



HONG KONG

No. 1 OF 1967.



I assent.

Heurich
Governor.

19th January, 1967.

An Ordinance to make further and better provision in respect of the law governing matrimonial causes and for matters incidental thereto or connected therewith.

[20th January, 1967.]

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

PART I.

PRELIMINARY.

1. This Ordinance may be cited as the Matrimonial Causes Short title. Ordinance 1967.

2. In this Ordinance, unless the context otherwise requires—
“adopted”, except in subsection (2) of section 35, means adopted in pursuance of an adoption order made under any enactment in force in Hong Kong at any time relating to the adoption of children or any corresponding imperial enactment;

Interpretation.
1965, c. 72,
s. 46(2).



"court" means the Supreme Court;

"deported" includes being prohibited from landing in Hong Kong, being obliged to leave Hong Kong by reason of the refusal to grant or renew, or the revocation of, a permit to remain in Hong Kong and an order of expulsion;

"monogamous marriage" means a marriage which was—

- (a) if it took place in Hong Kong, celebrated or contracted in accordance with the provisions of the Marriage Ordinance; or
(b) if it took place outside Hong Kong, celebrated or contracted in accordance with the law in force at the time and in the place where the marriage was performed and recognized by such law as involving the voluntary union for life of one man and one woman to the exclusion of all others;

1965, c. 72, s. 26(6). "property" means any real or personal property, any estate or interest in real or personal property, any money, any negotiable instrument, debt or other chose in action, and any other right or interest whether in possession or not;

"the Proctor" means the Attorney General;

1965, c. 72, s. 46(2). "relevant child" means a child who is—

- (a) a child of both parties to the marriage in question; or
(b) a child of one party to the marriage who has been accepted as one of the family by the other party,

and in paragraphs (a) and (b) of this definition "child" includes illegitimate child and adopted child; and references to a child of the marriage in section 29, subsection (3) of section 33, subsection (2) of section 34, subsection (2) of section 46 and subsection (2) of section 50 include references to a child adopted by both parties to the marriage.

PART II.

JURISDICTION OF COURT.

Jurisdiction in divorce. 3. The court shall have jurisdiction in proceedings for divorce under this Ordinance if—

- (a) both parties to the marriage were domiciled in Hong Kong at the date of the petition; or

(b) in the case of proceedings by a wife—

1965, c. 72, s. 40(1).

(i) the wife was resident in Hong Kong at the date of the petition and has been ordinarily resident in Hong Kong for the period of three years immediately preceding the date of the petition; or

(ii) the wife has been deserted by her husband or the husband has been deported from Hong Kong under any law and the husband was immediately before the desertion or deportation domiciled in Hong Kong.

4. The court shall have jurisdiction in proceedings for nullity under this Ordinance if— Jurisdiction in nullity.

(a) either of the parties to the marriage was domiciled in Hong Kong at the date of the petition;

(b) in the case of proceedings by a wife—

1965, c. 72, s. 40(1).

(i) the wife was resident in Hong Kong at the date of the petition and has been ordinarily resident in Hong Kong for the period of three years immediately preceding the date of the petition; or

(ii) the wife has been deserted by her husband or the husband has been deported from Hong Kong under any law and the husband was immediately before the desertion or deportation domiciled in Hong Kong;

(c) both parties to the marriage were resident in Hong Kong at the date of the petition;

(d) the respondent in the proceedings was resident in Hong Kong at the date of the petition; or

(e) the marriage was celebrated in Hong Kong.

5. The court shall have jurisdiction in proceedings for judicial separation under this Ordinance if— Jurisdiction in judicial separation.

(a) both parties to the marriage were domiciled in Hong Kong at the date of the petition;

(b) both parties to the marriage were resident in Hong Kong at the date of the petition; or

(c) in the case of proceedings by a wife, the wife has been deserted by her husband or the husband has been deported from Hong Kong under any law and the husband was immediately before the desertion or deportation domiciled in Hong Kong. 1965, c. 72, s. 40(1).

Jurisdiction
in presumption
of death.

6. (1) The court shall have jurisdiction in proceedings for presumption of death and dissolution of marriage under this Ordinance if—

1965, c. 72,
s. 14(2).

- (a) the petitioner was domiciled in Hong Kong at the date of the petition; or
- (b) in the case of a petition presented by a wife, the wife was resident in Hong Kong at the date of the petition and has been ordinarily resident in Hong Kong for the period of three years immediately preceding the date of the petition.

1965, c. 72,
s. 14(5).

(2) In determining for the purposes of this section whether a woman was domiciled in Hong Kong, her husband shall be treated as having died immediately after the last occasion on which she knew or had reason to believe him to be living.

Jurisdiction
in restitution
of conjugal
rights.

7. The court shall have jurisdiction in proceedings for restitution of conjugal rights under this Ordinance if—

- (a) both parties to the marriage were domiciled in Hong Kong at the date of the petition;
- (b) the parties had a matrimonial home in Hong Kong at the time when cohabitation ceased;
- (c) both parties to the marriage were resident in Hong Kong at the date of the petition; or
- (d) in the case of proceedings by a wife, the wife has been deserted by her husband or the husband has been deported from Hong Kong under any law and the husband was immediately before the desertion or deportation domiciled in Hong Kong.

1965, c. 72,
s. 40(1).

Law of Hong
Kong appli-
cable.

1965, c. 72,
ss. 14(5) &
40(2).

8. In any proceedings in which the court has jurisdiction under this Ordinance, the issues shall be determined in accordance with the law which would be applicable thereto if both parties were domiciled in Hong Kong at the time of the proceedings.

Power to
grant relief
limited to
monogamous
marriages.

9. Nothing in this Ordinance shall authorize the court to pronounce a decree of divorce, nullity, judicial separation, restitution of conjugal rights or presumption of death and dissolution of marriage or to make any other order unless the marriage to or in respect of which the decree or order relates was a monogamous marriage.

10. The jurisdiction vested in the court by this Ordinance shall so far as regards procedure, practice and powers of the court be exercised in the manner provided by this Ordinance; and where no special provision is contained in this Ordinance with reference thereto, any such jurisdiction shall be exercised in accordance with the practice, procedure and powers for the time being in force in the High Court of Justice in England with reference to matrimonial proceedings. Practice and
procedure.

PART III.

DIVORCE.

11. (1) Subject to section 12, a petition for divorce may be presented to the court— Grounds for
petition.
1965, c. 72,
s. 1.

(a) by the husband or the wife on the ground that the respondent—

(i) has since the celebration of the marriage committed adultery; or

(ii) has deserted the petitioner without cause for a period of at least three years immediately preceding the presentation of the petition; or

(iii) has since the celebration of the marriage treated the petitioner with cruelty; or

(iv) is incurably of unsound mind and has been continuously under care and treatment for a period of at least five years immediately preceding the presentation of the petition;

(b) by the wife on the ground that her husband has since the celebration of the marriage been guilty of rape, sodomy or bestiality.

(2) In calculating for the purposes of sub-paragraph (ii) of paragraph (a) of subsection (1) the period for which the respondent has deserted the petitioner without cause, and in considering whether the desertion has been continuous, no account shall be taken of any one period (not exceeding three months) during which the parties resumed cohabitation with a view to reconciliation; and, for the purposes of a petition for divorce, the court may treat a period of desertion as having continued at a time when the deserting party was incapable of continuing the necessary intention if the evidence before the court is such that, had that party not been so incapable, the court would have inferred that that intention continued at that time.

(3) For the purposes of sub-paragraph (iv) of paragraph (a) of subsection (1), a person of unsound mind shall be deemed to be under care and treatment while, and only while—

(35 of 1960).

- (a) he is liable to be detained in a mental hospital under the Mental Health Ordinance 1960;
- (b) he is receiving treatment as a voluntary patient under the Mental Health Ordinance 1960;
- (c) he is receiving treatment for mental illness as a resident in a hospital or other institution in any other country, being a hospital or institution in which his treatment is comparable with the treatment provided in a mental hospital under the Mental Health Ordinance 1960;

and, in determining for the purposes of sub-paragraph (iv) of paragraph (a) of subsection (1) whether any period of care and treatment has been continuous, any interruption of the period for twenty-eight days or less shall be disregarded.

(4) A certificate by or on behalf of a Secretary of State that a person was receiving treatment for mental illness during any period as a resident in any naval, military or air force hospital under the direction of the Defence Council shall for the purposes of paragraph (c) of subsection (3) be conclusive evidence of the facts certified.

Restriction on petitions within three years of marriage. 1965, c. 72, s. 2.

12. (1) Subject to subsection (2), no petition for divorce shall be presented to the court before the expiration of the period of three years from the date of the marriage (hereafter in this section referred to as "the specified period").

(2) A judge of the court may, on an application made to him, allow the presentation of a petition for divorce within the specified period on the ground that the case is one of exceptional hardship suffered by the petitioner or of exceptional depravity on the part of the respondent; but in determining the application the judge shall have regard to the interests of any relevant child and to the question whether there is reasonable probability of a reconciliation between the parties during the specified period.

(3) Nothing in this section shall be deemed to prohibit the presentation of a petition based upon matters which occurred before the expiration of the specified period.

Divorce not precluded by previous judicial separation. 1965, c. 72, s. 3. (Cap. 16).

13. (1) A person shall not be prevented from presenting a petition for divorce, or the court from granting a decree of divorce, by reason only that the petitioner has at any time, on the same facts or substantially the same facts as those proved in support of the petition, been granted a decree of judicial separation or an order under, or having effect as if made under, the Separation and Maintenance Orders Ordinance.

(2) On a petition for divorce in such a case as is mentioned in subsection (1), the court may treat the decree of judicial separation or the said order as sufficient proof of the adultery, desertion or other ground on which it was granted, but shall not grant a decree of divorce without receiving evidence from the petitioner.

(3) For the purposes of a petition for divorce in such a case, a period of desertion immediately preceding the institution of proceedings for a decree of judicial separation or for such an order as aforesaid having the effect of a decree of judicial separation shall, if the parties have not resumed cohabitation and the decree or order has been continuously in force since it was granted, be deemed immediately to precede the presentation of the petition.

14. (1) On a petition for divorce presented by the husband on the ground of adultery, or in the answer of a husband praying for divorce on that ground, the husband shall make the alleged adulterer a co-respondent unless excused by the court on special grounds from doing so. Alleged adulterer as a party. 1965, c. 72, s. 4.

(2) On a petition for divorce presented by the wife on the ground of adultery the court may, if it thinks fit, direct that the alleged adulteress be made a respondent.

(3) Where an alleged adulterer is made a co-respondent on such a petition as is mentioned in subsection (1) or an alleged adulteress is made a respondent on such a petition as is mentioned in subsection (2), the court may, after the close of the evidence on the part of the petitioner, direct that the co-respondent or, as the case may be, the respondent be dismissed from the suit if the court is of opinion that there is not sufficient evidence against him or her.

15. (1) On a petition for divorce it shall be the duty of the court— Hearing of petition. 1965, c. 72, s. 5.

(a) to inquire, so far as it reasonably can, into the facts alleged and whether there has been any connivance or condonation on the part of the petitioner and whether any collusion exists between the parties; and

(b) to inquire into any countercharge made against the petitioner.

(2) Provision may be made by rules for enabling the court, on application made either before or after the presentation of the petition, to take into consideration for the purposes of this section any agreement or arrangement made or proposed to be made between the parties and to give such directions in the matter as the court thinks fit; but nothing in this subsection affects any duty of the parties to disclose to the court any agreement or arrangement made between the parties in contemplation of or in connexion with the proceedings.

(3) If the court is satisfied on the evidence that the case for the petition has been proved and—

- (a) where the ground of the petition is adultery, that the petitioner has not in any manner been accessory to or connived at or condoned the adultery; or
- (b) where the ground of the petition is cruelty, that the petitioner has not in any manner condoned the cruelty,

the court shall, subject to subsections (4) and (5), grant a decree of divorce; and if the court is not satisfied with respect to any of the matters aforesaid, it shall dismiss the petition.

(4) The court may dismiss a petition for divorce if—

- (a) it finds that the petition is presented or prosecuted in collusion with the respondent or either of the respondents; or
- (b) it finds that the petitioner has during the marriage been guilty of adultery; or
- (c) in its opinion the petitioner has been guilty—
 - (i) of unreasonable delay in presenting or prosecuting the petition; or
 - (ii) of cruelty towards the other party to the marriage; or
 - (iii) where the ground of the petition is adultery or cruelty, of having without reasonable excuse either deserted or wilfully separated himself or herself from the other party before the adultery or cruelty; or
 - (iv) where the ground of the petition is adultery or unsoundness of mind or desertion, of such wilful neglect or misconduct as conduced to the adultery or unsoundness of mind or desertion.

(5) If it appears to the court, at the hearing of a petition for divorce presented in pursuance of leave granted under subsection (2) of section 12, that the leave was obtained by the petitioner by any misrepresentation or concealment of the nature of the case, the court may—

- (a) dismiss the petition, without prejudice to any petition which may be brought after the expiration of the period of three years from the date of the marriage upon the same facts, or substantially the same facts, as those proved in support of the dismissed petition; or
- (b) if it grants a decree, direct that no application to make the decree absolute shall be made during that period.

(6) If in any proceedings for divorce the respondent opposes the relief sought on the ground of the petitioner's adultery, cruelty or desertion, the court may give to the respondent the relief to which the

respondent would have been entitled if the respondent had presented a petition seeking that relief.

(7) Every decree of divorce shall in the first instance be a decree *nisi* and shall not be made absolute before the expiration of three months from its grant unless the Chief Justice by general order from time to time, or the court in any particular case, fixes a shorter period.

16. (1) In the case of a petition for divorce—

- (a) the court may, if it thinks fit, direct all necessary papers in the matter to be sent to the Proctor, who shall instruct counsel to argue before the court any question in relation to the matter which the court deems it necessary or expedient to have fully argued;
- (b) any person may at any time during the progress of the proceedings or before the decree *nisi* is made absolute give information to the Proctor on any matter material to the due decision of the case, and the Proctor may thereupon take such steps as he considers necessary or expedient;
- (c) if in consequence of any such information or otherwise the Proctor considers that any parties to the petition are or have been acting in collusion for the purpose of obtaining a decree contrary to the justice of the case, he may, after obtaining the leave of the court, intervene and retain counsel and subpoena witnesses to prove the alleged collusion.

Intervention
of the
Proctor.
1965, c. 72,
s. 6.

(2) Where the Proctor intervenes or shows cause against a decree *nisi* in any proceedings for divorce, the court may make such order as may be just as to the payment by other parties to the proceedings of the costs incurred by him in so doing or as to the payment by him of any costs incurred by any of those parties by reason of his so doing.

17. (1) Where a decree *nisi* of divorce has been granted but not made absolute, then, without prejudice to section 16, any person (excluding a party to the proceedings other than the Proctor) may show cause why the decree should not be made absolute either by reason of its having been obtained by collusion or by reason of material facts not having been brought before the court; and in such a case the court may—

Proceedings
after decree
nisi.
1965, c. 72,
s. 7.

- (a) notwithstanding anything in subsection (7) of section 15, make the decree absolute; or
- (b) rescind the decree *nisi*; or
- (c) require further inquiry; or
- (d) otherwise deal with the case as it thinks fit.

(2) Where a decree *nisi* of divorce has been granted and no application for it to be made absolute has been made by the party

to whom it was granted, then, at any time after the expiration of three months from the earliest date on which that party could have made such an application, the party against whom it was granted may make an application to the court, and on that application the court may exercise any of the powers mentioned in paragraphs (a) to (d) of subsection (1).

Remarriage
of divorced
persons.
1965, c. 72,
s. 8.

18. (1) Where a decree of divorce has been made absolute and either—

- (a) there is no right of appeal against the decree absolute; or
 - (b) the time for appealing against the decree absolute has expired without an appeal having been brought; or
 - (c) an appeal against the decree absolute has been dismissed,
- either party to the former marriage may marry again.

(2) No clergyman shall be compelled—

- (a) to solemnize the marriage of any person whose former marriage has been dissolved and whose former spouse is still living; or
- (b) to permit the marriage of such a person to be solemnized in the church or chapel of which he is the minister.

PART IV.

NULLITY.

Petition for
nullity.

19. A husband or wife may present a petition to the court praying that his or her marriage may be declared null and void on any of the grounds mentioned in section 20.

Grounds for
decree of
nullity.

20. (1) A marriage shall be void on any of the following grounds—

- (a) that the parties to the marriage are within the prohibited degrees of consanguinity or affinity as provided in the Marriage Ordinance;
- (b) that the former husband or wife of either party to the marriage was living at the time of the marriage and the marriage with such former husband or wife was then in force;
- (c) that the consent of either party to the marriage was obtained by force or fraud in any case in which the marriage might be annulled on this ground by the law of England;
- (d) that the marriage is invalid by the law of the Colony.

(Cap. 181)

(2) A marriage shall, subject to subsection (3), be voidable on any of the following grounds—

- (a) that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate it; or
- (b) that at the time of the marriage either party to the marriage—
 - (i) was of unsound mind, or
 - (ii) was a mentally disordered person within the meaning of the Mental Health Ordinance 1960, of such a kind or to such an extent as to be unfitted for marriage and the procreation of children, or
 - (iii) was subject to recurrent attacks of insanity or epilepsy; or
- (c) that the respondent was at the time of the marriage suffering from venereal disease in a communicable form; or
- (d) that the respondent was at the time of the marriage pregnant by some person other than the petitioner; or
- (e) that at the time of the marriage either party to the marriage was impotent or incapable of consummating the marriage.

(3) The court shall not grant a decree of nullity in a case falling within paragraph (b), (c) or (d) of subsection (2) unless it is satisfied that—

- (a) the petitioner was at the time of the marriage ignorant of the facts alleged; and
- (b) proceedings were instituted within a year from the date of the marriage; and
- (c) marital intercourse with the consent of the petitioner has not taken place since the petitioner discovered the existence of the grounds for a decree.

(4) Nothing in this section shall be construed as validating a marriage which is by law void but with respect to which a decree of nullity has not been granted.

21. If the court is satisfied that the case for the petition has been proved, the court shall grant a decree of nullity.

Granting of
decree of
nullity.

22. Subsection (7) of section 15 and sections 16 and 17 shall apply in relation to proceedings for nullity of marriage as if for any reference in those provisions to divorce there were substituted a reference to nullity of marriage.

Application
of ss. 15(7),
16 and 17 to
nullity proceedings.
1965, c. 72,
s. 10.

Legitimacy of children of annulled marriages. 1965, c. 72, s. 11.

23. Where a decree of nullity is granted in respect of a voidable marriage, any child who would have been the legitimate child of the parties to the marriage if at the date of the decree it had been dissolved instead of being annulled shall be deemed to be their legitimate child.

PART V.

OTHER MATRIMONIAL SUITS.

Judicial separation. 1965, c. 72, s. 12.

24. (1) A petition for judicial separation may be presented to the court by the husband or the wife—

- (a) on any of the grounds specified in section 11; or
- (b) on the ground of failure to comply with a decree for restitution of conjugal rights; or
- (c) on any ground on which a decree of divorce *a mensa et thoro* might have been pronounced immediately before the commencement of the Matrimonial Causes Act 1857;

and section 11 and subsections (1) to (4) of section 15 shall apply in relation to such a petition as they apply in relation to a petition for divorce but as if the reference in subsection (3) of section 15 to subsection (5) of section 15 were omitted.

(2) Where the court grants a decree of judicial separation it shall no longer be obligatory for the petitioner to cohabit with the respondent.

(3) The court may, on an application by petition of the spouse against whom a decree of judicial separation has been made and on being satisfied that the allegations in the petition are true, rescind the decree at any time on the ground that it was obtained in the absence of the applicant or, if desertion was the ground of the decree, that there was reasonable cause for the alleged desertion.

Restitution of conjugal rights. 1965, c. 72, s. 13.

25. (1) A petition for restitution of conjugal rights may be presented to the court by the husband or the wife; and the court, on being satisfied that—

- (a) the allegations contained in the petition are true; and
- (b) there is no legal ground why a decree for restitution of conjugal rights should not be granted,

may grant the decree accordingly.

(2) A decree for restitution of conjugal rights shall not be enforced by imprisonment.

26. (1) Any married person who alleges that reasonable grounds exist for supposing that the other party to the marriage is dead may present a petition to the court to have it presumed that the other party is dead and to have the marriage dissolved, and the court may, if satisfied that such reasonable grounds exist, make a decree of presumption of death and dissolution of the marriage.

Presumption of death and dissolution of marriage. 1965, c. 72, s. 14.

(2) In any proceedings under this section the fact that for a period of seven years or more the other party to the marriage has been continually absent from the petitioner and the petitioner has no reason to believe that the other party has been living within that time shall be evidence that the other party is dead until the contrary is proved.

(3) Subsection (7) of section 15 and sections 16 to 18 shall apply to a petition and a decree under this section as they apply to a petition for divorce and a decree of divorce respectively.

PART VI.

ANCILLARY RELIEF.

27. On a petition for divorce, nullity of marriage, judicial separation or restitution of conjugal rights, the court may make such interim orders as it thinks just for the payment of alimony—

Interim orders for alimony. 1965, c. 72, s. 15.

- (a) in any case other than a case falling within paragraph (b) of this section, to the wife; and
- (b) in the case of a petition for divorce or judicial separation presented by a wife on the ground of her husband's insanity, to the husband.

28. (1) On granting a decree of divorce or at any time thereafter (whether before or after the decree is made absolute), the court may, if it thinks fit and subject to subsection (3), make one or more of the following orders—

Maintenance orders. 1965, c. 72, s. 16.

- (a) an order requiring the husband to secure to the wife, to the satisfaction of the court, such lump or annual sum for any term not exceeding her life as the court thinks reasonable having regard to her fortune (if any), his ability and the conduct of the parties;
- (b) an order requiring the husband to pay to the wife during their joint lives such monthly or weekly sum for her maintenance as the court thinks reasonable;
- (c) an order requiring the husband to pay to the wife such lump sum as the court thinks reasonable.

(2) Where the court decides to make an order under paragraph (a) of subsection (1), it may—

- (a) direct that the matter be referred to the Registrar for him to approve a proper instrument to be executed by all necessary parties; and
- (b) if it thinks fit, defer the grant of the decree until the instrument has been duly executed.

(3) Where a petition for divorce is presented by the wife on the ground of her husband's insanity, subsection (1) shall have effect with the substitution of references to the wife for references to the husband and of references to the husband for references to the wife.

29. (1) The court may, after granting a decree of divorce—

- (a) inquire into the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree; and
- (b) make such orders as the court thinks fit as respects the application, for the benefit of the children of the marriage or the parties to the marriage, of the whole or any part of the property settled;

and the court may exercise its powers under the foregoing provisions of this section notwithstanding that there are no children of the marriage.

(2) Where the court grants a decree of divorce by reason of the adultery, desertion or cruelty of the wife and it appears to the court that she is entitled to any property either in possession or reversion, the court may if it thinks fit order such settlement as it thinks reasonable to be made of the property, or of any part of it, for the benefit of the innocent party and of the children of the marriage or either or any of them.

30. (1) Where a petition for divorce has been presented, proceedings under the foregoing provisions of this Ordinance may be begun, subject to and in accordance with rules, at any time after the presentation of the petition; but—

- (a) no order under section 28 or 29 shall be made unless a decree *nisi* has been granted;
- (b) without prejudice to the power to give directions under paragraph (a) of subsection (2) of section 28, no such order and no settlement made in pursuance of such an order shall take effect unless the decree has been made absolute.

Application of settled and other property. 1965, c. 72, s. 17.

Commencement of proceedings with respect to maintenance and settlements. 1965, c. 72, s. 18.

(2) Subsection (1) shall have effect notwithstanding anything in the foregoing provisions of this Ordinance but subject to section 41.

31. Subsections (1) and (2) of section 28 and subsection (1) of section 29 and, so far as it relates to those provisions, section 30 shall apply in relation to nullity of marriage as they apply in relation to divorce but as if the reference in subsection (1) of section 28 to subsection (3) of section 28 were omitted. Nullity. 1965, c. 72, s. 19.

32. (1) On granting a decree of judicial separation or at any time thereafter the court may make such order as it thinks just for the payment of alimony or a lump sum or both— Judicial separation. 1965, c. 72, s. 20.

- (a) in any case other than a case falling within paragraph (b) of this subsection, to the wife; and
- (b) in a case where the petition was presented by the wife on the ground of her husband's insanity, to the husband.

(2) Subsection (2) of section 29 shall apply in relation to judicial separation as it applies in relation to divorce.

(3) In a case of judicial separation—

- (a) any property which is acquired by or devolves upon the wife on or after the date of the decree whilst the separation continues; and
- (b) where the decree is obtained by the wife, any property to which she is entitled for an estate in remainder or reversion on the date of the decree,

shall, if she dies intestate, devolve as if her husband had then been dead.

(4) If in a case of judicial separation alimony has been ordered to be paid under the foregoing provisions of this Ordinance and has not been duly paid by the husband, he shall be liable for necessities supplied for the use of the wife.

33. (1) Where a decree for restitution of conjugal rights is made on the application of the wife, the court may— Restitution of conjugal rights. 1965, c. 72, s. 21.

- (a) make such order as it thinks just for the payment of alimony to the wife;
- (b) on making the decree or at any time thereafter, order the husband to pay to the wife, if the decree is not complied with within the time specified by the court, such periodical payments as the court thinks just.

(2) Where the court makes an order under paragraph (b) of subsection (1)—

- (a) the order may be enforced in the same manner as an order for alimony; and

- (b) the court may, if it thinks fit, order that the husband shall, to the satisfaction of the court, secure the periodical payments to the wife, and may for that purpose give such a direction as is mentioned in paragraph (a) of subsection (2) of section 28.

(3) Where a decree for restitution of conjugal rights is made on the application of the husband and it appears to the court that the wife is entitled to any property, either in possession or reversion, or is in receipt of any profits of trade or earnings, the court may—

- (a) order a settlement of the property or any part of it to be made to the satisfaction of the court for the benefit of the husband and of the children of the marriage or either or any of them; or
- (b) order such part of the profits or earnings as the court thinks reasonable to be paid periodically by the wife to the husband for his own benefit, or to him or another person for the benefit of the children of the marriage or either or any of them.

34. (1) Where—

- (a) a husband has been guilty of wilful neglect to provide reasonable maintenance for his wife or any child to whom this subsection applies; and
- (b) the court would have jurisdiction to entertain proceedings by the wife for judicial separation,

then, without prejudice to the provisions of subsection (2) of section 47, the court may on the application of the wife order the husband to make to her such periodical payments as may be just.

(2) Subsection (1) applies to any infant child of the marriage in question and any infant illegitimate child of both parties to the marriage.

(3) Where the court makes an order under subsection (1)—

- (a) the order may be enforced in the same manner as an order for alimony in proceedings for judicial separation; and
- (b) the court may, if it thinks fit, order that the husband shall, to the satisfaction of the court, secure the periodical payments to the wife and may for that purpose give such a direction as is mentioned in paragraph (a) of subsection (2) of section 28.

35. (1) If a maintenance agreement includes a provision purporting to restrict any right to apply to a court for an order containing financial arrangements, then—

- (a) that provision shall be void; but
- (b) any other financial arrangements contained in the agreement shall not thereby be rendered void or unenforceable and shall, unless they are void or unenforceable for any other reason

Neglect to maintain.
1965, c. 72,
s. 22.

Validity of maintenance agreements.
1965, c. 72,
s. 23.

(and subject to sections 36 and 37), be binding on the parties to the agreement.

(2) In this section and section 36—

“child of the marriage” includes any child of both parties to the marriage, whether legitimate or not, and any child adopted by both parties to the marriage;

“financial arrangements” means provisions governing the rights and liabilities towards one another when living separately of the parties to a marriage (including a marriage which has been dissolved or annulled) in respect of the making or securing of payments or the disposition or use of any property, including such rights and liabilities with respect to the maintenance or education of any child, whether or not a child of the marriage; and

“maintenance agreement” means any agreement in writing made, whether before or after the commencement of this Ordinance, between the parties to a marriage for the purposes of their living separately, being—

- (a) an agreement containing financial arrangement, whether made during the continuance or after the dissolution or annulment of the marriage; or
- (b) a separation agreement which contains no financial arrangements in a case where no other agreement in writing between the same parties contains such arrangements.

36. (1) Where a maintenance agreement (other than an agreement made more than six months after the dissolution or annulment of the marriage) is for the time being subsisting and the parties to the agreement are for the time being either both domiciled or both resident in Hong Kong and on an application by either party the Supreme Court or, subject to subsection (2), a magistrates' court is satisfied either—

- (a) that by reason of a change in the circumstances in the light of which any financial arrangements contained in the agreement were made or, as the case may be, financial arrangements were omitted from it, the agreement should be altered so as to make different, or as the case may be so as to contain, financial arrangements; or
- (b) that the agreement does not contain proper financial arrangements with respect to any child of the marriage,

the court to which the application is made may by order make such alterations in the agreement by varying or revoking any financial arrangements contained in it or by inserting in it financial arrangements for the benefit of one of the parties to the agreement or of a child of the marriage as may appear to that court to be just having regard to

Alteration of agreements by court during lives of parties.
1965, c. 72,
s. 24.

all the circumstances or, as the case may be, as may appear to that court to be just in all the circumstances in order to secure that the agreement contains proper financial arrangements with respect to any child of the marriage; and the agreement shall have effect thereafter as if any alteration made by the order had been made by agreement between the parties and for valuable consideration.

(2) A magistrates' court shall not entertain an application under subsection (1) unless both the parties to the agreement are resident in Hong Kong and shall not have power to make any order on such an application except—

- (a) in a case where the agreement includes no provision for periodical payments by either of the parties, an order inserting provision for the making by one of the parties of periodical payments—
 - (i) for the maintenance of the other party, at a rate not exceeding five hundred dollars a month;
 - (ii) for the maintenance of any child of the marriage, at a rate not exceeding one hundred and fifty dollars a month in respect of each such child;
- (b) in a case where the agreement includes provision for the making by one of the parties of periodical payments at rates not exceeding those aforesaid, an order increasing to such higher rate not exceeding the appropriate rate aforesaid, or reducing the rate of, or terminating, any of those payments.

(3) For the avoidance of doubt it is hereby declared that nothing in this section or section 35 affects any power of the court before which any proceedings between the parties to a maintenance agreement are brought under any other enactment (including a provision of this Ordinance) to make an order containing financial arrangements or any right of either party to apply for such an order in such proceedings.

37. (1) Where a maintenance agreement within the meaning of section 35 provides for the continuation of payments under the agreement after the death of one of the parties and that party dies domiciled in Hong Kong, the surviving party may—

- (a) before the end of the period of six months from the date when representation in regard to the deceased's estate is first taken out; or
- (b) with the permission of the court, after the end of that period but before the administration and distribution of the estate is completed,

apply to the Supreme Court for any order under subsection (1) of section 36 for which the surviving party might have applied immediately before the death.

Alteration of agreements by court after death of one party.
1965, c. 72, s. 25.

(2) If a maintenance agreement is altered by the court on an application made in pursuance of subsection (1), the like consequences shall ensue as if the alteration had been made immediately before the death by agreement between the parties and for valuable consideration.

(3) The provisions of this section shall not render the personal representatives of the deceased liable for having distributed any part of the estate of the deceased after the expiration of the said period of six months on the ground that they ought to have taken into account the possibility that the court might permit an application by virtue of this section after that period; but this subsection shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this section.

(4) In considering for the purposes of subsection (1) the question when representation was first taken out, a grant limited to settled land or to trust property shall be left out of account, and a grant limited to real estate or to personal estate shall be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

(5) For the purposes of any law which relates to the discretion of the court as to the persons to whom administration is to be granted, a person by whom an application is proposed to be made by virtue of this section shall be deemed to be a person interested in the deceased's estate.

38. (1) Where a person dies domiciled in Hong Kong and is survived by a former spouse of his or hers (hereafter in this section referred to as "the survivor") who has not remarried, the survivor may—

- (a) before the end of the period of six months beginning with the date on which representation in regard to the estate of the deceased is first taken out; or
- (b) with the permission of the court, after the end of that period but before the administration and distribution of the estate is completed,

apply to the court for an order under this section on the ground that the deceased has not made reasonable provision for the survivor's maintenance after the deceased's death.

- (2) If on an application under this section the court is satisfied—
 - (a) that it would have been reasonable for the deceased to make provision for the survivor's maintenance; and
 - (b) that the deceased has made no provision, or has not made reasonable provision, for the survivor's maintenance,

the court may order that such reasonable provision for the survivor's maintenance as the court thinks fit shall be made out of the net estate

Orders for maintenance from deceased's estate.
1965, c. 72, s. 26.

of the deceased, subject to such conditions or restrictions (if any) as the court may impose.

(3) Where the court makes an order under this section requiring provision to be made for the maintenance of the survivor, the order shall require that provision to be made by way of periodical payments terminating not later than the survivor's death and, if the survivor remarries, not later than the remarriage, so however that if the value of the net estate of the deceased does not exceed one hundred thousand dollars the order may require that provision to be made wholly or in part by way of a lump sum payment.

(4) On an application under this section the court shall have regard—

- (a) to the past, present or future capital of the survivor and to any income of the survivor from any source;
- (b) to the survivor's conduct in relation to the deceased and otherwise;
- (c) to any application made or deemed to be made by the survivor during the lifetime of the deceased—

(i) where the survivor is a former wife of the deceased, for such an order as is mentioned in subsection (1) of section 28 or that subsection as applied by section 31;

(ii) where the survivor is a former husband of the deceased, for such an order as could be made either under subsection (1) of section 28 as applied by subsection (3) of that section or under subsection (2) of section 29,

and to the order (if any) made on any such application, or (if no such application was made by the survivor, or such an application was made by the survivor and no order was made on the application) to the circumstances appearing to the court to be the reasons why no such application was made, or no such order was made, as the case may be; and

- (d) to any other matter or thing which, in the circumstances of the case, the court may consider relevant or material in relation to the survivor, to persons interested in the estate of the deceased, or otherwise.

(5) In determining whether, and in what way, and as from what date, provision for maintenance ought to be made by an order under this section, the court shall have regard to the nature of the property representing the net estate of the deceased and shall not order any such provision to be made as would necessitate a realization that would be imprudent having regard to the interests of the dependants of the deceased, of the survivor, and of the persons who apart from the order would be entitled to that property.

(6) In this section and section 39—

"dependant" shall include—

- (a) a wife or husband;
- (b) a daughter who has not been married, or who is, by reason of some mental or physical disability, incapable of maintaining herself;
- (c) an infant son; or
- (d) a son who is, by reason of some mental or physical disability, incapable of maintaining himself;

"former spouse", in relation to a deceased person, means a person whose marriage with the deceased was during the deceased's lifetime dissolved or annulled;

"net estate" means all the property of which a deceased person had power to dispose by his will (otherwise than by virtue of a special power of appointment) less the amount of his funeral, testamentary and administration expenses, debts and liabilities and estate duty payable out of his estate on his death.

39. (1) Subject to the provisions of this section, where an order (in this section referred to as "the original order") has been made under section 38, the court, on an application under this section, shall have power by order to discharge or vary the original order or to suspend any provision of it temporarily and to revive the operation of any provision so suspended.

Discharge and variation of orders under s. 38. 1965, c. 72, s. 27.

(2) An application under this section may be made by any of the following persons, that is to say—

- (a) the former spouse on whose application the original order was made;
- (b) any other former spouse of the deceased;
- (c) any dependant of the deceased;
- (d) the trustees of any relevant property;
- (e) any person who, under the will or codicil of the deceased or under the law relating to intestacy, is beneficially interested in any relevant property.

(3) An order under this section varying the original order, or reviving any suspended provision of it, shall not be made so as to affect any property which, at the time of the application for the order under this section, is not relevant property.

(4) In exercising the powers conferred by this section, the court shall have regard to all the circumstances of the case, including any change in the circumstances to which the court was required to have regard in determining the application for the original order.

(5) In this section, "relevant property" means property the income of which, in accordance with the original order or any consequential directions given by the court in connexion with it, is applicable wholly or in part for the maintenance of the former spouse on whose application the original order was made.

Additional provisions as to orders under ss. 38 and 39. 1965, c. 72, s. 28.

40. (1) The provisions of sections 38 and 39 shall not render the personal representatives of a deceased person liable for having distributed any part of the estate of the deceased after the end of the period mentioned in subsection (1) of section 38 on the ground that they ought to have taken into account the possibility that the court might permit an application under that section after the end of that period, or that an order under that section might be varied under section 39; but this subsection shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the making of an order under section 38 or section 39.

(2) Subsection (4) of section 37 shall apply for the purposes of subsection (1) of section 38 as it applies for the purposes of subsection (1) of section 37; and subsection (5) of section 37 shall apply in relation to an application under section 38 or section 39 as it applies in relation to an application in pursuance of section 37.

Applications for ancillary relief. 1965, c. 72, s. 29.

41. (1) Rules may provide, in such cases as may be prescribed by the rules—

- (a) that all applications for ancillary relief shall be made in the petition or answer; or
- (b) that applications for ancillary relief which are not so made shall be made only with the leave of the court.

(2) In subsection (1), "ancillary relief" means relief under any of the following provisions, that is to say, section 27, subsection (1) of section 28, that subsection as applied by subsection (3) of section 28 and by section 31, subsection (1) of section 32 and subsections (1) and (2) of section 33.

Payment of alimony or maintenance to trustees, etc. 1965, c. 72, s. 30.

42. (1) Where the court makes an order for alimony, it may—

- (a) direct the alimony to be paid either to the wife or husband, as the case may be, or to a trustee approved by the court on her or his behalf; and
- (b) impose such terms or restrictions as the court thinks expedient; and
- (c) from time to time appoint a new trustee if for any reason it appears to the court expedient to do so.

(2) Where—

- (a) a petition for divorce or judicial separation is presented by a wife on the ground of her husband's insanity; or

- (b) a petition for divorce, nullity or judicial separation is presented by a husband on the ground of his wife's insanity or mental deficiency or disorder,

and the court orders payments, other than a lump sum payment, in favour of the respondent under section 27, subsection (1) of section 28, that subsection as applied by subsection (3) of section 28 or by section 31, or under subsection (1) of section 32, the court may order the payments to be made to such persons having charge of the respondent as the court may direct.

43. (1) Where the court has made an order under subsection (3) of section 33 or section 34 or any of the provisions mentioned in subsection (2) of section 41 (other than an order for the payment of a lump sum), the court shall have power to discharge or vary the order or to suspend any provision thereof temporarily and to revive the operation of any provision so suspended.

Variation and discharge of certain orders for relief. 1965, c. 72, s. 31.

(2) The powers exercisable by the court under this section in relation to an order shall be exercisable also in relation to any instrument executed in pursuance of the order.

(3) In exercising the powers conferred by this section the court shall have regard to all the circumstances of the case, including any increase or decrease in the means of either of the parties to the marriage.

44. (1) Where proceedings for relief under any of the relevant provisions of this Ordinance (hereafter in this section referred to as "financial relief") are brought by a person against his or her spouse or former spouse (hereafter in this section referred to as "the other party"), the court may, on an application by that person—

Avoidance of transactions intended to prevent relief. 1965, c. 72, s. 32.

- (a) if it is satisfied that the other party is, with the intention of defeating the claim for financial relief, about to make any disposition or to transfer out of the jurisdiction or otherwise deal with any property, make such order as it thinks fit for restraining the other party from so doing or otherwise for protecting the claim;
- (b) if it is satisfied that the other party has, with the intention aforesaid, made a disposition to which this paragraph applies and that if the disposition were set aside financial relief or different financial relief would be granted to the applicant, make an order setting aside the disposition and give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the making of any payment or the disposal of any property);
- (c) if it is satisfied, in a case where an order under the relevant provisions of this Ordinance has been obtained by the applicant against the other party, that the other party has, with the

intention aforesaid, made a disposition to which this paragraph applies, make such an order and give such directions as are mentioned in paragraph (b);

and an application for the purposes of paragraph (b) shall be made in the proceedings for the financial relief in question.

(2) Paragraphs (b) and (c) of subsection (1) apply respectively to a disposition made by the other party (whether before or after the commencement of the proceedings for financial relief) within the period of three years ending with the date of the application made for the purposes of the paragraph in question, not being a disposition made for valuable consideration (other than marriage) to a person who, at the time of the disposition, acted in relation to it in good faith and without notice of any such intention as aforesaid on the part of the other party.

(3) Where an application is made under this section with respect to a disposition or other transaction and the court is satisfied—

- (a) in a case falling within paragraph (a) or (b) of subsection (1), that the disposition or other transaction would (apart from this section) have the consequence; or
- (b) in a case falling within paragraph (c) of subsection (1), that the disposition has had the consequence,

of defeating the applicant's claim for financial relief, the disposition shall be presumed, unless the contrary is shown, to have been made by the other party with the intention aforesaid.

(4) In this section—

“disposition” does not include any provision contained in a will or codicil but, with that exception, includes any conveyance, assurance or gift of property of any description, whether made by an instrument or otherwise;

“property” has the same meaning as in section 38; and

“the relevant provisions of this Ordinance” means any of the provisions of the following enactments, that is to say, section 28, subsection (2) of section 29, subsection (1) of section 32, sections 33 and 34, and subsection (1) of section 28 as applied by section 31 and subsection (2) of section 29 as applied by subsection (2) of section 32,

and any reference to defeating an applicant's claim for financial relief is a reference to preventing financial relief from being granted to the applicant or reducing the amount of any financial relief which might be so granted, or frustrating or impeding the enforcement of any order which might be made at the instance of the applicant under the relevant provisions of this Ordinance.

PART VII.

PROTECTION OF CHILDREN.

45. (1) Notwithstanding anything in this Ordinance but subject to subsection (2), the court shall not make absolute a decree of divorce or nullity of marriage or make a decree of judicial separation, unless it is satisfied as respects every relevant child who is under sixteen that—

- (a) arrangements for his care and upbringing have been made and are satisfactory or are the best that can be devised in the circumstances; or
- (b) it is impracticable for the party or parties appearing before the court to make any such arrangements.

(2) The court may if it thinks fit proceed without observing the requirements of subsection (1) if—

- (a) it appears that there are circumstances making it desirable that the decree should be made absolute or should be made, as the case may be, without delay; and
- (b) the court has obtained a satisfactory undertaking from either or both of the parties to bring the question of the arrangements for the children before the court within a specified time.

46. (1) Subject to subsection (6), the court may make such order as it thinks just for the custody, maintenance and education of any relevant child—

- (a) in any proceedings for divorce, nullity of marriage or judicial separation, before, by or after the final decree;
- (b) where such proceedings are dismissed after the beginning of the trial, either forthwith or within a reasonable period after the dismissal;
- (c) in any proceedings for restitution of conjugal rights, before the decree or, if the respondent fails to comply with the decree, after the decree,

and in any case in which the court has power by virtue of paragraph (a) to make an order in respect of a child it may instead, if it thinks fit, direct that proper proceedings be taken for placing the child under the protection of the court.

(2) Where the court makes or makes absolute a decree of divorce or makes a decree of judicial separation, it may include in the decree a declaration that the parent by reason of whose misconduct the decree is made is unfit to have the custody of the children of the marriage; and the parent to whom the declaration relates shall not, on the death of the other parent, be entitled as of right to the custody or the guardianship of the children of the marriage.

Restrictions on decrees for dissolution or separation affecting children.

1965, c. 72, s. 33.

Custody and maintenance of children affected by matrimonial suits.

1965, c. 72, s. 34.

(3) Subject to subsection (6), on granting a decree of divorce or nullity of marriage or at any time thereafter (whether before or after the decree is made absolute) the court may make an order—

- (a) in any case, requiring the husband; and
- (b) in the case of a decree of divorce made on the ground of the husband's insanity, requiring the wife,

to secure for the benefit of the relevant children such lump or annual sum as the court thinks reasonable, and may for that purpose give such a direction as is mentioned in paragraph (a) of subsection (2) of section 28; but the term for which any sum is secured for the benefit of a child in pursuance of this subsection shall not extend beyond the date when the child will become twenty-one.

(4) In considering whether any and what order should be made under this section for requiring any party to make any payment towards the maintenance or education of a relevant child, within the meaning of paragraph (b) of the definition thereof, who is not his own, the court shall have regard—

- (a) to the extent (if any) to which that party had, on or after the acceptance of the child as one of the family, assumed responsibility for the child's maintenance; and
- (b) to the liability of any person other than a party to the marriage to maintain the child.

(5) While the court has power to make an order in any proceedings by virtue of paragraph (a) or (c) of subsection (1), it may exercise that power from time to time; and where the court makes an order by virtue of paragraph (b) of subsection (1) with respect to a child it may from time to time make a further order with respect to his custody, maintenance and education.

(6) Section 30 (including that section as applied by section 31) shall apply to proceedings and orders under subsection (3) as it applies to such proceedings and orders as are mentioned in section 30; and subsection (1) of section 41 shall apply to relief under subsections (1) and (3) of this section (other than relief under paragraph (b) of subsection (1)) as it applies to ancillary relief within the meaning of section 41.

(7) Section 44 shall apply to relief under this section as if for references in that section to the relevant provisions of this Ordinance there were substituted references to this section.

47. (1) Where the court makes an order under subsection (1) of section 34, the court shall also have jurisdiction from time to time to make such order as appears just with respect to the custody of any child to whom that subsection applies; but the jurisdiction conferred by this subsection and any order made in exercise of that jurisdiction shall

Custody etc.
of children
in cases of
neglect.
1965, c. 72,
s. 35.

have effect only as respects any period when an order is in force under that subsection.

(2) In any case where the court would have power, on an application made under subsection (1) of section 34, to order the husband to make to the wife periodical payments for the maintenance of a child to whom that subsection applies, the court may, if it thinks fit, order those payments to be made to the child, or to any other person for the benefit of the child, instead of to the wife; and the reference to the wife in subsection (3) of section 34 shall be construed accordingly.

(3) Section 44 shall apply to relief under this section as if for references in that section to the relevant provisions of this Ordinance there were substituted references to this section.

(4) Without prejudice to any power to include, in any order under this Ordinance for the custody, maintenance and education of a child, provision for access to him, the reference to custody of a child in subsection (1) includes a reference to access to the child.

48. (1) Where the court has jurisdiction by virtue of this Ordinance to make an order for the custody of a child and it appears to the court that there are exceptional circumstances making it desirable that the child should be under the supervision of an independent person, the court may, as respects any period during which the child is, in exercise of that jurisdiction, committed to the custody of any person, order that the child be under the supervision of the Director of Social Welfare.

Power to
provide for
supervision
of children.
1965, c. 72,
s. 37.

(2) Where a child is under the supervision of the Director of Social Welfare in pursuance of this section the jurisdiction possessed by a court to vary any order made with respect to the child's custody, maintenance or education under this Ordinance shall, subject to any rules, be exercisable at the instance of that court itself.

(3) The court shall have power from time to time by an order under this section to vary or discharge any provision made in pursuance of this section.

PART VIII.

MISCELLANEOUS.

49. (1) Any person who is a British subject, or whose right to be deemed a British subject depends wholly or in part on his legitimacy or on the validity of any marriage, may, if he is domiciled in Hong Kong or claims any real or personal estate situate in Hong Kong, apply by petition to the court for a decree declaring that he is the legitimate child of his parents, or that the marriage of his father and mother or of his grandfather and grandmother was a valid marriage or that his own marriage was a valid marriage.

Declarations
of legitimacy,
etc.
1965, c. 72,
s. 39.

(2) Any person claiming that he or his parent or any remoter ancestor became or has become a legitimated person may apply by petition to the court, or may apply to the District Court in the manner prescribed by rules, for a decree declaring that he or his parent or remoter ancestor, as the case may be, became or has become a legitimated person.

In this subsection, "legitimated person" means a person legitimated or recognized as legitimated by or under any law.

(3) Where an application under subsection (2) is made to the District Court, the District Court, if it considers that the case is one which owing to the value of the property involved or otherwise ought to be dealt with by the Supreme Court, may, and if so ordered by the Supreme Court shall, transfer the matter to the Supreme Court; and on such a transfer the proceeding shall be continued in the Supreme Court as if it had been originally commenced by petition to the Supreme Court.

(4) Any person who is domiciled in Hong Kong or claims any real or personal estate situate in Hong Kong may apply to the court for a decree declaring his right to be deemed a British subject.

(5) Applications to the Supreme Court (but not to the District Court) under the foregoing provisions of this section may be included in the same petition, and on any application under the foregoing provisions of this section (including an application to the District Court) the Supreme Court or the District Court shall make such decree as it thinks just, and the decree shall be binding on Her Majesty and all other persons whatsoever, so however that the decree shall not prejudice any person—

- (a) if it is subsequently proved to have been obtained by fraud or collusion; or
- (b) unless that person has been given notice of the application in the manner prescribed by rules or made a party to the proceedings or claims through a person so given notice or made a party.

(6) A copy of every application under this section and of any affidavit accompanying it shall be delivered to the Attorney General at least one month before the application is made, and the Attorney General shall be a respondent on the hearing of the application and on any subsequent proceedings relating thereto.

(7) Where any application is made under this section, such persons as the Supreme Court or the District Court thinks fit shall, subject to rules, be given notice of the application in the manner prescribed by rules, and any such persons may be permitted to become parties to the proceedings and to oppose the application.

(8) No proceedings under this section shall affect any final judgment or decree already pronounced or made by any court of competent jurisdiction.

50. (1) A husband may, on a petition for divorce or for judicial separation or for damages only, claim damages from any person on the ground of adultery with the wife of the petitioner.

Damages for adultery.
1965, c. 72,
s. 41.

(2) The court may direct in what manner the damages recovered on any such petition are to be paid or applied, and may direct the whole or any part of the damages to be settled for the benefit of the children, if any, of the marriage, or as a provision for the maintenance of the wife.

51. (1) Any presumption of condonation which arises from the continuance or resumption of marital intercourse may be rebutted by evidence sufficient to negative the necessary intent.

Condonation.
1965, c. 72,
s. 42.

(2) For the purposes of this Ordinance and the Separation and Maintenance Orders Ordinance, adultery or cruelty shall not be deemed to have been condoned by reason only of a continuation or resumption of cohabitation between the parties for one period not exceeding three months, or of anything done during such cohabitation, if it is proved that cohabitation was continued or resumed, as the case may be, with a view to effecting a reconciliation.

(Cap. 16).

(3) Adultery which has been condoned shall not be capable of being revived.

52. (1) The evidence of a husband or wife shall be admissible in any proceedings to prove that marital intercourse did or did not take place between them during any period; but a husband or wife shall not be compellable in any proceedings to give evidence of the matters aforesaid.

Evidence.
1965, c. 72,
s. 43.

(2) The parties to any proceedings instituted in consequence of adultery and the husbands and wives of the parties shall be competent to give evidence in the proceedings; but no witness in any such proceedings, whether a party to the proceedings or not, shall be liable to be asked or be bound to answer any question tending to show that he or she has been guilty of adultery unless he or she has already given evidence in the same proceedings in disproof of the alleged adultery.

(3) In any proceedings for nullity of marriage, evidence on the question of sexual capacity shall be heard in camera unless in any case the judge is satisfied that in the interests of justice any such evidence ought to be heard in open court.

Power to
allow
intervention
on terms.
1965, c. 72,
s. 44.

53. In every case in which any person is charged with adultery with any party to a suit or in which the court may consider, in the interest of any person not already a party to the suit, that that person should be made a party to the suit, the court may if it thinks fit allow that person to intervene upon such terms, if any, as the court thinks just.

Rules.

54. (1) The Chief Justice may make rules for the better carrying out of the purposes and provisions of this Ordinance and in particular, but without prejudice to the generality of the foregoing, may make rules—

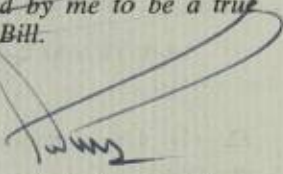
- (a) as to all matters of procedure under this Ordinance;
- (b) prescribing the forms to be used under this Ordinance;
- (c) with regard to any matter as to which rules may be made under this Ordinance.

(2) The Chief Justice, with the approval by resolution of the Legislative Council, may make rules prescribing the fees and costs to be paid, charged or allowed under this Ordinance.

Repeal of
Cap. 179.

55. The Divorce Ordinance is repealed.

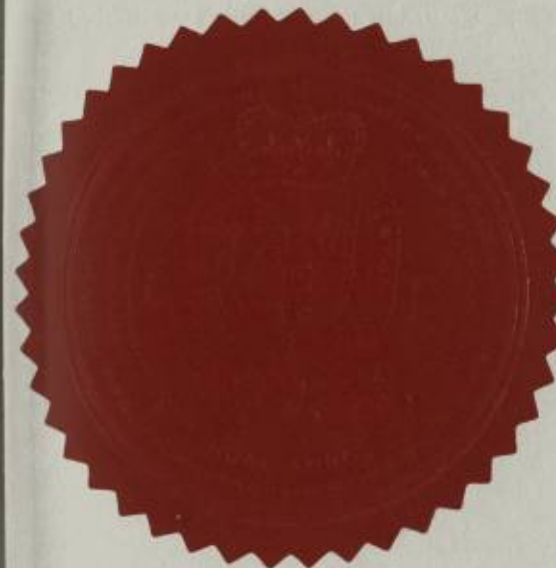
This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 18th day of January, 1967, and is found by me to be a true and correctly printed copy of the said Bill.


Clerk of Councils.

(Secretariat GR 6/3231/66)

No. 2 OF 1967.

No. 2 OF 1967.



French

19th January, 1967.

[20th January, 1967.]

PART I.

1. This Ordinance may be cited as the Hong Kong Productivity Short title, Council Ordinance 1967.

2. In this Ordinance, unless the context otherwise requires— Interpretation.
 "Chairman" means the Chairman of the Hong Kong Productivity Council appointed under paragraph (a) of subsection (1) of section 9 or, during the absence from Hong Kong or incapacity of

Interpreta-
tion.

the Chairman so appointed, the person (if any) appointed under subsection (5) of that section to act as Chairman or, if no person has been appointed to act as Chairman, the Deputy Chairman appointed under subsection (2) of that section;

"Council" means the Hong Kong Productivity Council established by section 3;

"Executive Committee" means the executive committee elected under section 15;

"Executive Director" means the executive director of the Productivity Centre appointed by the Council under paragraph (h) of subsection (1) of section 5;

"financial year" means the period commencing on the 1st day of April each year and ending on the 31st day of March in the year following except that the period from the establishment of the Council to the 31st day of March next thereafter shall be deemed to be a financial year;

"Productivity Centre" means the centre established under section 14.

PART II.

THE HONG KONG PRODUCTIVITY COUNCIL.

Establishment and incorporation of the Hong Kong Productivity Council.

3. There is hereby established a council to be called the Hong Kong Productivity Council which shall, in that name, be a body corporate with perpetual succession and shall be capable of suing and being sued and, subject to this Ordinance, of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.

Functions of the Council.

4. The functions of the Council shall be—

- (a) to promote the increased productivity of industry in Hong Kong and to encourage the more efficient utilization of resources therein;
- (b) to consider matters affecting the productivity of industry in Hong Kong;
- (c) to advise the Governor concerning the productivity of industry in Hong Kong and measures designed to increase it;
- (d) to establish and maintain a Productivity Centre in accordance with section 14.

Powers of the Council.

5. (1) The Council may do all such things as are calculated to facilitate, or as are incidental or conducive to, the better carrying out

of its functions and may in particular, but without prejudice to the generality of the foregoing—

- (a) acquire, take on lease, purchase, hold and enjoy any property and sell, let or otherwise dispose of the same;
- (b) enter into any contract;
- (c) to meet expenditure on any item shown in the estimates of expenditure of the Council approved by the Governor under section 16, borrow or otherwise raise money on such security as may be necessary, and for that purpose, charge all or any of the property of the Council, but without the prior approval of the Financial Secretary no sum shall be borrowed or otherwise raised under this paragraph which itself, or together with all other sums previously borrowed or otherwise raised under this paragraph and still outstanding, exceeds, or in the aggregate exceed, ten *per cent* of the total estimated expenditure approved by the Governor under section 16 for the current financial year;
- (d) become a member of, act as agent for or otherwise take part in the activities of any association or institution which is, either wholly or in part, concerned with any matter relating to productivity of industry;
- (e) found scholarships, make research grants or otherwise give financial or other assistance to persons engaged in study or research into any matter relating to productivity of industry;
- (f) hold classes, seminars, demonstrations, exhibitions, lectures or any other form of instructional or promotional activity and charge fees therefor;
- (g) publish periodicals, booklets or other written material, and produce or sponsor the production of documentary films or other audio-visual material, and distribute the same by sale or by loan, hire or otherwise with or without charge as the Council thinks fit;
- (h) from time to time and subject to section 6, appoint an Executive Director to be the chief administrative officer of the Productivity Centre and such other officers, servants and agents as it considers necessary for the efficient performance of its functions; and employ any professional person to advise the Council on any point arising out of or in connexion with any of the functions or powers of the Council;
- (i) appoint, in addition to the Executive Committee, a committee for such general or special purpose as in the opinion of the Council would be better regulated and managed by a committee;

- (j) subject to subsection (3), by instrument in writing, delegate to the Executive Committee or the Executive Director such of its powers and functions as it deems expedient for the efficient performance of the Council's functions in relation to the Productivity Centre, and to any committee appointed under paragraph (i) such of its other powers and functions as it deems expedient for the efficient performance of the Council's functions, and in so doing shall determine the limit of expenditure which may be incurred, without further authorization, in the exercise of any power so delegated:

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

(2) The Council may, with the approval of the Governor, establish, manage and control, or enter into an arrangement with an insurance company or association for the establishment, management and control by such company or association either alone or jointly with the Council of a provident fund scheme for the benefit of all or any of the officers and servants of the Council or of any specified class of officer or servant of the Council, and if so required by the rules governing such scheme may make contributions thereto in accordance with such rules.

(3) Paragraph (j) of subsection (1) shall not permit the delegation of the power—

- (a) to approve the annual programme or estimates of income and expenditure of the Council, or
- (b) to authorize the annual report or statements of income and expenditure and of assets and liabilities of the Council, or
- (c) to appoint any officer or servant to a post the annual emoluments of which exceed fifty thousand dollars, or
- (d) to approve general terms and conditions of service of officers or servants of the Council, or
- (e) to transfer, under paragraph (a) of subsection (4) of section 16, any sum from any major head of expenditure to any other major head or heads of expenditure in the approved estimates of expenditure of the Council, or
- (f) to establish or enter into any arrangement for the establishment of a provident fund scheme under subsection (2),

and shall not permit the delegation to any committee appointed under paragraph (i) of subsection (1) of the power to transfer any sum from any sub-head of expenditure to any other sub-head in the approved estimates of expenditure of the Council.

6. (1) The Council shall, before establishing or varying any salary scale (including any scale of allowances and other pecuniary benefits) for any officer or servant or class of officer or servant of the Council, submit for the approval of the Governor particulars thereof, and the Governor may confirm the same either generally in respect of the relevant class of officer or servant or specially in respect of a particular officer or servant or a particular post.

Approval of salary scales by Governor.

(2) No officer or servant of the Council shall be paid any salary other than a salary in the appropriate scale approved by the Governor under subsection (1).

7. (1) The Council shall have a common seal, and the fixing of the seal shall—

Seal of the Council.

- (a) be authorized or ratified by resolution of the Council; and
- (b) be authenticated by the signatures of any two members of the Council, authorized by resolution of the Council either generally or specially to act for that purpose.

(2) Any document purporting to be a document duly executed under the seal of the Council shall be received in evidence and shall, unless the contrary is proved, be deemed to be a document so executed.

8. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of the Council by any person generally or specially authorized by the Council for that purpose.

Certain contracts and instruments not required to be under seal.

PART III.

MEMBERSHIP AND PROCEDURE OF COUNCIL.

9. (1) The Council shall consist of not more than twenty-one members to be appointed by the Governor, of whom—

Membership of Council.

- (a) one member shall be appointed by the Governor as Chairman of the Council;
- (b) four members shall be appointed to represent management;
- (c) four members shall be appointed to represent labour;
- (d) two members shall be appointed to represent such academic or professional interests as the Governor shall consider appropriate; and
- (e) not more than ten other members shall be public officers.

(2) There shall be a Deputy Chairman of the Council who shall be appointed by the Governor from amongst the members.

(3) (a) Every member of the Council who is a public officer shall hold office during the pleasure of the Governor.

(31 of 1966).

(b) Without prejudice to section 42 of the Interpretation and General Clauses Ordinance 1966, every member of the Council who is not a public officer shall be appointed for a period of two years or for such lesser period as the Governor may in any particular case appoint, but may from time to time be reappointed.

(4) Any member who is not a public officer may at any time by notice in writing to the Governor resign from the Council.

(5) If the Chairman of the Council is absent from Hong Kong or is, for any other reason unable to act as chairman, the Governor may appoint a member of the Council to act as Chairman during the absence or incapacity of the Chairman.

(6) If any member other than the Chairman is absent from Hong Kong, or is for any other reason unable to exercise the powers or perform the duties of his office as a member of the Council, the Governor may appoint another person to be a temporary member of the Council during the absence or incapacity of that member.

Chairman of meetings, and restriction on voting.

10. The Chairman or, in his absence from any meeting, the Deputy Chairman appointed under subsection (2) of section 9 shall preside at every meeting of the Council but the person presiding at a meeting shall not vote thereat except in the case of an equality of votes when he shall have a casting vote.

Meetings of the Council.

11. (1) Meetings of the Council shall be held at such times and places as the Chairman may from time to time appoint.

(2) The Chairman shall, if requested by notice in writing signed by not fewer than four members of the Council, convene a meeting of the Council within fourteen days of that notice.

(3) At all meetings of the Council a majority of the members shall form a quorum.

(4) All questions arising at any meeting of the Council shall be decided by a majority of votes of the members present and voting thereon.

(5) Subject to this Ordinance, the Council may by resolution make rules for the procedure at and conduct of its meetings.

Transaction of business by circulation of papers.

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

13. The validity of any proceeding of the Council shall not be affected by any defect in the appointment of any member or by the absence of any member from the meeting at which such proceeding occurred or by any vacancy among members of the Council. Validity of proceedings.

PART IV.

PRODUCTIVITY CENTRE.

14. (1) The Council shall, in the furtherance of its functions, establish and maintain a Productivity Centre. Establish-ment of Productivity Centre.

(2) The activities of the Productivity Centre shall be—

(a) to consult with, co-ordinate and assist the activities of persons or organizations, either in Hong Kong or elsewhere, engaged in the study, development or dissemination of programmes, methods or techniques designed to increase productivity in industry;

(b) to stimulate interest in productivity;

(c) to collect and disseminate information relating to productivity;

(d) to encourage, by any means, the study of productivity and the training of persons in any matters relating to increased productivity; and

(e) to provide training in productivity techniques.

(3) The activities of the Productivity Centre may include the provision of consultancy services and technical assistance for persons or organizations engaged in industry.

15. (1) Subject to subsection (3), the Council shall elect from amongst its members an Executive Committee to manage the Productivity Centre. Management of Productivity Centre.

(2) The Executive Committee shall be responsible to the Council for the management and control of the Productivity Centre and shall execute the policies of the Council and be subject to the directions of the Council in relation thereto and be accountable to the Council for all funds made available to it.

(3) The Executive Committee shall consist of nine members, of whom—

(a) three shall be public officers;

(b) three shall have been appointed to the Council under paragraph (b) of subsection (1) of section 9;

(c) two shall have been appointed to the Council under paragraph (c) of subsection (1) of section 9; and

(d) one shall have been appointed to the Council under paragraph (d) of subsection (1) of section 9.

(4) The chairman of the Executive Committee shall be appointed by the Council from amongst the members of the Executive Committee specified in paragraphs (b), (c) and (d) of subsection (3).

PART V.

FINANCIAL PROVISIONS AND REPORTS.

Estimates.

16. (1) Each financial year, before a date to be appointed by the Governor, the Council shall forward to the Financial Secretary, for the approval of the Governor, a programme of its proposed activities for the next financial year together with or incorporating estimates of its income and expenditure for the next financial year in the form required by subsections (2) and (3):

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

(2) The estimates required by subsection (1) shall set out the source of all income, and shall show the distribution of expenditure under the following major heads—

- (a) staff emoluments (including provision for provident fund contributions and benefits, medical expenses and other ancillary pecuniary benefits);
- (b) capital expenditure exceeding twenty-five thousand dollars on any one item;
- (c) recurrent expenditure other than expenditure shown under head (a) aforesaid and capital expenditure other than expenditure shown under head (b) aforesaid;
- (d) non-recurrent expenditure other than capital expenditure shown under head (b) or (c) aforesaid.

(3) Each major head of expenditure shall show clearly the destination of all moneys and where several matters are dealt with under the one head each such matter shall be itemized and be shown in a separate sub-head relating to similar items of expenditure.

(4) Notwithstanding the approval of the Governor of the estimates of the Council, the Council may at any time or from time to time and with or without specifying the purpose of the transfer—

- (a) transfer to head (c) or (d), or to each such head, from any other major head of expenditure a sum not exceeding or sums

in the aggregate not exceeding twenty *per cent* of the amount approved for the head to which such sum is or sums are transferred; and

- (b) transfer any sum or sums, without restriction, from any sub-head to any other sub-head or sub-heads within the same head of expenditure,

but save as permitted by paragraph (a) no sum shall be transferred from one major head to any other major head of expenditure without the approval of the Governor.

17. (1) The Council shall keep proper accounts of all income and expenditure and shall maintain proper and adequate records thereof. Accounts.

(2) As soon as may be convenient after the end of each financial year the Council shall cause to be drawn up a statement of income and expenditure during such financial year and a statement of the assets and liabilities of the Council on the last day thereof.

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

(2) The auditors shall audit the statements drawn up under subsection (2) of section 17 as soon as possible and shall make a report thereon to the Council.

19. (1) The Council shall as soon as possible after the end of each financial year, but not later than six months after the end of each financial year or such longer period as the Governor may as to any particular year allow, make to the Governor a report on its activities including the activities of the Productivity Centre and shall transmit to the Governor therewith a copy of the statements drawn up under subsection (2) of section 17 and the report made under subsection (2) of section 18. Reports to be laid on table of Legislative Council.

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

20. All funds of the Council that are not immediately required shall be deposited on fixed deposit in any bank or savings bank nominated by the Financial Secretary, either generally or in any particular case, for that purpose, or, subject to the prior approval of the Financial Secretary, shall be invested in such investments as the Council thinks fit. Investment of surplus funds.

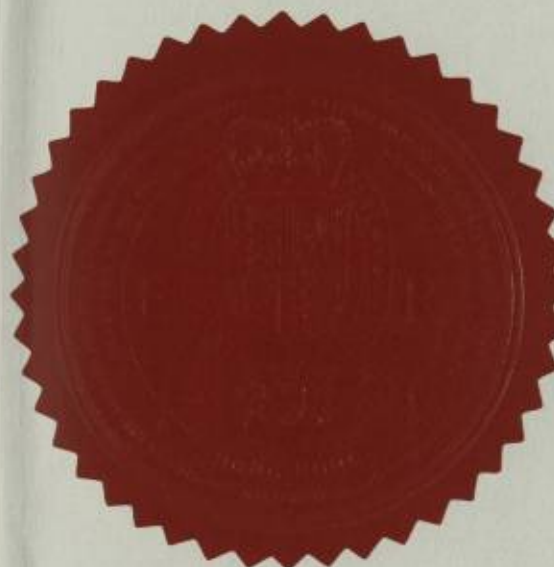
This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 18th day of January, 1967, and is found by me to be a true and correctly printed copy of the said Bill.

[Signature]
Clerk of Councils.

(Secretariat ECON 4/2586/64)

HONG KONG

No. 3 OF 1967.



I assent.

[Signature]

Governor.

2nd February, 1967.

An Ordinance to amend further the Public Services Commission Ordinance.

[3rd February, 1967.]

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

1. This Ordinance may be cited as the Public Services Commission (Amendment) Ordinance 1967. Short title.

2. Section 3 of the Public Services Commission Ordinance (hereinafter referred to as the principal Ordinance) is amended by the deletion in subsection (1) of "two members" and the substitution therefor of the following— Amendment of section 3. (Cap. 93.)

"not less than two and not more than eight members".

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 1st day of February, 1967, and is found by me to be a true and correctly printed copy of the said Bill.

[Signature]
Deputy Clerk of Councils.

(Secretariat CR 4169/46III)



HONG KONG

No. 4 OF 1967.

I assent.

[Signature]

Governor.

2nd February, 1967.

An Ordinance to amend further the Public Health (Animals and Birds) Ordinance.

[3rd February, 1967.]

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

1. This Ordinance may be cited as the Public Health (Animals and Birds) (Amendment) Ordinance 1967.

Short title.

2. The long title of the Public Health (Animals and Birds) Ordinance (hereinafter referred to as the principal Ordinance) is amended by the insertion, after the word "birds", of the following—

Amendment of long title.
(Cap. 139.)

"and to provide for the protection and safety of the public at places where wild animals and wild birds are exhibited".

Amendment of
section 2.

3. Subsection (1) of section 2 of the principal Ordinance is amended—

- (a) by the deletion of the definition "Director" and the substitution therefor of the following definition—

"“Director” means the Director of Agriculture and Fisheries and any Assistant Director of Agriculture and Fisheries;” and

- (b) by the deletion of the full stop at the end of the definition “special permit” and the substitution therefor of a semicolon and by the insertion thereafter of the following definitions—

““wild animals” means all animals other than those classed at common law as domestic;

“wild birds” means all birds other than poultry and those kept principally or solely as pets.”.

Amendment of
section 4.

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

“(4) Any person who—

- (a) contravenes any of the provisions of subsection (1); or

- (b) contravenes any of the provisions of an order issued under subsection (2),

shall be guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars.”.

Amendment of
section 5.

5. Section 5 of the principal Ordinance is amended by—

- (a) being renumbered as subsection (1) thereof; and

- (b) the insertion of the following new subsection—

“(2) Any person who contravenes any of the provisions of an order issued under subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars.”.

Addition of
new sections
9A and 9B.

6. The principal Ordinance is amended by the addition after section 9 of the following new sections—

“PROTECTION AND SAFETY OF THE PUBLIC AT PLACES WHERE WILD ANIMALS AND WILD BIRDS ARE EXHIBITED.

Notice of
intention to
exhibit a
wild animal
or wild bird.

9A. (1) Any person who intends to exhibit any wild animal or wild bird on premises to which the public are to be admitted shall, prior to the exhibition of the wild animal or wild bird, give notice in writing

to the Director of his intention to exhibit the wild animal or wild bird, and such notice shall specify the kind of wild animal or wild bird which he intends to exhibit and the premises on which he intends to exhibit the wild animal or wild bird.

(2) Any person who fails to comply with the provisions of subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars.

Power of
Director
to require
work done.

9B. (1) Where a person intends to exhibit any wild animal or wild bird, the Director may cause a notice in accordance with subsection (3) to be served on such person or, if such person cannot be found, on the owner or occupier of the premises on which it is intended to exhibit the wild animal or wild bird, requiring the person on whom the notice is served, prior to the exhibition of the wild animal or wild bird, to take such steps and do such things to the satisfaction of the Director for the protection and safety of the public as may be specified in the notice.

(2) Where a person is exhibiting a wild animal or wild bird, the Director may cause a notice in accordance with subsection (3) to be served on such person or, if such person cannot be found, on the owner or occupier of the premises on which the wild animal or wild bird is being exhibited, requiring the person on whom the notice is served—

- (a) within the period specified in the notice, to take such steps and do such things to the satisfaction of the Director for the protection and safety of the public as may be specified in the notice; and

- (b) if the Director thinks fit, to cease exhibiting the wild animal or wild bird, until such steps are taken or such things done as may be specified under paragraph (a).

Schedule.

(3) Any notice served under subsection (1) or (2) shall be in the form specified in the Schedule, and such notice may be served, whether or not the Director has received a notice required to be given under section 9A.

(4) Any person who fails to comply with any of the requirements of a notice served on him by the

Director under subsection (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars."

Amendment of section 10.

7. Section 10 of the principal Ordinance is amended by the deletion of subsection (1) thereof.

Addition of new section 18.

8. The principal Ordinance is amended by the addition after section 17 of the following new section—

"Amendment of Schedule.

18. The Governor may from time to time, by order in the *Gazette*, amend the Schedule."

Addition of Schedule.

9. The principal Ordinance is amended by the addition at the end thereof, of the following Schedule—

"SCHEDULE.

[s. 9B(3).]

FORM.

PUBLIC HEALTH (ANIMALS AND BIRDS) ORDINANCE.

(Cap. 139).

Public Safety Notice.

To: (person who intends to exhibit a wild animal or wild bird, or who is exhibiting a wild animal or wild bird, or owner or occupier of the premises on which it is intended to exhibit a wild animal or wild bird, or on which a wild animal or wild bird is being exhibited, as the case may be).

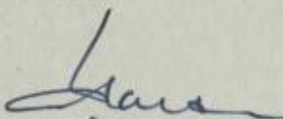
1. Take notice that under section 9B of the Public Health (Animals and Birds) Ordinance the Director of Agriculture and Fisheries having been informed that you intend to exhibit a wild animal (or a wild bird) being (describe kind of wild animal or wild bird) at (describe the premises) does hereby require you prior to the exhibition of such wild animal (or wild bird) (or within days) to (specify steps to be taken or things to be done) to the satisfaction of the Director. (And the Director does hereby require you to cease the exhibition of such wild animal (or such wild bird) until such steps have been taken and such things have been done).
2. If you make default in complying with the requirements of this notice you will be liable on summary conviction to a fine of two thousand dollars.

Dated the day of 19 .

(Signed)

Director of Agriculture
and Fisheries."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 1st day of February, 1967, and is found by me to be a true and correctly printed copy of the said Bill.



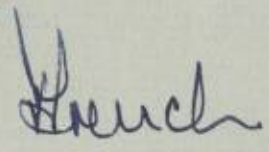
Deputy Clerk of Councils.

(Secretariat ECON 19/3231/59)

HONG KONG

No. 5 OF 1967.

I assent.



Governor.

2nd February, 1967.

An Ordinance to amend further the Pensions Ordinance.

[3rd February, 1967.]

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

1. (1) This Ordinance may be cited as the Pensions (Amendment) Ordinance 1967.

Short title and commencement of paragraphs (a) and (b) of section 2.

(2) Paragraphs (a) and (b) of section 2 shall be deemed to have had effect as from the 1st day of April 1965.

2. Subsection (1) of section 2 of the principal Ordinance is amended—

Amendment of section 2. (Cap. 89.)

(a) by inserting the following new definition before the definition of "pensionable office"—

““officer who has elected” means an officer who, being eligible under Establishment Circular Number 2/67 dated the 5th day of January 1967 and published as Legal Notice Number 3

of 1967 in the *Gazette* so to elect, has elected under and in accordance with the terms and conditions of the said Establishment Circular that ninety *per cent* only of substantive salary and fifty *per cent* only of expatriation pay shall be taken in computing the pension, gratuity or other allowance which may be granted to him under this Ordinance;"; and

- (b) by deleting paragraph (a) in the definition of "pensionable emoluments" and substituting the following—

"(a) in respect of service in this Colony after the 31st day of March 1965—

(i) substantive salary or, in the case of an officer who has elected, ninety *per cent* of substantive salary;

(ii) expatriation pay or, in the case of an officer who has elected, fifty *per cent* of expatriation pay; and

(iii) personal allowance,

but does not include any other emoluments whatever;".

Amendment of
section 17.

3. Section 17 of the principal Ordinance is amended—

- (a) in subsection (2), by deleting "paragraph (b) of regulation 22 or"; and

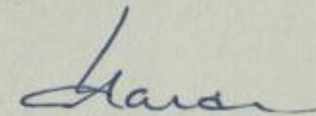
- (b) in subsection (5), by deleting paragraph (a) and substituting the following—

"(a) "annual pensionable emoluments" means—

(i) in subsection (1), the emoluments which would have been taken in accordance with the provisions of regulation 18 of the Pensions Regulations for the purpose of computing the pension or gratuity that would have been granted to the officer if, on the day following the date of his death, he had retired from the public service in circumstances which enable such a grant to be made; and

(ii) in subsection (2), the emoluments taken for the purpose of computing any pension or gratuity granted to the officer under this Ordinance;".

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 1st day of February, 1967, and is found by me to be a true and correctly printed copy of the said Bill.



Deputy Clerk of Councils.

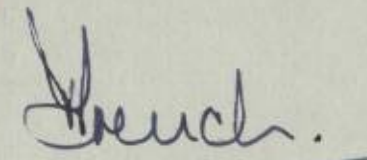
(Secretariat CR 197/65II)

HONG KONG

No. 6 OF 1967.



I assent.


Governor.

2nd February, 1967.

An Ordinance to amend further the Widows and Orphans Pension Ordinance.

[1st April, 1965.]

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

1. This Ordinance may be cited as the Widows and Orphans Pension (Amendment) Ordinance 1967 and shall be deemed to have had effect as from the 1st day of April 1965.

Short title
and commence-
ment.

2. Section 2 of the principal Ordinance is amended—

(a) by inserting the following new definition after the definition “directors”—

Amendment of
section 2.
(Cap. 94.)

““officer who has elected” has the meaning assigned to it by subsection (1) of section 2 of the Pensions Ordinance;” and

(b) by deleting both of the definitions of “salary”.

Addition of
new section 2A.

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

"Salary.

2A. (1) Save as otherwise provided, the salary of an officer shall be determined for the purposes of this Ordinance in accordance with the provisions of this section.

(2) Salary—

- (a) in respect of service prior to the 1st day of July 1959; and
- (b) in respect of service after the 30th day of June 1959 for which an officer continued to be in receipt of a salary on a scale applicable prior to the 1st day of July 1959,

means the aggregate of—

(i) the salary of an officer's substantive appointment or appointments, including personal allowances in the nature of salary; and

(ii) fifty *per cent* of expatriation pay and personal allowances in place of expatriation pay, if any.

(3) Salary, in respect of service after the 30th day of June 1959 but prior to the 1st day of April 1965 (other than service for which an officer continued to be in receipt of a salary on a scale applicable prior to the 1st day of July 1959), means the aggregate of—

(a) ninety *per cent* of the salary of an officer's substantive appointment or appointments, including personal allowances in the nature of salary; and

(b) fifty *per cent* of expatriation pay and personal allowances in place of expatriation pay, if any.

(4) Salary, in respect of service after the 31st day of March 1965, means—

(a) except in the case of an officer who has elected, the aggregate of—

(i) the salary of an officer's substantive appointment or appointments; and

(ii) expatriation pay and personal allowances in place of expatriation pay, if any; and

(b) in the case of an officer who has elected, the aggregate of—

(i) ninety *per cent* of the salary of an officer's substantive appointment or appointments; and

(ii) fifty *per cent* of expatriation pay and personal allowances in place of expatriation pay, if any."

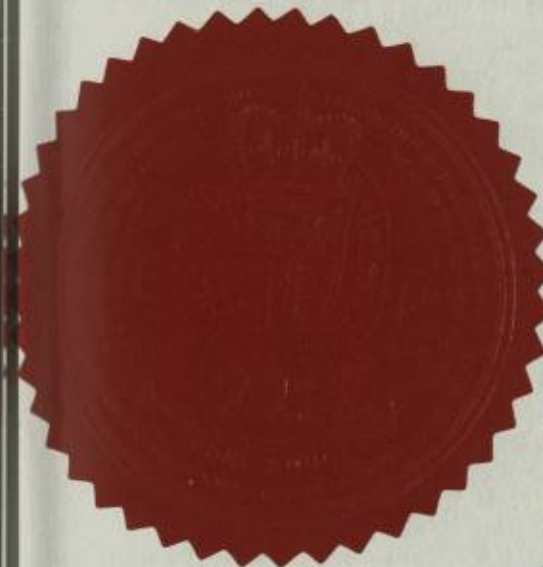
This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 1st day of February, 1967, and is found by me to be a true and correctly printed copy of the said Bill.

Deputy Clerk of Councils.

(Secretariat CR 197/65II)

HONG KONG

No. 7 OF 1967.



I assent.

Governor.

2nd February, 1967.

An Ordinance to amend further the Mercantile Bank Note Issue Ordinance.

[3rd February, 1967.]

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

1. This Ordinance may be cited as the Mercantile Bank Note Issue (Amendment) Ordinance 1967.

Short title.

2. Section 2 of the Mercantile Bank Note Issue Ordinance (hereinafter referred to as the principal Ordinance) is amended by the deletion from the definition "company" of the words "whose chief office is in" and the substitution therefor of the following—

Amendment of section 2.
(Cap. 71.)

"incorporated in the United Kingdom and having its registered office at".

3. Section 3 of the principal Ordinance is amended by the deletion from subsection (3) of the words "The total amount of such notes actually in circulation shall not at any time exceed the

Amendment of section 3.

amount of the capital of the company actually paid up" and the substitution therefor of the following—

"Subject to the provisions of subsection (2) of section 4, the total amount of notes actually in circulation shall not at any time exceed the equivalent of the sum of thirty million dollars".

Amendment of
section 4.

4. Subsection (2) of section 4 of the principal Ordinance is amended by the deletion of the words "other than those against the issue of which securities have been deposited under such subsection", and the substitution therefor of the following—

"to an amount in excess of the equivalent of the sum of thirty million dollars".

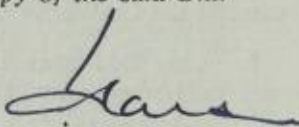
Amendment of
section 5.

5. Subsection (1) of section 5 of the principal Ordinance is repealed and replaced by the following—

"Monthly
statement of
outstanding
notes and
securities.

(1) The company shall render to the Financial Secretary on the first working day of each month a statement of the face value of the notes outstanding and of the securities held against these notes. The statement shall show the nominal value of such securities, the price at which they were valued on deposit and also the latest market price of such securities. The Financial Secretary shall cause to be published in the *Gazette* each month an extract from the said statement showing the face value of the notes outstanding."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 1st day of February, 1967, and is found by me to be a true and correctly printed copy of the said Bill.

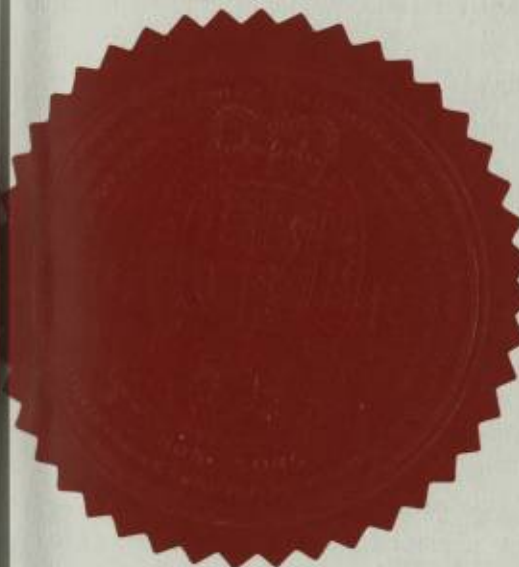
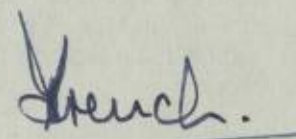

Deputy Clerk of Councils.

(Secretariat SCR 60/65)

HONG KONG

No. 8 OF 1967.

I assent.



Governor.

2nd February, 1967.

An Ordinance to incorporate The Hong Kong Anti-Tuberculosis and Thoracic Diseases Association.

[3rd February, 1967.]

WHEREAS—

Preamble.

(1) the former Hong Kong Anti-Tuberculosis Association was incorporated by Ordinance in 1948 with its main purpose to combat tuberculosis in Hong Kong:

(2) since that time many organizations throughout the world, also established for the purpose of combating tuberculosis, have extended the scope of their activities to include all diseases of the chest and heart:

(3) the former Association being desirous of likewise extending the scope of its activities and of making changes in its constitution:

(4) it is considered expedient to make provision accordingly by legislation:

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

Short title.

1. This Ordinance may be cited as The Hong Kong Anti-Tuberculosis and Thoracic Diseases Association Incorporation Ordinance 1967.

Interpretation.

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

"Association" means The Hong Kong Anti-Tuberculosis and Thoracic Diseases Association incorporated under section 3;

"Board" means the Board of Directors established under the Constitution;

"Chairman" means the Chairman of the Board;

"Constitution" means the Constitution of the Association for the time being in force, subject to the provisions of this Ordinance relating to any matter expressly dealt with in this Ordinance;

(Cap. 1024.)

"former Association" means the Hong Kong Anti-Tuberculosis Association established under the Hong Kong Anti-Tuberculosis Association Incorporation Ordinance (repealed).

Incorporation of Association.

3. The Hong Kong Anti-Tuberculosis and Thoracic Diseases Association shall be a body corporate and in that name shall have perpetual succession and may sue and be sued in all courts in the Colony and shall have, and may use, a common seal, and may from time to time break, change, alter and make anew the said seal as the Association may deem fit.

Objects of the Association.

4. The objects of the Association are—

- (a) to carry on and continue the work and activities heretofore carried on by the former Association;
- (b) to study the causes of the high incidence of and mortality due to tuberculosis in Hong Kong;
- (c) to investigate ways and means of dealing with tuberculosis and its causes at their sources;
- (d) to educate the community in the causes and prevention of tuberculosis;
- (e) to augment existing official and private means for the prevention and diagnosis of tuberculosis and for the treatment of persons suffering therefrom;
- (f) to undertake or finance research into, and to provide facilities for, the prevention, diagnosis and treatment of disease or mal-function of the chest and heart and to rehabilitate those suffering or who have suffered therefrom.

5. The Association shall have power—

- (a) subject to the Charities (Land Acquisition) Ordinance to acquire by purchase, lease or otherwise and to hold, possess and enjoy any lands, buildings, messuages or tenements, goods, chattels and other property of whatsoever nature or kind, and wheresoever situate;
- (b) to build, rebuild, alter, vary, renew, maintain and repair any buildings, messuages or tenements and to effect any improvement thereto;
- (c) to invest moneys on deposit in any bank or upon mortgage of any lands, buildings, messuages or tenements, or upon the mortgage, debentures, debenture stocks, stocks, funds, shares or securities of any government, municipality, corporation or company or such other investment as the Board may think fit;
- (d) to grant, sell, convey, assign, surrender, exchange, partition, yield up, mortgage, pledge, demise, let, reassign, transfer or otherwise dispose of any lands, buildings, messuages, tenements, mortgages, debentures, debenture stocks, stocks, funds, shares, securities, vessels, goods, chattels, property and assets for the time being vested in or belonging to the Association upon such terms as the Association may think fit;
- (e) to borrow money upon such terms as the Association may think fit, and, subject to subsection (17) of section 4 of Summary Offences Ordinance, to raise money by public or by private subscription;
- (f) to accept donations, grants or subsidies from any person or Government authority or other body or organization;
- (g) to establish, support and subscribe to provident funds, pension, retirement and similar schemes for the benefit of employees of the Association and their dependents and to grant and pay pensions or gratuities to and otherwise aid, support or assist any such persons;
- (h) generally to do such other acts and things as are incidental or conducive to the objects of the Association as provided by this Ordinance and the Constitution.

Powers of the Association.
(Cap. 305.)

6. (1) The following properties, namely—

- (a) All that piece or parcel of ground known and registered in the Land Office as Aberdeen Inland Lot No. 159;
- (b) All that piece or parcel of ground known and registered in the Land Office as Inland Lot No. 7206;
- (c) All that piece or parcel of ground known and registered in the Land Office as Inland Lot No. 7254,

Vesting of property, etc. of former Association.

together with all erections and buildings thereon and together with all rights, easements and appurtenances thereto belonging vested in the former Association shall from the commencement of this Ordinance be vested in the Association absolutely subject to and with the benefit of the respective Conditions of Grant under which the same are held from the Crown.

(2) All that one equal undivided share of in and to all those pieces or parcels of land situate at Kowloon in the Colony of Hong Kong and respectively known and registered in the Land Office as Sections B, C, D and E of New Kowloon Inland Lot No. 2506 together with the buildings erected thereon known as Blocks "B" and "C" Kent Court and together with all rights, easements and appurtenances thereto belonging vested in the former Association shall from the commencement of this Ordinance be vested in the Association for the unexpired residue of the term of years created by the Crown Lease of New Kowloon Inland Lot No. 2506 subject to and with the benefit of a Lease dated the 27th July 1962 registered in the Land Office by Memorial No. 380180 and subject to and with the benefit of a Management Agreement dated the 8th February 1961 registered in the Land Office by Memorial No. 333997 as varied by a Supplemental Agreement dated the 8th March 1962 and registered in the Land Office by Memorial No. 363165 so far as the same relate to the premises hereby transferred and subject also to the proviso for redemption contained in a Mortgage dated the 20th January 1964 registered in the Land Office by Memorial No. 425221.

(3) All debentures, stocks, funds, shares, securities, vessels, goods, chattels and other movable assets vested in or belonging to or held for or on behalf of or in trust for the former Association and all moneys subscribed for the purposes of the former Association and all investments of such moneys and all interest, income and profits arising from such investments and all securities therefor shall, at the commencement of this Ordinance, be transferred to, vest in, belong to or be held for or on behalf of or in trust for the Association.

(4) All contractual and other rights exercisable or enforceable by the former Association shall, at commencement of this Ordinance, be exercisable and enforceable by the Association in place of the former Association.

(5) On the commencement of this Ordinance, the Association shall become liable for all the debts and liabilities and for the performance of all the contractual and other obligations of the former Association.

7. The Association shall consist of the persons who were ordinary or life members of the former Association under the constitution thereof referred to in section 8 and of all such persons who shall continue to be members or who shall be admitted to membership of the Association in accordance with the Constitution.

Membership
of Association.

8. The constitution of the former Association as approved and adopted at the Annual General Meeting of the former Association held on the 28th day of October 1966 shall be deemed to be the Constitution of the Association but the same may be amended or replaced by the Association at any time or from time to time in accordance with the provisions of the Constitution.

Constitution
of Association.

9. (1) The Association shall forward to the Registrar of Companies for registration the following—

Registration
with the
Registrar of
Companies.

- (a) notice of the address of the principal office of the Association and any change thereof;
- (b) a copy of the Constitution and any amendment thereto certified as correct by the Chairman; and
- (c) a list of the names, occupations and addresses of the members of the Board and of the officers of the Association and any change therein, certified as correct either by the Chairman alone or by any one other member of the Board and the Secretary.

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

(3) A fee of five dollars shall be payable for registering any document under this section.

(4) Any person may inspect any of the documents registered under this section on payment of such fee as may be appointed under section 305 of the Companies Ordinance for the inspection of documents kept by the Registrar of Companies. (Cap. 32.)

(5) The registration of the list mentioned in paragraph (c) of subsection (1) shall be conclusive evidence of the facts contained in such list.

10. (1) All deeds, documents and other instruments requiring the seal of the Association shall be sealed in the presence of two members of the Board and shall also be signed by those members and such signing shall be taken as sufficient evidence of the due sealing and execution of such deeds, documents and other instruments.

Sealing and
signing of
documents.

(2) The Board shall be responsible for the safe custody of the common seal of the Association.

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

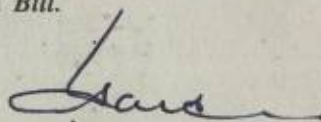
Saving.

Repeal of
Cap. 1024.

12. The Hong Kong Anti-Tuberculosis Association Incorporation Ordinance is hereby repealed:

Provided that the Board of Directors and the Officers of the former Association holding office at the commencement of this Ordinance shall hold the like office in the Association and shall be deemed to have been duly appointed to such office in accordance with the Constitution.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 1st day of February, 1967, and is found by me to be a true and correctly printed copy of the said Bill.

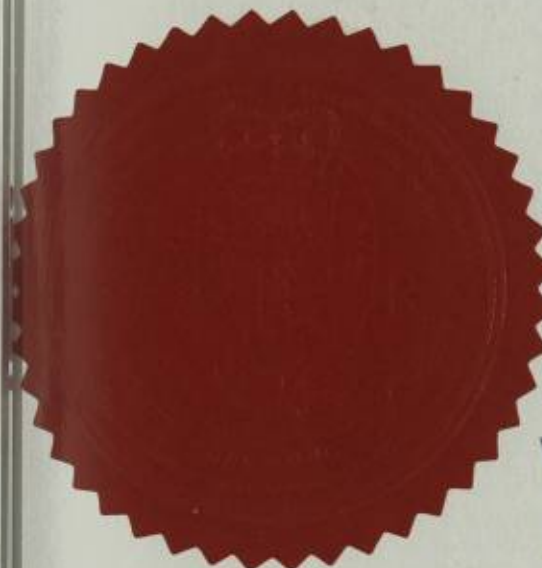


Deputy Clerk of Councils.

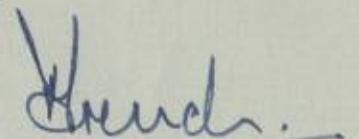
(Secretariat GR 68/3231/48)

HONG KONG

No. 9 OF 1967.



I assent.



Governor.

16th February, 1967.

An Ordinance to amend further the Gambling Ordinance.

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

[17th February, 1967.]

1. This Ordinance may be cited as the Gambling (Amendment) Ordinance 1967. Short title.

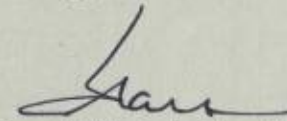
2. The principal Ordinance is amended by the addition, after section 11, of the following new section— Addition of new section 11A.
(Cap. 148.)

“Trade
promotion
competi-
tions.”

11A. (1) Notwithstanding anything contained in this Ordinance, the Commissioner of Police may, in his absolute discretion and subject to the provisions of this section, grant a permit for the organization and conduct of a trade promotion competition by a person engaged in trade or business.

- (2) A permit granted under this section shall—
- (a) be valid for such period, not exceeding twelve months, as may be specified therein by the Commissioner of Police;
 - (b) be subject to a condition that none of the prizes in the competition shall be money prizes.
- (3) The Commissioner of Police may attach such conditions to a permit issued under this section as he may think fit and may at any time revoke any such permit if, in his opinion, the competition has ceased to be a trade promotion competition or there has been a breach of any condition of such permit.
- (4) A fee of three hundred dollars shall be payable on the issue of a permit under this section.
- (5) In this section, "trade promotion competition" means any competition, contest, device or scheme organized and conducted solely for the purpose of promoting the sale of any product.
- (6) A trade promotion competition in respect of which a permit has been issued under this section shall not, so long as such permit is in force, be deemed to be a lottery within the meaning of this Ordinance.
- (7) Any police officer of or above the rank of sergeant may enter any premises whereon or from which a trade promotion competition is to be or is being conducted for the purpose of ensuring that the provisions of this section and the conditions of any permit issued hereunder are being or will be complied with.
- (8) In the event of a contravention of any of the conditions prescribed by subsection (2) or attached by the Commissioner of Police to a permit under subsection (3), every person concerned in the organization or conduct of the trade promotion competition shall, if such competition would, if no permit had been issued under this section, have been a lottery, be guilty of an offence, unless he proves that the offence was committed without his knowledge, and shall be liable upon summary conviction to a fine of one thousand dollars and to imprisonment for six months."

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 15th day of February, 1967, and is found by me to be a true and correctly printed copy of the said Bill.

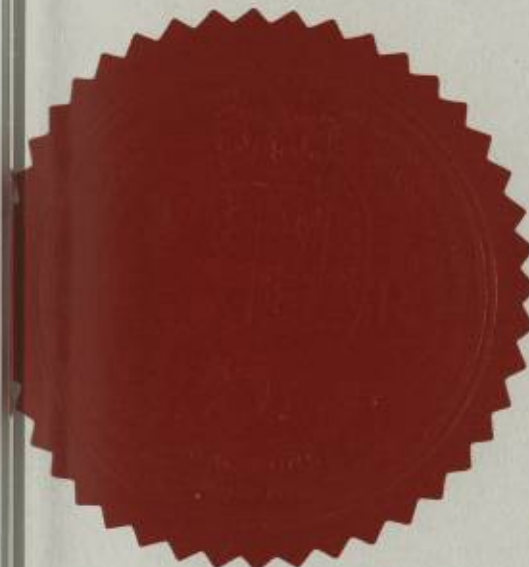


Deputy Clerk of Councils.

(Secretariat GR 46/3231/50III)

HONG KONG

No. 10 OF 1967.



I assent.

Governor.

16th February, 1967.

An Ordinance to validate certain rules purporting to have been made in exercise of powers conferred by the New Territories Ordinance and the collection of fees under the purported authority of the said rules.

[17th February, 1967.]

WHEREAS by section 42 of the New Territories Ordinance it is provided that it shall be lawful for the Governor in Council to make regulations for the purposes of Part II of the said Ordinance, and particularly for fixing the fees to be paid thereunder, and providing for the recovery of Crown rent by distraint and other proceedings:

Preamble.

AND WHEREAS in purported exercise of the powers conferred by section 42 of the said Ordinance the Land Office (New Territories) Fees Rules were made, and published in the *Gazette* on the 3rd day of February 1911, and fees have since then been collected under the said Rules:

AND WHEREAS registration of the instruments set out in the Land Office (New Territories) Fees Rules is not (save to the extent permitted by section 11 of the said Ordinance) effected under Part II of the said Ordinance, but under the Land Registration Ordinance:

AND WHEREAS section 27 of the said Land Registration Ordinance always conferred power to make the said Land Office (New Territories) Fees Rules:

AND WHEREAS it is desirable to validate the said Rules and the collection of fees under the purported authority thereof:

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

Short title.

1. This Ordinance may be cited as the Land Office (New Territories) Fees Rules (Validation) Ordinance 1967.

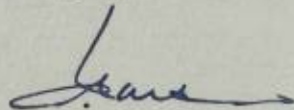
Validation.
(Cap. 97, sub. leg.)

2. (1) The Land Office (New Territories) Fees Rules and all rules amending the said Rules shall be deemed as from the date of the making thereof to have been made by the Governor in Council in exercise of the powers conferred by section 27 of the Land Registration Ordinance.

(Cap. 128.)

(2) Without limiting or derogating from the provisions of subsection (1), every act and thing which purported to be done under and pursuant to the provisions of the Land Office (New Territories) Fees Rules and which would have been validly done if the Land Office (New Territories) Fees Rules had been law at the time is hereby validated.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 15th day of February, 1967, and is found by me to be a true and correctly printed copy of the said Bill.

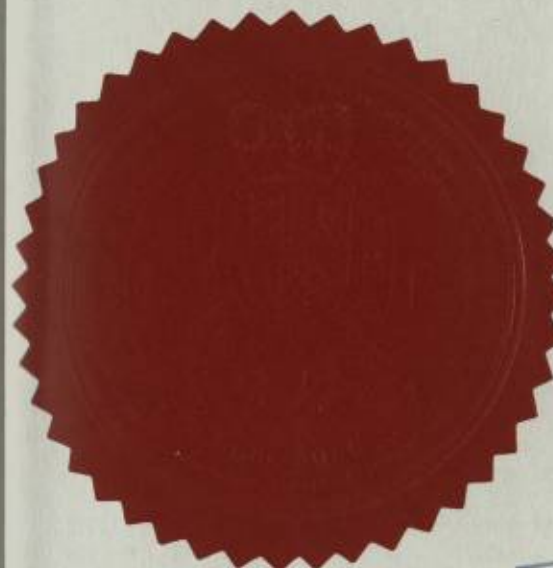


Deputy Clerk of Councils.

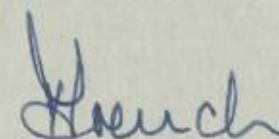
(Secretariat FIN 1/3601/47)

HONG KONG

No. 11 OF 1967.



I assent.



Governor.

16th February, 1967.

An Ordinance to establish The English Schools Foundation, to provide for its incorporation, constitution, functions and matters connected therewith.

[17th February, 1967.]

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

1. This Ordinance may be cited as The English Schools Foundation Ordinance 1967. Short title.

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

"Chairman" means the Chairman of the Foundation;

"Foundation" means The English Schools Foundation established and incorporated under section 3;

"Principal" means the headmaster of a school;

"regulations" means the regulations of the Foundation made under section 10 and filed with the Registrar of Companies in accordance with section 13;

"school" means an institution or place which provides or where there is provided for ten or more persons kindergarten, primary, secondary, post-secondary or further education or other educational course, and in the case of instruction given by means of correspondence delivered by hand or through the postal services, the institution or place where the instruction is prepared or where the work of the pupils is examined.

(2) For the purpose of this Ordinance, "good cause", when used with reference to removal from office, membership or place, means inability to perform efficiently the duties of the office, neglect of duty, or such misconduct, whether in an official or a private capacity, as renders the holder unfit to continue in office.

Incorporation of the English Schools Foundation.

3. There is hereby established in the Colony a Foundation with the name of "The English Schools Foundation". Subject to section 11, the Foundation shall consist of such members as may be provided by regulations made under section 10. The Foundation shall be a body corporate and shall have perpetual succession and may sue or be sued in that name and shall have and may use a common seal and may from time to time break, change, alter and make anew the said seal as the Foundation may deem fit.

Powers of Foundation. (Cap. 305.)

4. (1) Subject to the provisions of the Charities (Land Acquisition) Ordinance the Foundation shall have full power to take by gift or otherwise purchase and hold, grant, demise, mortgage or otherwise dispose of real or personal estate and in addition shall have all other powers conferred by under or by virtue of this Ordinance.

(Cap. 279.)

(2) Subject to the provisions of the Education Ordinance the Foundation shall have full power to own, manage, administer and operate within the Colony schools offering, without regard to race or religion, a modern liberal education through the medium of the English language to boys and girls who are able to benefit from such an education.

Dividends Prohibited.

5. No dividend or bonus whatsoever shall be paid and no gift or division of money or any property whatsoever shall be made by or on behalf of the Foundation to any of its members or to any of the staff or students of the schools of the Foundation except by way of prize, reward or special grant.

Manager and Supervisor of the Schools. (Cap. 279.)

6. (1) Subject to the approval of the Director of Education, the Foundation shall, for the purposes of the Education Ordinance be registered as the sole manager and supervisor of each of the schools of the Foundation.

(2) Acting on behalf of the Foundation, the Principal of a school of the Foundation shall conduct all correspondence relating to the administration, management and supervision of such school.

7. (1) The Foundation shall establish an Executive Committee and School Councils. The respective constitutions, powers and duties of the Foundation, the Executive Committee and the School Councils shall be as prescribed by this Ordinance.

Foundation, Executive Committee, School Councils, their constitution, powers and duties.

(2) The Foundation shall, subject to the provisions of this Ordinance, be the supreme governing body over the Executive Committee, the School Councils, the schools and any committees established thereunder, and the Executive Committee, the School Councils, the schools and the other committees shall comply with any resolutions which may from time to time be made by the Foundation.

(3) The Executive Committee shall be the executive body of the Foundation, shall provide for the custody and use of the common seal, and, subject to the provisions of the Education Ordinance and of this Ordinance, it shall administer the property and manage the affairs of the Foundation.

(Cap. 279.)

(4) Subject to the provisions of this Ordinance and to the financial control of the Executive Committee, each School Council shall have the regulation of all matters relating to education within its own school.

(5) No act or resolution of the Foundation, the Executive Committee or the School Councils shall be invalid by reason only of any vacancy in, or any want of qualification by or invalidity in the election or appointment of any member of, any such body.

8. (1) The Foundation, the Executive Committee and any School Council respectively may establish such committees as they think fit.

Committees generally.

(2) Unless otherwise expressly provided by the regulations, any committee may consist partly of persons who are not members of the Foundation, the Executive Committee or the School Council, as the case may be.

(3) Subject to the provisions of this Ordinance, the Foundation, the Executive Committee and any School Council respectively may, with or without restrictions or conditions as they think fit, delegate any of their powers and duties to any committee.

9. (1) The officers of the Foundation shall be the Chairman, Vice-chairman, Secretary, Treasurer and such other persons as may be designated as officers by the regulations.

Officers and staff, their appointment, powers, duties and emoluments.

(2) All officers shall be appointed by the Foundation in accordance with the regulations, and the Foundation shall not terminate any such appointment otherwise than for good cause after the consideration of the recommendation of the Executive Committee.

(3) The Chairman shall be the chief officer of the Foundation, and shall preside at all meetings of the Foundation and of the Executive Committee.

(4) In the absence of the Chairman, the Vice-chairman shall have all the powers and duties of the Chairman.

(5) In the absence of the both the Chairman and the Vice-chairman from a meeting of the Foundation or of the Executive Committee the Secretary or the Treasurer shall preside until the members present shall have elected a chairman from amongst themselves to conduct the business of the meeting.

(6) The Secretary shall be the principal academic and administrative officer of the Foundation.

(7) In the absence of the Secretary the Foundation may appoint an Acting Secretary, who shall, while acting, have all the powers and duties of the Secretary.

(8) Subject to the approval of the Director of Education the Principal of each school shall be appointed and the period of such employment shall be determined by the Executive Committee acting on behalf of the Foundation upon the recommendation of the appropriate School Council. The Executive Committee shall not terminate any such appointment otherwise than for good cause after due consideration of the recommendation of the School Council.

(9) A Principal shall be responsible for the appointment of all other members of the staff of his school, such appointments being subject to confirmation by the Executive Committee acting on behalf of the Foundation upon the recommendation of the Principal and of the School Council.

(10) An appeal shall lie to the Foundation from any decision of the Executive Committee to terminate the appointment of any member of the staff of a school.

(11) The powers and duties of the officers of the Foundation, the Principals of each school and the staff of the schools, the periods and conditions for and upon which they hold office, and their emoluments shall be such as are prescribed by this Ordinance or by the terms of the contract of service or employment.

(12) Notwithstanding the provisions of subsections (2), (8) and (9) any officer or member of staff—

- (a) who is appointed after or continued in employment beyond the retiring age determined by the Executive Committee; or
 - (b) whose employment is temporary, part-time or probationary,
- may be removed from office in accordance with the terms of his contract or on any other lawful grounds, without any reason for such removal being assigned.

10. (1) The Foundation may make regulations—

Regulations.

- (a) for the composition, internal management, operation, administration and control of the Foundation and the Schools of the Foundation and with regard to any matter ancillary thereto including the fixing of a quorum for meetings of the Foundation which shall, unless otherwise provided by the regulations be ten members present in person;
- (b) generally, for the carrying into effect of this Ordinance.

(2) It shall not be necessary for any regulations made under this section to be published or laid on the table of the Legislative Council.

11. (1) The first members of the Foundation shall be—

Members.

- (a)
 - (i) two persons nominated by the Unofficial Members of the Legislative Council from among their own number;
 - (ii) the Director of Education or his appointed representative;
 - (iii) the Vice-Chancellor of the University of Hong Kong or his appointed representative;
 - (iv) the Vice-Chancellor of the Chinese University of Hong Kong or his appointed representative;
 - (v) the Bishop of Victoria, Hong Kong, or his appointed representative;
 - (vi) the Roman Catholic Bishop of Hong Kong or his appointed representative;
 - (vii) one person appointed by the Ministers of the Union Church, Hong Kong, the Kowloon Union Church, and the English Methodist Church jointly;
- (b)
 - (i) three persons appointed by the members specified in paragraph (a) of this subsection to represent the interests of other professional groups;
 - (ii) such other persons or representatives of organizations, not exceeding three in number, as may be appointed by the members specified in paragraph (a) of this subsection to represent commercial interests.

(2) The first members of the Foundation shall hold office until regulations are made under section 10 for the composition of the Foundation and shall then cease to hold office pursuant to this section.

12. (1) Contracts on behalf of the Foundation may be made as follows—

Form of contract.

- (a) a contract which, if made between private persons, would be required by law to be in writing, shall be in writing and, if

required by English law to be under seal, shall be made under the common seal of the Foundation;

- (b) a contract which, if made between private persons, would be required by law to be in writing, and signed by the parties to be charged therewith, shall be made on behalf of the Foundation in writing signed by any person acting under the express or implied authority of the Executive Committee;
- (c) a contract which, if made between private persons would be valid by law although made by parole only and not reduced into writing, may be made by parole on behalf of the Foundation by any person acting under the express or implied authority of the Executive Committee.

(2) A contract made according to this section shall be effectual in law and shall bind the Foundation and all other parties thereto.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorized by this section to be made.

(4) Instruments under seal made on behalf of the Foundation, sealed with the common seal of the Foundation, signed by the Chairman, or the Vice-chairman, or the Treasurer, and countersigned by the Secretary, shall be deemed to be duly executed.

Registration
with Registrar of
Companies.

13. (1) The Foundation shall deliver to the Registrar of Companies for filing the following—

- (a) notice of the address of the principal office of the Foundation and any change thereof;
- (b) a copy of all regulations made by the Foundation, certified as correct by the Chairman and Secretary; and
- (c) a list of the names and addresses of the office bearers and members of the Executive Committee and any change therein, certified as correct by the Chairman and Secretary.

(2) Delivery in accordance with subsection (1) shall be made within twenty-eight days of the commencement of this Ordinance or within twenty-eight days of the making of the regulations or of any change or appointment, as the case may be.

(3) The Foundation shall pay such fees for filing any document with any public registry as may be prescribed under section 304 of the Companies Ordinance for filing a document with the Registrar of Companies.

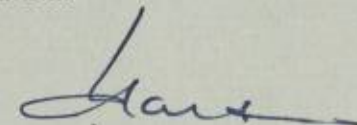
(Cap. 32.)

(4) Filing of the documents mentioned in subsection (1) shall be conclusive evidence of the facts contained in such documents.

(5) Any person may inspect any of the documents filed under this section upon payment of such fee as may be prescribed under section 305 of the Companies Ordinance for the inspection of a document.

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

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 15th day of February, 1967, and is found by me to be a true and correctly printed copy of the said Bill.



Deputy Clerk of Councils.

(Secretariat GR 15/3231/66)

HONG KONG

No. 12 OF 1967.

I assent.



Church.

Governor.

2nd March, 1967.

An Ordinance to repeal and replace the Commonwealth Preference (Motor Vehicles) Ordinance.

[]

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

1. This Ordinance may be cited as the Commonwealth Preference (Motor Vehicles) Ordinance 1967, and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

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

Interpretation.

"Commissioner" means the Commissioner of Police;

"first registration" means first registration in accordance with the provisions of regulations made under the Road Traffic Ordinance;

(Cap. 220.)

"motor vehicle" means any mechanically propelled vehicle intended or adapted for use on roads but does not include any conveyance for use solely on railways or tramways;

(32 of 1932.)

(Cap. 47.)

"tax" means Commonwealth Preference Tax payable under section 6 and also means any tax which was paid or was payable in accordance with the provisions of the Commonwealth Preference Ordinance 1932 or the Commonwealth Preference (Motor Vehicles) Ordinance.

(2) A motor vehicle shall be treated as a Commonwealth product for the purposes of this Ordinance if—

- (a) it was substantially manufactured in the Commonwealth; and
- (b) at least one-half of the costs of its manufacture, within the meaning of section 3, is attributable to Commonwealth expenditure as defined in section 4.

but otherwise shall be treated as not being a Commonwealth product.

(Cap. 109.)

(3) In this Ordinance, "Commonwealth" means the countries specified in the First Schedule to the Dutiable Commodities Ordinance.

Costs of manufacture.

3. (1) Subject to the provisions of subsection (2), the costs of manufacture of a motor vehicle shall be the costs incurred by the manufacturer in relation to the vehicle before it is dispatched in its finished state and shall include the following items—

- (a) the costs to the manufacturer, as received into the factory, of any materials (including components and unfinished goods) used in the manufacture of the vehicle, less the amount of any customs duty or any other duty or tax incurred in respect of such materials which is subsequently refunded on the exportation of the vehicle;
- (b) the cost of labour directly employed in the manufacture of the vehicle;
- (c) the factory overhead costs incurred in relation to the manufacture of the vehicle in respect of—
 - (i) rent, rates and taxes, motive power, electricity, gas, fuel, water, lighting and heating;
 - (ii) factory supervision, including the costs of employing managers, foremen, timekeepers, watchmen and other similar officers and servants of the manufacturer;
 - (iii) maintenance, repairs and renewals of plant, machinery, tools and factory buildings;
 - (iv) depreciation of plant, machinery and tools;
 - (v) interest on capital outlay on the factory buildings and land;

(vi) interest on depreciated value of plant, machinery and tools;

- (d) the cost of any process carried out in the course of the manufacture of the vehicle by an independent contractor in performance of a contract with the manufacturer.

(2) In computing the costs of manufacture as aforesaid the following items shall not be included—

- (a) the cost of exterior packing;
- (b) the manufacturer's profit or the profit or remuneration of any trader, broker, exporter or other person dealing with the vehicle in its finished manufactured state;
- (c) the cost of carriage and freight or insurance or any other charges incurred in respect of the vehicle after its manufacture.

4. (1) Without prejudice to the provisions of subsection (2), Commonwealth expenditure shall include any costs mentioned in item (a), (b) or (c) of subsection (1) of section 3 which are incurred in respect of materials produced within the Commonwealth, or in respect of work done or factories situated within the Commonwealth.

Commonwealth expenditure.

(2) Where any costs mentioned in item (a) of subsection (1) of section 3 are incurred in respect of materials which have been manufactured or processed within the Commonwealth, Commonwealth expenditure means a proportion of those costs equal to the proportion of Commonwealth expenditure which is shown to the satisfaction of the Commissioner to be included in the costs incurred by the manufacturer or processor of those materials within the Commonwealth.

(3) In relation to any cost mentioned in item (d) of subsection (1) of section 3, Commonwealth expenditure means a proportion of that cost equal to the proportion of Commonwealth expenditure which is shown to the satisfaction of the Commissioner to be included in the costs of the person who carried out the process.

5. The Commissioner may require any person who claims that a motor vehicle is a Commonwealth product to furnish to him, in such form as he may require, proof of any statement made to him as to any fact necessary to determine the question whether the vehicle is or is not a Commonwealth product and if such proof is not furnished to his satisfaction the question may be determined without regard to that statement.

Proof of Commonwealth product.

Payment of tax.

6. On the first registration of every motor vehicle which, in the opinion of the Commissioner, is not a Commonwealth product, there shall be charged and paid, in addition to any tax or other charge imposed by any other enactment, Commonwealth Preference Tax equal to fifteen *per cent* of the value of such vehicle calculated in accordance with the provisions of section 7:

Provided that if tax was not paid in respect of a motor vehicle on first registration by reason of the fact that the owner of the motor vehicle was then, for any reason whatsoever, exempt from payment of such tax or that the vehicle was not then liable for such tax notwithstanding that it was not a Commonwealth product, tax shall be chargeable and paid on such motor vehicle on the first transfer thereof into the name of a person who is not exempt from payment of tax, or when the vehicle becomes liable for tax.

Calculation of value.

7. (1) Subject to the provisions of this Ordinance, the value of a motor vehicle, for the purposes of section 6, shall be—

- (a) in the case of a new motor vehicle brought into the Colony in such state and condition as is required for first registration, the price which an importer would give for the motor vehicle, delivered, freight and insurance paid, to the Colony;
- (b) in the case of a new motor vehicle brought into the Colony not in such state and condition as is referred to in paragraph (a), such amounts as are prescribed in that paragraph together with costs of all materials and work necessary to bring the motor vehicle into the state and condition referred to in that paragraph;
- (c) in the case of a motor vehicle other than a new motor vehicle or a motor vehicle to which paragraph (d) applies—
 - (i) if the motor vehicle was brought into the Colony not later than fourteen days after it ceased to be a new motor vehicle, the price which an importer would have given for the motor vehicle delivered as a new motor vehicle, freight and insurance paid, to the Colony; or
 - (ii) if the motor vehicle was brought into the Colony later than fourteen days after it ceased to be a new motor vehicle, the price which an importer would have given as aforesaid, less depreciation, at such rate and in such manner as may be prescribed, for the period from the date when the motor vehicle ceased to be a new motor vehicle until the date on which it was brought into the

Colony, excluding therefrom any part of a month of less than fifteen days but counting any part of a month of fifteen or more days as the whole month; or

(iii) in either case, where the price which an importer would have given as aforesaid cannot be ascertained, the market value (as determined by the Commissioner) of the vehicle in the Colony at the date on which it was brought into the Colony; or

- (d) in the case of a motor vehicle which has been used within the Colony for any period prior to first registration, being a motor vehicle which during such period was not required to be registered, and in the case of a motor vehicle in respect of which tax is payable under the proviso to section 6—

(i) if the motor vehicle was brought into the Colony in such state and condition as was required for first registration, the price which an importer would, at the time it was brought into the Colony, have given for the vehicle delivered as a new motor vehicle, freight and insurance paid, to the Colony less depreciation, at such rate and in such manner as may be prescribed, for the period from the date when the vehicle ceased to be a new vehicle or from the date when it was brought into the Colony, whichever is the earlier, until the date when it became liable to tax (whether by reason of transfer or otherwise), excluding therefrom any part of a month of less than fifteen days but counting any part of a month of fifteen days or more as the whole month; or

(ii) if the motor vehicle was brought into the Colony not in such state and condition as aforesaid, the price which an importer would, at the time it was brought into the Colony, have given for the vehicle delivered, freight and insurance paid, to the Colony, together with the cost of all materials and work necessary to bring the motor vehicle into the state and condition as was then required for first registration, less depreciation, at such rate and in such manner as may be prescribed, for the same period as is specified in sub-paragraph (i); or

(iii) in either case, if the value as aforesaid cannot be ascertained, the market value (as determined by the Commissioner) of the motor vehicle in the Colony at the date when it became liable to tax (whether by reason of transfer or otherwise).

(2) From the price or value of a motor vehicle as mentioned in subsection (1) there shall be deducted the value of all tyres, any spare wheel and any spare parts.

(3) In this section "new motor vehicle" means a vehicle which has not been used on any road outside the Colony other than by the manufacturer thereof or by his agent or by a retailer.

Flag Officers.

8. The Colonial Secretary in his absolute discretion may waive payment of tax in respect of a motor vehicle, the property of a foreign government brought into the Colony for a period not exceeding three months, for the use of an officer of flag rank of the naval forces of such government while it is so used.

Refund of tax
in certain cases.

9. (1) Where the registration of a private motor vehicle, being a vehicle which was brought into and kept in the Colony for a period or periods not exceeding three months, is cancelled on the ground that the vehicle has been sent permanently out of the Colony, the Commissioner shall, on application, certify accordingly, and thereupon the tax, if any, paid in respect of that vehicle shall be refunded.

(2) If any motor vehicle, in respect of which the tax has been refunded under subsection (1), is brought back into the Colony, the re-registration thereof shall, for the purposes of this Ordinance, be deemed to be the first registration thereof.

Retention of
documents.

10. Any invoices or other documents produced to the Commissioner for the purpose of determining whether any motor vehicle is a Commonwealth product, or for the purpose of the assessment and calculation of the tax payable in respect of any vehicle which, in the opinion of the Commissioner, is not a Commonwealth product, may be retained by the Commissioner and disposed of as he may think fit.

Appeal.

11. Any person who is aggrieved by any decision of the Commissioner under this Ordinance may appeal by way of petition to the Governor in Council, and on any such appeal the Governor in Council may confirm, vary or reverse the decision of the Commissioner.

Regulations.

12. The Governor in Council may make regulations prescribing anything which by virtue of the provisions of this Ordinance is to be or may be prescribed, and generally for the better carrying out of the purposes and provisions of this Ordinance; and different regulations may be made for or in respect of different classes of motor vehicles.

13. The Governor in Council may by order vary the proportion of the costs of manufacture prescribed in subsection (2) of section 2.

Variation of
proportion of
costs of
manufacture.

14. The Commonwealth Preference (Motor Vehicles) Ordinance is repealed.

Repeal.
(Cap. 47.)

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 1st day of March, 1967, and is found by me to be a true and correctly printed copy of the said Bill.

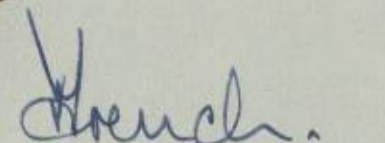
Deputy Clerk of Councils.

(Secretariat FIN 1/5232/46II)

HONG KONG

No. 13 OF 1967.

I assent.



Governor.

2nd March, 1967.

An Ordinance to amend the Motor Vehicles (First Registration Tax) Ordinance.

[]

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

1. This Ordinance may be cited as the Motor Vehicles (First Registration Tax) (Amendment) Ordinance 1967, and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

2. Section 2 of the Motor Vehicles (First Registration Tax) Ordinance (hereinafter referred to as the principal Ordinance) is amended—

Amendment of section 2. (Cap. 330.)

(a) by the insertion, after the definition "car", of the following—

“ “Commissioner” means the Commissioner of Police;” and

(b) by the deletion, in the definition “taximeter”, of “of Police”.

Amendment of
section 4.

3. Subsection (1) of section 4 of the principal Ordinance is amended by the deletion of paragraphs (c) and (d) and the substitution therefor of the following new paragraphs—

“(c) in the case of a motor vehicle other than a new motor vehicle or a motor vehicle to which paragraph (d) applies—

(i) if the motor vehicle was brought into the Colony not later than fourteen days after it ceased to be a new motor vehicle, the price which an importer would have given for the motor vehicle delivered as a new motor vehicle, freight and insurance paid, to the Colony; or

(ii) if the motor vehicle was brought into the Colony later than fourteen days after it ceased to be a new motor vehicle, the price which an importer would have given as aforesaid, less depreciation, at such rate and in such manner as may be prescribed, for the period from the date when the motor vehicle ceased to be a new motor vehicle until the date on which it was brought into the Colony, excluding therefrom any part of a month of less than fifteen days but counting any part of a month of fifteen or more days as the whole month; or

(iii) in either case, where the price which an importer would have given as aforesaid cannot be ascertained, the market value (as determined by the Commissioner) of the vehicle in the Colony at the date on which it was brought into the Colony; or

(d) in the case of a motor vehicle which has been used within the Colony for any period prior to first registration, being a motor vehicle which during such period was not required to be registered, and in the case of a motor vehicle in respect of which tax is payable under the provisions of subsection (2) of section 3—

(i) if the motor vehicle was brought into the Colony in such state and condition as was required for first registration, the price which an importer would, at the time it was brought into the Colony, have given for the vehicle delivered as a new motor vehicle, freight and insurance paid, to the Colony less depreciation, at such rate and in such manner as may be prescribed, for the period from the date when the vehicle ceased to be a new motor vehicle

or from the date when it was brought into the Colony, whichever is the earlier, until the date when it became liable to tax, excluding therefrom any part of a month of less than fifteen days but counting any part of a month of fifteen days or more as the whole month; or

(ii) if the motor vehicle was brought into the Colony not in such state and condition as aforesaid, the price which an importer would, at the time it was brought into the Colony, have given for the vehicle delivered, freight and insurance paid, to the Colony, together with the cost of all materials and work necessary to bring the motor vehicle into the state and condition as was then required for first registration, less depreciation, at such rate and in such manner as may be prescribed, for the same period as is specified in sub-paragraph (i); or

(iii) in either case, if the value as aforesaid cannot be ascertained, the market value (as determined by the Commissioner) of the motor vehicle in the Colony at the date when it became liable to tax.”

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

“Refund of
tax in
certain
cases.

6. (1) Where the registration of a motor vehicle, being a vehicle which was brought into and kept in the Colony for a period or periods not exceeding three months, is cancelled on the ground that the vehicle has been sent permanently out of the Colony, the Commissioner shall, on application, certify accordingly, and thereupon the tax, if any, paid in respect of that vehicle shall be refunded.

(2) If any motor vehicle, in respect of which the tax has been refunded under subsection (1), is brought back into the Colony, the re-registration thereof shall, for the purposes of this Ordinance, be deemed to be the first registration thereof.”

5. The principal Ordinance is amended by the addition, after section 8, of the following new sections—

“Retention
of docu-
ments.

8A. Any invoices or other documents produced to the Commissioner for the purpose of the assessment and calculation of the tax payable in respect of any vehicle may be retained by the Commissioner and disposed of as he may think fit.

Repeal and
replacement
of section 6.

Addition of
new sections
8A and 8B.

Appeal.

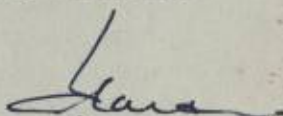
8B. Any person who is aggrieved by any decision of the Commissioner under this Ordinance may appeal by way of petition to the Governor in Council, and on any such appeal the Governor in Council may confirm, vary or reverse the decision of the Commissioner."

Amendment of section 9.

6. Section 9 of the principal Ordinance is amended by the insertion, after paragraph (a), of the following new paragraph—

"(aa) anything which by virtue of the provisions of this Ordinance is to be or may be prescribed;"

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 1st day of March, 1967, and is found by me to be a true and correctly printed copy of the said Bill.

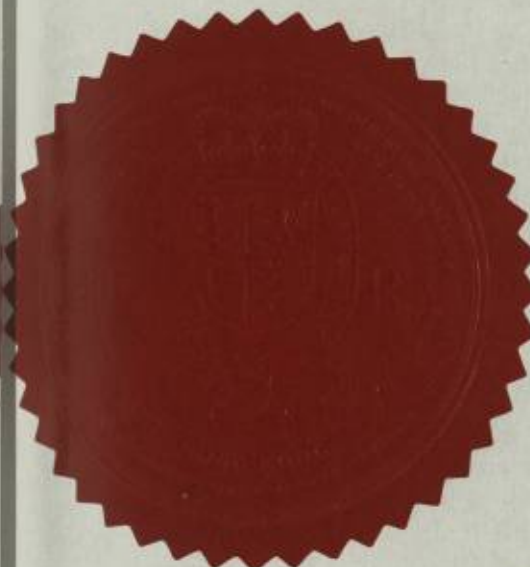


Deputy Clerk of Councils.

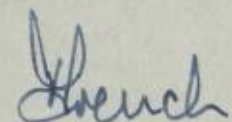
(Secretariat FIN 1/5232/46II)

HONG KONG

No. 14 OF 1967.



I assent.



Governor.

16th March, 1967.

An Ordinance to consolidate and amend various provisions relating to the pay and pensions of members of the auxiliary forces and to provide a pay code and allowances for such members.

[1st April, 1967.]

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

1. This Ordinance may be cited as the Auxiliary Forces Pay and Allowances Ordinance 1967, and shall come into operation on the 1st day of April 1967.

Short title and commencement.

2. In this Ordinance, unless the context otherwise requires—
"active service" means service pursuant to a full call out or a limited call out;

Interpretation.

"appropriate daily rate of pay", in respect of a member, means the amount set out in the third column of the Schedule opposite the classification for his rank set out in the first column thereof;

Schedule.

Schedule.

"appropriate hourly rate of pay", in respect of a member, means the amount set out in the second column of the Schedule opposite the classification for his rank set out in the first column thereof;

"auxiliary forces" means—

(Cap. 199.)

(a) the Royal Hong Kong Defence Force raised under section 3 of the Royal Hong Kong Defence Force Ordinance and any unit thereof;

(Cap. 233.)

(b) the Hong Kong Auxiliary Police Force established under section 3 of the Hong Kong Auxiliary Police Force Ordinance; and

(Cap. 197.)

(c) the Essential Services Corps raised under section 4 of the Essential Services Corps Ordinance and any unit thereof;

"classification", in respect of a member, means the pay classification assigned to his rank by notice under section 5;

"commander" means—

(Cap. 199.)

(a) in relation to a unit of the Royal Hong Kong Defence Force, the Commanding Officer as defined in section 2 of the Royal Hong Kong Defence Force Ordinance;

(b) in relation to the Hong Kong Auxiliary Police Force, the Commissioner of Police;

(Cap. 197, sub. leg.)

(c) in relation to a unit of the Essential Services Corps other than the Auxiliary Fire Service Unit, the Auxiliary Medical Service Unit and the Civil Aid Services Unit, the Commissioner appointed under regulation 3 of the Essential Services Corps (General) Regulations;

(Cap. 197, sub. leg.)

(d) in relation to the Auxiliary Fire Service Unit, the Unit Controller appointed under regulation 2 of the Essential Services (Auxiliary Fire Service) Corps Regulations;

(Cap. 197, sub. leg.)

(e) in relation to the Auxiliary Medical Service Unit, the Unit Controller appointed under regulation 3 of the Essential Services (Auxiliary Medical Services) Corps Regulations; and

(Cap. 197, sub. leg.)

(f) in relation to the Civil Aid Services Unit, the Unit Controller appointed under regulation 2 of the Essential Services (Civil Aid Services) Corps Regulations;

"duty" includes active service, training and any voluntary duty;

"full call out" means a call out made—

(Cap. 199.)

(a) by the Governor under section 16 of the Royal Hong Kong Defence Force Ordinance or regulation 18 of the Essential Services Corps (General) Regulations; or

(Cap. 197, sub. leg.)

(b) by the Commissioner of Police with the prior approval of the Governor under subsection (1) of section 16 of the Hong Kong Auxiliary Police Force Ordinance;

(Cap. 233.)

"limited call out" means—

(a) a limited call out made with the prior approval of the Governor under section 17 of the Royal Hong Kong Defence Force Ordinance or regulation 19 of the Essential Services Corps (General) Regulations;

(Cap. 199.)

(Cap. 197, sub. leg.)

(b) a call out by the Commissioner of Police by departmental order under subsection (2) of section 16 of the Hong Kong Auxiliary Police Force Ordinance; or

(Cap. 199.)

(c) a call out by the Director of Fire Services by departmental order under regulation 5 of the Essential Services (Auxiliary Fire Service) Corps Regulations;

(Cap. 197, sub. leg.)

"member" means any officer or member of the auxiliary forces;

"rank" means any rank, grade, appointment or grouping of members;

"training" means duty other than active service, pursuant to an order of the commander of an auxiliary force or any unit thereof;

"unit" includes a sub-unit;

"voluntary duty" means duty in the circumstances referred to in section 7;

"year" means a period of twelve months commencing on the 1st day of April in each year.

3. Any pay, allowances, bounties, gratuities and pensions payable under this Ordinance shall be paid out of moneys provided by the Legislative Council.

Pay, etc. to be paid out of moneys provided by Legislative Council.

4. The Governor may from time to time by notice published in the *Gazette* amend the Schedule.

Schedule.

5. (1) The Governor shall, by notice published in the *Gazette*, assign to each rank in the auxiliary forces one of the pay classifications specified in the first column of the Schedule.

Classification of members and limitation of periods of training. Schedule.

(2) The Governor may specify the maximum aggregate period of training in any year or part of a year for which a member who falls within any pay classification specified in the first column of the Schedule shall be eligible for pay and allowances under this Ordinance.