended—
 - (a) by the substitution in the sixth line of subsection (1) of a full stop for the comma after the word "estates" and the deletion of the words thereafter to the end of the subsection;
 - (b) by the repeal of subsection (2) and the substitution therefor of the following two subsections—

Amendment
of section 8.
(Cap. 4).

“(2) The Supreme Court shall have in addition such jurisdiction as may be exercised in England by the Lord Chancellor or other judge or judges of the Supreme Court of Judicature under the provisions of the Lunacy and Mental Treatment Acts, 1890 to 1930, and for such purpose—

(20 & 21
Geo. 5,
c. 23).

(53 Vict.
c. 5).

- (a) the expression “the Lunacy and Mental Treatment Acts, 1890 to 1930” shall have the meaning attributed thereto in section 22 of the Mental Treatment Act, 1930;
- (b) “Great Seal” in the Lunacy Act, 1890, shall include the seal of the Supreme Court;
- (c) the provisions of the said Acts with respect to the Lord Chancellor or the Court of Chancery or any judge in England shall be interpreted to include the Supreme Court in its equity jurisdiction and the judges thereof;
- (d) the functions and powers of the Master in Lunacy in England shall be exercised by the Registrar of the Supreme Court;
- (e) the functions and powers of the Official Solicitor in Lunacy shall be exercised by the Registrar General;
- (f) every officer (however designated) of the Supreme Court or judge thereof having or executing functions of the like kind or analogous to the functions of any officer (however designated) acting under the direction of the Lord Chancellor, or of the Court of Chancery, or of any judge in England, shall be deemed to be within the meaning of any of the provisions of the said Acts respecting such last-mentioned officers;
- (g) the forms contained in the schedules to any of the said Acts may be used in the Colony in the cases to which they respectively have reference with such variations and additions as circumstances may require.

(2A) Without prejudice to the generality of section 37, rules of court made thereunder may provide for the percentage and fees payable in proceedings relating to persons of unsound mind and their estates and for

regulating the mode in which the same are to be ascertained and paid. The percentage, or a proper proportionate part thereof as the case may be, shall be charged upon and be payable out of the estate of a person of unsound mind, but a judge in lunacy may in his discretion remit or reduce the sum to be paid.”

3. Section 17 of the principal Ordinance is amended by the insertion in both cases after the words “rules of court” in the second line of subsection (5) and the third line of subsection (6) of the following—

Amendment
of section
17.


“or under or by virtue of this Ordinance”.

4. Section 24 of the principal Ordinance is amended by the deletion of the first two lines of subsection (2) and the substitution therefor of the following—

Amendment
of section
24.

“(2) The long vacation shall commence on the 1st day of August and terminate on the 11th day of September.”

Passed the Legislative Council of Hong Kong, this 24th day of June, 1953.


Deputy Clerk of Councils.

(Secretariat 41/3231/50)

HONG KONG

No. 17 OF 1953.



I assent.

McCartney
Governor.

25th June, 1953.

An Ordinance to amend the Births Registration (Special Registers) Ordinance, Chapter 175.

[26th June, 1953.]

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

1. This Ordinance may be cited as the Births Registration (Special Registers) (Amendment) Ordinance, 1953. Short title.
2. Section 8 of the Births Registration (Special Registers) Ordinance is amended by the repeal of subsection (4) and the substitution therefor of the following— Amendment of section 8.
(Cap. 175).

"(4) Every entry and every certified copy of an entry in the No. 2 register (1872), the No. 2 register (1896) or the No. 2 register (1934) shall be received as proof that evidence (other than a certified and sealed copy of an entry of birth) to the satisfaction of the Registrar has been produced that the birth to which such entry or certified copy thereof relates was registered in the appropriate lost register."

Passed the Legislative Council of Hong Kong, this 24th day of June, 1953.


Deputy Clerk of Councils.

(Secretariat 1/4781/47)

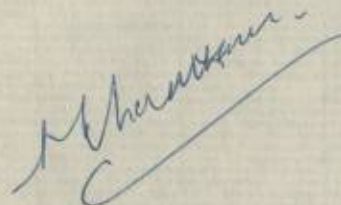


HONG KONG

No. 18 OF 1953.

I assent.





Governor.

25th June, 1953.

An Ordinance to amend the Deaths Registration (Special Registers) Ordinance, Chapter 176.

[26th June, 1953.]

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

1. This Ordinance may be cited as the Deaths Registration (Special Registers) (Amendment) Ordinance, 1953. Short title.

2. Section 8 of the Deaths Registration (Special Registers) Ordinance is amended by the repeal of subsection (4) and the substitution therefor of the following— Amendment of section 8.
(Cap. 176).

“(4) Every entry and every certified copy of an entry in the No. 2 register (1896) or the No. 2 register (1934) shall be received as proof that evidence (other than a certified and sealed copy of an entry of death) to the satisfaction of the Registrar has been produced that the death to which such entry or certified copy thereof relates was registered in the appropriate lost register.”

Passed the Legislative Council of Hong Kong, this 24th day of June, 1953.



Deputy Clerk of Councils.

(Secretariat 1/4781/47)

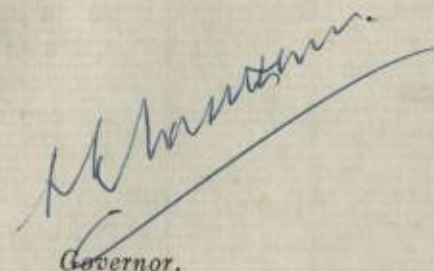


HONG KONG

No. 19 OF 1953.



I assent.



Governor.

25th June, 1953.

An Ordinance to amend the Medical Registration Ordinance, Chapter 161.

[1st July, 1953.]

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

1. This Ordinance may be cited as the Medical Registration (Amendment) (No. 2) Ordinance, 1953, and shall come into operation on the 1st day of July, 1953.

Short title and commencement.

2. Section 2 of the Medical Registration Ordinance (hereinafter referred to as the principal Ordinance) is amended by the substitution of a semicolon for the full stop at the end of the definition of the word “practise”, and by the insertion therein, after the said definition, of the following definition—

Amendment of section 2. (Cap. 161).

“provisional registration” means registration by virtue of section 10D, and the expression “provisionally registered” shall be construed accordingly.’

Addition of new sections 10A, 10B, 10C and 10D.

3. The principal Ordinance is amended by the addition, after section 10, of the following new sections—

“Full Registration not to be granted without proof of experience.

10A. No person shall be registered, otherwise than by way of provisional registration, unless—

- (a) in the case of a person claiming registration by virtue of a degree of medicine and surgery granted by the University of Hong Kong, it is certified under section 10B that he has had the experience required by that section; or
- (b) in the case of a person claiming registration otherwise than by virtue of a degree of medicine and surgery granted by the University of Hong Kong, the Medical Board is satisfied that he has had the experience required by section 10C.

Provided that if by virtue of a degree of medicine or surgery granted by the University of Hong Kong a person was before the 1st day of July, 1953, entitled to registration but in lieu of applying for the same such person left the Colony he shall upon application to the Medical Board at any time thereafter be entitled to full registration if the Medical Board is satisfied that he has had the experience required by section 10C.

Certificate of experience.

10B. (1) A certificate for the purposes of paragraph (a) of section 10A shall not be granted in respect of any person unless, after passing a qualifying examination, he has been employed in a resident medical capacity in one or more approved hospitals or approved institutions for the prescribed period.

(2) For the purposes of subsection (1), the expression “qualifying examination” means an examination which has to be passed to obtain a qualification which by virtue of the provisions of section 10 entitles the holder thereof to registration under this Ordinance.

(3) A person satisfying the condition specified in subsection (1) may apply for a certificate under this section to the University of Hong Kong, and if the University is satisfied—

- (a) that during the time the applicant has been so employed as aforesaid he has been engaged in the practice of medicine and surgery for such respective periods as may be prescribed; and
- (b) that his service while so employed has been satisfactory,

the University shall grant, in such form as may be prescribed, a certificate that it is so satisfied.

(4) Any period during which an applicant, while employed as mentioned in subsection (1), has been engaged in midwifery, not exceeding such period as may be prescribed, shall be counted for the purposes of paragraph (a) of subsection (3) either as time spent in medicine or as time spent in surgery, as the applicant may elect.

(5) Where, during any period of such employment as is referred to in subsection (1), an applicant who has been engaged in medicine has also been engaged in surgery or in midwifery or both, or an applicant who has been engaged in surgery has also been engaged in midwifery, the period shall be apportioned for the purposes of the foregoing provisions of this section in such manner as may be determined by the University of Hong Kong.

(6) In this section—

the expression “approved”, in relation to a hospital or institution, means approved for the time being for the purposes of this section by the University of Hong Kong, and

references to employment in a resident medical capacity shall be construed as references to employment in the practice of medicine, surgery or midwifery, where the person in question is resident in the hospital or institution where he is employed or conveniently near thereto, and is by the terms of his employment required to be so resident.

Experience required for person claiming registration otherwise than by virtue of a Hong Kong University degree.

10C. The matters as to which the Medical Board must be satisfied for the purposes of paragraph (b) of section 10A are—

- (a) that the person claiming registration has been employed as mentioned in subsection (1) of section 10B and has satisfied the conditions specified in paragraphs (a) and (b) of subsection (3) thereof; or
- (b) that the said person has rendered satisfactory service in an appointment or appointments (whether within or outside Her Majesty's dominions) such as, in the opinion of the Medical Board, enable experience to be gained of the practice of medicine and surgery, or medicine, surgery and midwifery, not less extensive than that required for a certificate under section 10B, or
- (c) that the said person has otherwise acquired such experience as aforesaid.

Provisional registration.

10D. (1) The following provisions shall have effect for enabling persons desirous of obtaining certificates under section 10B, or of satisfying the Medical Board of the matters specified in paragraph (a) of section 10C, to be employed as mentioned in subsection (1) of section 10B.

(2) Any person who applies to the Director shall, if apart from the provisions of section 10A he would be entitled to be registered and he produces evidence satisfactory to the Director that he has been selected for such employment as is mentioned in subsection (1) of section 10B, be entitled on payment of a fee of twenty-five dollars to be provisionally registered.

(3) Persons provisionally registered shall be deemed to be registered only to such extent as is necessary—

- (a) to enable them to be employed as mentioned in subsection (1) of section 10B; and
- (b) for the purpose of the application to them of the provisions of sections 12, 13, 15 and 16; and

(Cap. 3.)

(c) for the purpose of section 5 of the Jury Ordinance, and for the purpose of such other enactments as may be prescribed.

(4) Notwithstanding anything in this Ordinance, the Director shall keep the medical register in such manner that persons provisionally registered shall be registered in a separate part thereof, and on a person becoming registered otherwise than provisionally his name shall be removed from the separate part of the register."

4. Section 11 of the principal Ordinance is amended—

Amendment of section 11.

(a) by the deletion from the second line of subsection (1) of the words "under section 10" and by the substitution therefor of the following—

"(other than provisional registration)";

(b) by the deletion from the third line of subsection (1) of the words "therein referred to" and by the substitution therefor of the following—

"referred to in section 10";

(c) by the deletion from the first and second lines of subsection (4) of the words "under section 10" and by the substitution therefor of the following—

"(other than provisional registration)".

5. Section 12 of the principal Ordinance is amended by the removal of the full stop at the end of subsection (7) and the addition thereto of the following—

Amendment of section 12.

" , and section 10A shall not apply to such direction if the previous registration of such practitioner was full registration."

6. Section 17 is amended by the deletion of paragraph (i) and the substitution therefor of the following paragraph—

Amendment of section 17.

"(1) Government medical officers (other than those serving a prescribed period of employment under subsection (1) of section 10B)."

Repeal and
replace-
ment of
section 18.

7. Section 18 of the principal Ordinance is repealed and replaced by the following section—

“Power of
Governor
in Council
to make
regulations.

18. The Governor in Council may by regulations prescribe or provide for—

- (a) the issue of medical certificates of death; and
- (b) anything which by the provisions of this Ordinance is required to be prescribed.”

Saving.

8. Nothing in this Ordinance shall be taken to affect adversely the status conferred by virtue of the provisions of the principal Ordinance upon any person duly registered under the provisions of the principal Ordinance immediately before the 1st day of July, 1953.

Passed the Legislative Council of Hong Kong, this 24th day of June, 1953.

Deputy Clerk of Councils.

(Secretariat 8/3231/53)

HONG KONG

No. 20 OF 1953.



I assent.

Governor.

16th July, 1953.

An Ordinance to provide for the observance of summer time, and to fix a basis for the summer time period.

[17th July, 1953.]

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

1. This Ordinance may be cited as the Summer Time Ordinance, 1953. Short title.

2. (1) The time for general purposes in the Colony shall during the period of summer time be one hour in advance of standard time as defined in the Interpretation Ordinance. Advance of time for certain period. (Cap. 1).

(2) The period of summer time shall be the period between 3.30 (standard time) in the morning of the first Sunday after the 17th day of March and 3.30 (summer time) in the morning of the first Sunday after the 30th day of October in each year.

3. (1) Notwithstanding the provisions of subsection (8) of section 3 of the Interpretation Ordinance, wherever any reference to a point of time occurs in any enactment or legal document the time referred to, if it is to be construed as a reference to a time Application.

during the period of summer time and unless the contrary is expressly stated, shall be the time as fixed for general purposes by section 2.

(2) Nothing in this Ordinance shall affect the use of Greenwich mean time for purposes of astronomy, meteorology, navigation or aviation, or affect the construction of any document mentioning or referring to a point of time in connexion with any of those purposes.

Repeal.
(Cap. 152.)

4. The Summer Time Ordinance is repealed.

Passed the Legislative Council of Hong Kong, this 15th day of July, 1953.


Deputy Clerk of Councils.

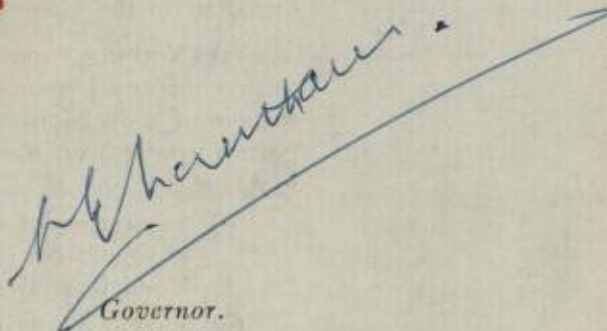
(Secretariat 3/3799/45)

HONG KONG

No. 21 OF 1953.



I assent.


Governor.

16th July, 1953.

An Ordinance to amend the Immigrants Control Ordinance, Chapter 243.

[17th July, 1953.]

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

1. This Ordinance may be cited as the Immigrants Control (Amendment) Ordinance, 1953. Short title.

2. Section 36 of the Immigrants Control Ordinance is repealed and replaced by the following section— Repeal and replacement of section 36. (Cap. 243).

“36. (1) Any person who is dissatisfied with any decision of a public officer made or which purports to have been made under this Ordinance may appeal therefrom by way of petition to the Governor in Council.

(2) On consideration of any such petition, the Governor in Council may confirm, revoke or modify the decision appealed against, and the decision of the Governor in Council shall be final.

(3) If on the consideration of any such petition, the Governor in Council desires the assistance of the Full Court on any point of law with a view to the determination of the petition, he may refer that point to the Full Court for its opinion thereon, and the court shall consider the point so referred and furnish the Governor in Council with its opinion thereon accordingly.

(4) No legal proceedings whatsoever shall be taken against the Governor in Council in respect of anything done or omitted to be done in the exercise of the powers conferred upon the Governor in Council by this section.

(5) Nothing contained in this section shall be deemed to prevent any person from instituting legal proceedings in respect of a decision of a public officer made or which purports to have been made under this Ordinance: Provided however that—

- (i) institution of such proceedings shall operate as an absolute bar to any appeal to the Governor in Council; and
- (ii) appeal to the Governor in Council shall operate as an absolute bar to the institution of legal proceedings."

Applica-
tion.

3. The provisions of section 2 of this Ordinance shall have effect in all cases save those in which an appeal has been lodged before the commencement hereof.

Passed the Legislative Council of Hong Kong, this 15th day of July, 1953.

Deputy Clerk of Councils.

(Secretariat 11/2071/52)

HONG KONG

No. 22 OF 1953.



I assent.

Governor.

16th July, 1953.

An Ordinance further to amend the Landlord and Tenant Ordinance, Chapter 255.

[17th July, 1953.]

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

1. This Ordinance may be cited as the Landlord and Tenant (Amendment) Ordinance, 1953. Short title.

2. Section 2 of the Landlord and Tenant Ordinance (hereinafter referred to as the principal Ordinance) is amended— Amendment of section 2.

(a) by the deletion of the definition of the expression "business premises", and by the substitution thereof of the following— (Cap. 255).

“ “business premises” means premises which are not domestic premises within the meaning of this Ordinance;”;

- (b) by the deletion of the definition of the expression "court", and by the substitution therefor of the following—

" "court" means the District Court;";

- (c) by the deletion from the definition of the expression "domestic premises" of the words "includes every bed-space, cubicle, room, portion of a floor, floor or building which is the subject of a separate letting and which is used wholly or primarily for human habitation", and by the substitution therefor of the following—

"means premises the subject of a separate letting (including any bed-space, cubicle, room, floor or portion of a floor or building) which are used wholly or primarily for human habitation";

- (d) by the deletion from the definition of the expression "standard rent" in the last two lines thereof, of the words—

"with an addition thereto of twenty *per cent*";

- (e) by the deletion from the definition of the expression "tenant" of paragraph (c), and the substitution therefor of the following—

"(c) the widow of a tenant, residing with the tenant at the time of his death, or where the tenant leaves no widow or is a woman, such member of the tenant's family so residing as aforesaid as may be decided in default of agreement by a tenancy tribunal.";

- (f) by the addition thereto of the following definitions, in their appropriate alphabetical order having regard to the initial letter of each of them,—

" "agricultural land" means land which is held from the Crown on terms the effect of which is to prohibit the use thereof otherwise than as agricultural land or to prohibit the erection thereon of any building without the consent of the Crown;

"Building Authority" includes an officer deputed by the Governor in Council for the purposes of section 138, 139, 140 or 141 of the Buildings Ordinance;

(Cap. 123).

"permitted rent" means the rent lawfully payable under the provisions of this Ordinance in respect of any premises;".

3. Section 3 of the principal Ordinance is amended—

Amendment of section 3.

- (a) by the addition to subsection (1) of the following new paragraphs—

"(aa) agricultural land or any building thereon, other than a building erected before the 17th day of August, 1945; or

(ab) land let unbuilt upon save where such land has been let with, and for the better enjoyment of, any building, or save where a building to which this Ordinance applies has subsequently been erected thereon; or";

- (b) by the deletion from the last line of paragraph (c) of subsection (1) of the word "seven" and the substitution therefor of the following—

"five".

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

Addition of new sections 3A, 3B, 3C, 3D and 3E.

"Recovery of premises subjected to building covenant.

3A. (1) Whenever any person becomes liable to the Crown under a building covenant compliance wherewith involves the demolition of premises subject to this Ordinance of which premises such person is in law or equity the lessee of the Crown, vacant possession of such premises shall, subject to the provisions of this section and of sections 3B, 3C, 3D and 3E, be recoverable by such lessee upon the expiration of two months from the giving of a certificate by the Director of Public Works (in this Ordinance referred to as a re-building certificate) that in the opinion of the Director of Public Works it is reasonable that in order to comply with the building covenant aforesaid such person should be given vacant possession of the premises.

(2) After due consideration of an application for a re-building certificate, the Director of Public Works shall deliver written notice to the applicant of his intention either to give or not to give such certificate.