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HONG KONG

No. 1 of 1976



I assent.

Donp Roberts

Acting Governor.

8th January, 1976.

An Ordinance to amend the Bankruptcy Ordinance.

[9th January, 1976]

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 Bankruptcy (Amendment) Ordinance 1976. Short title.

2. The principal Ordinance is amended by adding after section 19 the following new section—

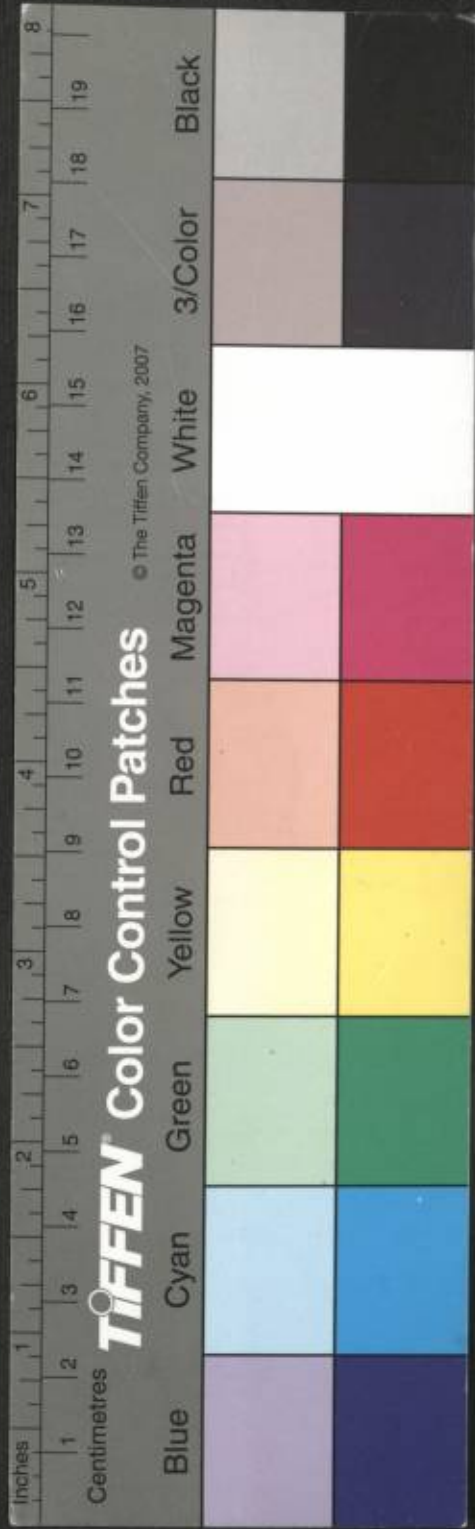
*Power of court to dispense with public examination of debtor on application of Official Receiver.

19A. (1) Notwithstanding section 19 the court may, on the application of the Official Receiver, make an order dispensing with the public examination of the debtor.

(2) Before making an application under subsection (1) the Official Receiver shall—

- (a) publish notice of his intention to make the application in the *Gazette*; and
- (b) give notice of his intention to make the application to every creditor who has tendered a proof.

Addition of new section 19A. (Cap. 6.)



(3) Any creditor who has tendered a proof and wishes to oppose the making of an order under subsection (1) shall, within twenty-one days after the date of publication of a notice pursuant to subsection (2), give notice in writing to the Official Receiver of his intention to oppose the making of an order and may thereafter appear and oppose the making of an order.

(4) Before making an order under subsection (1) the court shall consider a report of the Official Receiver made in the manner prescribed."

Amendment of section 20(6).

3. Section 20(6) of the principal Ordinance is amended by deleting "conclusion of the public examination of the debtor" and substituting the following—

"public examination of the debtor has been concluded, or dispensed with under section 19A".

Amendment of section 24.

4. Section 24 of the principal Ordinance is amended—

(a) in subsection (2) by deleting "not more than five nor less than three" and substituting the following—

"two or more"; and

(b) by deleting subsection (9) and substituting the following—

"(9) The continuing members of the committee, provided there be not less than two such continuing members, may act notwithstanding any vacancy in their body."

Amendment of section 30(1).

5. Section 30(1) of the principal Ordinance is amended by inserting after "concluded" the following—

", or dispensed with under section 19A".

Addition of new section 112A.

6. The principal Ordinance is amended by adding after section 112 the following new section—

"Application of Ordinance to small bankruptcies. 4 & 5 Geo. 5, c. 47, s. 129.

112A. (1) Subject to subsection (2), where a petition is presented by or against a debtor and—

- (a) the court receives proof to its satisfaction; or
- (b) the Official Receiver reports to the court,

that the property of the debtor is not likely to exceed in value ten thousand dollars, the court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Ordinance shall apply subject to the following modifications—

- (i) if the debtor is adjudged bankrupt the Official Receiver shall be the trustee in the bankruptcy;
- (ii) there shall be no committee of inspection, and the Official Receiver may do all things which may be done by a trustee with the permission of a committee of inspection;
- (iii) such other modifications as may be prescribed with a view to saving expense and simplifying procedure, but nothing in this section shall permit the modification of the provisions of this Ordinance relating to the examination or discharge of the debtor.

(2) The court may, upon the application of the Official Receiver, at any time before the discharge of the debtor rescind an order made under subsection (1) and thereupon the administration shall proceed as if the order had not been made."

7. Section 128 of the principal Ordinance is amended—

Amendment of section 128.

(a) in subsection (1) by—

(i) deleting "the trustee," after "Where" and substituting the following—

"a trustee, other than the Official Receiver";

(ii) deleting "the Registrar" and substituting the following—
"the Official Receiver"; and

(iii) deleting "Registrar's" and substituting the following—
"Official Receiver's";

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

"(1A) Where the Official Receiver is the trustee, and under any bankruptcy, composition or scheme, pursuant to this Ordinance has under his control any unclaimed dividend which has remained unclaimed for more than six months or where after making a final dividend, he has in his hands or under his control any unclaimed or undistributed money arising from the property of the debtor, he shall forthwith transfer the same to the Bankruptcy Estates Account."

(c) in subsection (3) by deleting "Registrar" wherever it occurs and substituting the following—

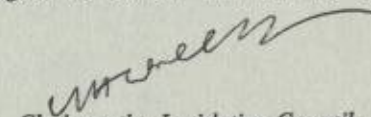
"Official Receiver"; and

(d) by deleting subsections (4) and (5) and substituting the following—

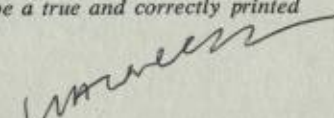
"(4) After any money has remained unclaimed in the Bankruptcy Estates Account for a period of five years the Official Receiver may transfer such money to the general revenue of Hong Kong.

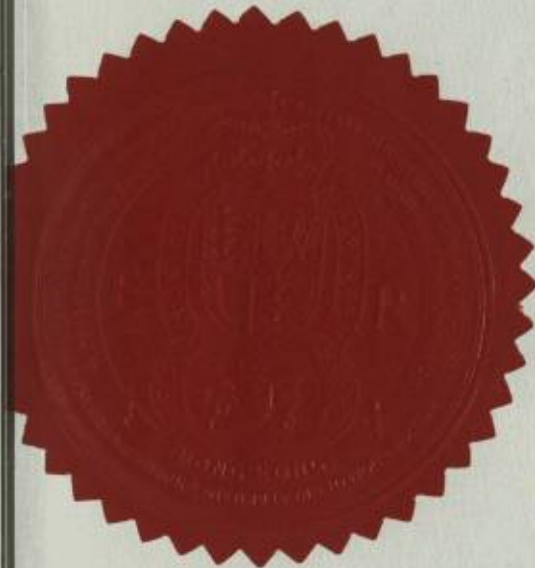
(5) Before transferring any money under subsection (4) the Official Receiver may give such notice as he thinks necessary to such parties as he may think fit."

Passed by the Hong Kong Legislative Council this 7th day of January, 1976.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



I assent.

Henry Roberts

Acting Governor.

8th January, 1976.

An Ordinance to amend the Pensions Ordinance.

HONG KONG

No. 2 OF 1976



I assent.

Henry Roberts
Acting Governor.

8th January, 1976.

An Ordinance to amend the Pensions Ordinance.

[9th January, 1976]

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 Pensions (Amendment) Ordinance 1976. Short title.

2. Section 5 of the principal Ordinance is amended by inserting after subsection (3) the following new subsection— Amendment of section 5. (Cap. 89.)

"(4) This section shall not apply to a judge of the Supreme Court or a district judge."

3. Section 6 of the principal Ordinance is amended by inserting, after "judge" wherever it occurs in paragraphs (a) and (aa), the following— Amendment of section 6.

"or a district judge".

4. The principal Ordinance is amended by adding after section 7 the following new section— Addition of new section 7A.

"Removal of judge or district judge from office.

7A. If a judge or a district judge is removed from office by the Governor by instrument under the Public Seal, the Governor may, if he thinks fit, grant to him such pension, gratuity or other allowance as he thinks just and proper."

Amendment of
section 8.

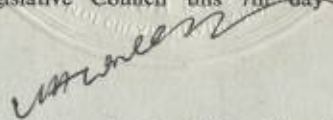
5. Section 8 of the principal Ordinance is amended by inserting, after "judge" wherever it occurs, the following—
"or a district judge".

Amendment of
section 17.

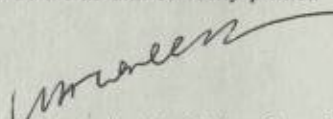
6. Section 17 of the principal Ordinance is amended—

- (a) in subsection (1), by inserting, after "if any," the following—
"or where appropriate his commuted pension gratuity supplemented in accordance with subsection (2A).";
- (b) in subsection (2), by inserting, after "if any," the following—
"or where appropriate his commuted pension gratuity supplemented in accordance with subsection (2A)."; and
- (c) by inserting, after subsection (2), the following new subsection—
"(2A) In the case of an officer who served under the Government for not less than 5 nor more than 20 years, the commuted pension gratuity may be supplemented by deeming his period of service to be the lesser period of twice his actual period of service (subject to a maximum of 20 years) or that period of service which he would have completed if he had served until attaining the age of 55 years."

Passed by the Hong Kong Legislative Council this 7th day of January, 1976.

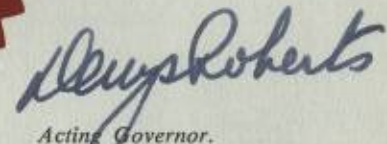

Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



I assent.


Acting Governor.
8th January, 1976.

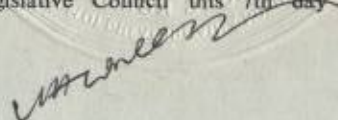
An Ordinance to regulate the taking of money on deposit and to make provision for the protection of persons who deposit money.

Amendment of
section 17.

6. Section 17 of the principal Ordinance is amended—

- (a) in subsection (1), by inserting, after "if any," the following—
"or where appropriate his commuted pension gratuity supplemented in accordance with subsection (2A).";
- (b) in subsection (2), by inserting, after "if any," the following—
"or where appropriate his commuted pension gratuity supplemented in accordance with subsection (2A)."; and
- (c) by inserting, after subsection (2), the following new subsection—
"(2A) In the case of an officer who served under the Government for not less than 5 nor more than 20 years, the commuted pension gratuity may be supplemented by deeming his period of service to be the lesser period of twice his actual period of service (subject to a maximum of 20 years) or that period of service which he would have completed if he had served until attaining the age of 55 years."

Passed by the Hong Kong Legislative Council this 7th day of
January, 1976.

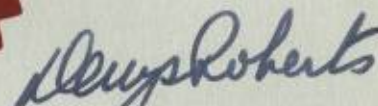

Clerk to the Legislative Council.

HONG KONG

No. 3 OF 1976



I assent.


Acting Governor.
8th January, 1976.

An Ordinance to regulate the taking of money on deposit and to make
provision for the protection of persons who deposit money.

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

PART I
PRELIMINARY

1. This Ordinance may be cited as the Deposit-taking Companies Ordinance 1976 and shall come into operation on a date 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.
"advertisement" includes every form of advertising, whether notified or published—
(a) in a newspaper, magazine, journal or other periodical publication;
(b) by the display of posters or notices;
(c) by means of circulars, brochures, pamphlets or handbills;
(d) by an exhibition of photographs or cinematograph films; or
(e) by way of sound broadcasting or television,
and references to the issue of an advertisement shall be construed accordingly;

"Commissioner" means the Commissioner of Banking appointed under the Banking Ordinance;

(Cap. 155.)

"Committee" means the Deposit-taking Companies Advisory Committee established under section 4;

"company" means a company which is—

(Cap. 32.)

- (a) registered under Part I of the Companies Ordinance;
- (b) registered under Part IX of the Companies Ordinance; or
- (c) incorporated outside Hong Kong and which has complied with Part XI of the Companies Ordinance;

"deposit" means a loan of money at interest or repayable at a premium or repayable with any consideration in money or money's worth, but does not include a loan of money upon terms involving the issue of debentures or other securities in respect of which a prospectus has been registered under the Companies Ordinance; and references to the taking of a deposit shall be construed accordingly;

"depositor" means a person entitled, or prospectively entitled, to repayment of a deposit, whether made by him or not;

"deposit-taking company" means a company which carries on a business of taking deposits;

"document" includes a circular, brochure, pamphlet, poster, handbill, prospectus and any other document which is directed at or likely to be read by members of the public; and also includes any newspaper, magazine, journal or other periodical publication;

"issue", in relation to an advertisement or document, includes publish, circulate, distribute or disseminate the advertisement or document; and also includes causing the advertisement or document to be issued;

(Cap. 155.)

"licensed bank" means a bank licensed under section 7 or section 42 of the Banking Ordinance;

"register" means the register maintained under section 12;

"registered", in relation to a deposit-taking company, means registered under section 10.

(2) For the purposes of this Ordinance—

- (a) the taking of deposits includes holding out as being prepared to take deposits;
- (b) an advertisement issued by any person by way of display or exhibition in a public place shall be treated as being issued by him on every day on which he causes or authorizes it to be displayed or exhibited;
- (c) an advertisement or document which consists of or contains information likely to lead, directly or indirectly, members of the public to—
 - (i) deposit money; or
 - (ii) enter into, or offer to enter into, any agreement to deposit money,
 shall be treated as being an advertisement or document which is or contains an advertisement to members of the public to do that act;
- (d) an advertisement or document issued by one person on behalf of or to the order of another shall be treated as an advertisement or document, as the case may be, by that other person.

Application.

3. (1) This Ordinance shall not apply to the taking of any deposit by—

- (a) a licensed bank;
- (b) a trust company registered under Part VIII of the Trustee Ordinance;
- (c) a credit union registered under the Credit Unions Ordinance;

(Cap. 29.)

(Cap. 119.)

- (d) a company, where such deposit is secured by a charge registered or to be registered under the Companies Ordinance; (Cap. 32.)
 - (e) a person *bona fide* carrying on insurance business where such deposit is taken in the ordinary course of such business;
 - (f) a person *bona fide* operating a superannuation or provident fund where such deposit is taken for the purposes of such fund;
 - (g) a public utility company specified in the Third Schedule to the Inland Revenue Ordinance where such deposit is taken from a consumer; (Cap. 112.)
 - (h) an employer where such deposit is taken from a *bona fide* employee;
 - (i) a solicitor or professional accountant (within the meaning of the Professional Accountants Ordinance), where such deposit is taken from a client in the ordinary course of his practice; (Cap. 50.)
 - (j) the Urban Council;
 - (k) a person who is a dealer within the meaning of the Securities Ordinance where section 84 of that Ordinance applies to such deposit; (Cap. 333.)
 - (l) a person or class of persons exempted by the Financial Secretary under section 35.
- (2) This Ordinance shall not apply to the taking of any deposit from—
- (a) a licensed bank;
 - (b) a registered deposit-taking company;

Provided that section 8 shall apply where a deposit is taken by a registered deposit-taking company from another registered deposit-taking company;
 - (c) a money-lender registered under the Money-lenders Ordinance; (Cap. 163.)
 - (d) a pawnbroker licensed under the Pawnbrokers Ordinance. (Cap. 166.)

PART II

DEPOSIT-TAKING COMPANIES ADVISORY COMMITTEE

4. (1) There is hereby established a committee to be known as the Deposit-taking Companies Advisory Committee.

(2) The functions of the Committee shall be to advise the Governor on matters relating to this Ordinance.

5. (1) The Committee shall consist of—

- (a) the Financial Secretary, who shall be the chairman;
- (b) the Commissioner; and
- (c) such other persons, being not less than 4 or more than 9, as the Governor may appoint.

(2) The members of the Committee appointed under subsection (1)(c) shall hold office for such period, and subject to such terms, as the Governor may specify in their appointment.

PART III

TAKING OF DEPOSITS

6. (1) Subject to section 7, no business of taking deposits shall be carried on except by a company which is registered as a deposit-taking company.

Establishment and functions of Deposit-taking Companies Advisory Committee.

Constitution of the Committee.

Restriction on taking of deposits.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable—

- (a) on conviction upon indictment to a fine of \$500,000 and to imprisonment for 5 years; or
- (b) on summary conviction to a fine of \$50,000 and to imprisonment for 6 months.

(3) For the purposes of any proceedings for an offence under this section if it is proved that a person took deposits on at least 5 occasions within any period of 30 days, that person shall, until the contrary is proved, be deemed to have been carrying on a business of taking deposits.

7. (1) Any person who is carrying on a business of taking deposits at the commencement of this Ordinance may continue to carry on such business for a period of 3 months immediately following the commencement of this Ordinance.

(2) Where a person to whom subsection (1) applies intends to continue carrying on the business of taking deposits after the expiry of the period specified in that subsection, he shall before the expiry of the said period—

- (a) if the person is not a company, form a company and transfer to it the business carried on by such person;
- (b) apply for registration in accordance with section 9.

(3) Where a company applies for registration in accordance with subsection (2), the company may, subject to subsection (4), continue carrying on the business of taking deposits until the application for registration is dealt with by the Commissioner under section 10.

(4) Sections 8, 22 and 23 shall apply to a person who continues carrying on a business of taking deposits under subsection (1) or (3) as if that person were a registered deposit-taking company.

8. (1) Subject to subsection (2), a registered deposit-taking company shall not take any deposit from a depositor of a sum less than that specified in the First Schedule (referred to in this section as the "specified sum").

(2) A registered deposit-taking company may take a deposit from a depositor of a sum less than the specified sum if—

- (a) the depositor is a licensed bank;
- (b) the depositor is a *bona fide* employee of the company; or
- (c) the amount standing to the credit of the depositor with the company at the time any such deposit is taken is not less than the specified sum.

(3) Except where a depositor withdraws the whole amount standing to his credit with a registered deposit-taking company, the company shall not at the time of the withdrawal of any sum permit the amount of the balance standing to the credit of the depositor, other than a depositor who is a licensed bank or *bona fide* employee of the company, to be less than the specified sum.

(4) Any registered deposit-taking company that contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction upon indictment to a fine of \$50,000.

(5) Any person who holds himself out, whether as a broker or agent of a registered deposit-taking company or otherwise, as being prepared to take from any person, other than a person who is a licensed bank or *bona fide* employee of the company, any sum less than the specified sum for the purpose of depositing that sum, or that sum and other sums, with the company shall be guilty of an offence and shall be liable on conviction upon indictment to a fine of \$50,000.

Businesses existing at commencement of Ordinance.

Deposit-taking company not to take deposits less than the specified sum. First Schedule.

PART IV

REGISTRATION OF DEPOSIT-TAKING COMPANIES

9. (1) Subject to section 7, every company shall, before it commences a business of taking deposits, apply for registration in accordance with this section.

Application for registration.

(2) An application for registration shall be in such form as may be specified by the Commissioner under section 36(1) and, subject to subsection (3), shall be accompanied by—

- (a) a copy of the memorandum and articles of association or other document constituting the company; and
- (b) such other documents and information as may be required by the Commissioner for the purposes of registration.

(3) Where an application for registration is made by a company that has been carrying on business for more than 18 months immediately preceding the date of the application and that has completed a financial year ending earlier than 6 months before the date of the application, the application shall also be accompanied by duly signed copies of—

- (a) in the case of a company (other than a private company) registered under Part I of the Companies Ordinance—
 - (i) the profit and loss account of the company for that financial year;
 - (ii) the balance sheet as at the date to which such profit and loss account is made up;
 - (iii) the auditors' report attached to such balance sheet; and
 - (iv) the report by the directors (with respect to the state of the company's affairs) attached to such balance sheet, which are required to be laid before the company in general meeting in accordance with the Companies Ordinance;
- (b) in the case of a private company registered under Part I of the Companies Ordinance, or a company registered under Part IX of the Companies Ordinance, the documents specified in paragraph (a) as if the company were a company to which paragraph (a) applies; and
- (c) in the case of a company incorporated outside Hong Kong and which has complied with Part XI of the Companies Ordinance, the documents specified in paragraph (a) which are required to be delivered to the Registrar of Companies in accordance with section 336 of the Companies Ordinance.

(Cap. 32.)

(4) For the purposes of paragraph (c) of subsection (3), a company to which that paragraph applies shall be treated as if it were required to comply with section 336 of the Companies Ordinance notwithstanding that that section would not, by virtue of subsection (6) of that section, otherwise apply to it.

(5) If any document referred to in subsection (2) or (3) is not written in the English language, there shall be annexed to the document a translation of it in English, certified by a director or the secretary of the company as a true and correct translation of that document.

10. (1) Subject to subsection (2), the Commissioner shall, on receipt of an application in accordance with section 9, register a company as a deposit-taking company.

Registration of deposit-taking companies.

(2) Subject to subsection (4), the Commissioner shall refuse to register a company under subsection (1) if—

- (a) the issued capital of the company is less than \$5,000,000, or an equivalent amount in the case of a company incorporated outside Hong Kong;
- (b) the paid-up capital of the company, as determined under subsection (3), is less than \$2,500,000, or an equivalent amount in any other currency;
- (c) the objects of the company as stated in its memorandum or constitution do not include a business of taking deposits;
- (d) the name of the company, or the name under which the company is carrying on or intends to carry on business in Hong Kong, contains—
- (i) any word which by virtue of any Ordinance may not be contained in the name of any company; or
 - (ii) any word which by virtue of any Ordinance may not without consent be contained in the name of any company, unless such consent has been given;
- (e) it appears to the Commissioner that, by reason of any circumstances whatsoever, the company is not a fit and proper body to be registered.

(3) For the purposes of determining whether or not the paid-up capital of a company is less than that specified in subsection (2)(b) there shall be deducted any loss disclosed in the balance sheet lodged with the company's application.

(4) A company that is carrying on a business of taking deposits at the commencement of this Ordinance, or a company formed pursuant to section 7(2)(a), may be registered notwithstanding that the issued capital or paid-up capital of the company is less than that specified in subsection (2)(a) and (b) respectively, but the issued capital and paid-up capital of the company shall not, subject to subsection (5), be less than that specified in subsection (2) on or after the expiration of 2 years from the date of commencement of this Ordinance.

(5) The Governor in Council may extend the 2 year period specified in subsection (4) in the case of any particular registered deposit-taking company.

(6) The registration of a company under subsection (1) as a deposit-taking company shall be effected by entering in the register the particulars specified in section 12 and the Commissioner shall notify the company in writing of the registration and date of registration.

(7) Where the Commissioner refuses to register a company under subsection (2), he shall notify the company in writing of the refusal.

11. (1) A registered deposit-taking company shall, within 14 days after the receipt of a notice of registration under section 10(6), pay to the Accountant General the registration fee specified in the Second Schedule.

(2) Every registered deposit-taking company shall pay to the Accountant General annually the renewal of registration fee specified in the Second Schedule—

- (a) in the case of a company to which section 7 applies, within 14 days after the anniversary of the date of commencement of this Ordinance; and
- (b) in the case of any other company, within 14 days after the anniversary of the date of registration of such company.

Payment of fees.
Second Schedule.

(3) Any fee not paid in accordance with subsection (1) or (2) may, without prejudice to the power to revoke the registration of the company contained in section 14(1)(f), be recovered as a civil debt.

12. (1) The Commissioner shall maintain a register of deposit-taking companies, in such form as he thinks fit, which shall contain—

Register of deposit-taking companies.

- (a) the name and business address of every such company which he decides to register; and
- (b) such other particulars of such companies as the Commissioner thinks fit.

(2) The register shall be kept at the office of the Commissioner or at such other place as may be notified by the Commissioner in the *Gazette*.

(3) Any member of the public may, with effect from such date and during such hours as shall be notified by the Commissioner in the *Gazette*, on payment of the fee specified in the Second Schedule—

Second Schedule.

- (a) inspect; or
- (b) obtain a copy or extract of,

the register and any document lodged with the Commissioner under section 9 (other than any document or information referred to in paragraph (b) of subsection (2) of that section) and section 17.

(4) A document purporting to be a copy of any extract from or entry in the register, or of any document lodged with the Commissioner by a company under this Ordinance, and purporting to be certified by the Commissioner shall be admitted in evidence in criminal or civil proceedings before any court on its production without further proof, and—

- (a) until the contrary is proved, the court before which such document is produced shall presume—
- (i) that the document is certified by the Commissioner; and
 - (ii) that the document is a true copy of the extract from or entry in the register, or of the document lodged with the Commissioner, to which it refers; and
- (b) such document shall be *prima facie* evidence of all matters contained therein.

13. (1) Subject to subsection (2), the Commissioner shall cause to be published in the *Gazette*, at such times and in such manner as he thinks fit, the names of all companies registered as deposit-taking companies under this Ordinance.

Publication of names of deposit-taking companies.

(2) The publication required by subsection (1) shall be made at least once each year.

(3) Where the name of a deposit-taking company is entered in the register, the Commissioner shall publish in the *Gazette* a notice of such entry.

14. (1) Subject to subsection (3) and section 15, the Commissioner may revoke the registration of a deposit-taking company if—

Revocation of registration.

- (a) the company—
- (i) has ceased to carry on a business of taking deposits; or
 - (ii) proposes to make, or has made, a composition or an arrangement with its creditors or is being wound up;
- (b) the issued capital or the paid-up capital of the company is, subject to section 10(4), less than that specified in section 10(2)(a) and (b) respectively;

- (c) the objects of the company as stated in its memorandum of association or constitution no longer include the carrying on of a business of taking deposits;
- (d) it appears to him that—
- (i) the company is not a fit and proper body to remain registered; or
 - (ii) the company has not provided him, whether before or after being registered, with such information relating to it, and to any circumstances likely to affect its method of business, as is required by or under this Ordinance;
- (e) the company has been convicted of an offence under section 8(4);
- (f) the company has failed to pay the registration fee or renewal of registration fee in accordance with section 11;
- (g) the company has failed to comply with section 17.
- (2) Without prejudice to subsection (1), the Commissioner may revoke the registration of a deposit-taking company on being requested in writing by the company to do so.
- (3) The Commissioner shall not revoke the registration of a deposit-taking company for any reason specified in subsection (1) without giving it an opportunity of being heard within such time limit as the Commissioner may specify in writing.
- (4) Where the registration of a deposit-taking company is revoked under subsection (1) or (2), the Commissioner shall—
- (a) notify the company in writing of such revocation;
 - (b) publish in the *Gazette* notice of such revocation; and
 - (c) remove from the register the name of the company.

Suspension of registration.

15. (1) Without prejudice to subsection (1) of section 14, where paragraph (b), (d)(ii), (f) or (g) of that subsection applies, the Commissioner may by notice in writing served on the registered deposit-taking company suspend the registration of the deposit-taking company for a period not exceeding 6 months.
- (2) Where the registration of a deposit-taking company is suspended under subsection (1), section 11 and Part V shall apply to the deposit-taking company during the period of the suspension.

Effect of revocation or suspension of registration.

16. (1) Without prejudice to any other provision of this Ordinance, where the registration of a deposit-taking company is revoked under section 14 or suspended under section 15, the company shall cease to take deposits with effect from the date of receipt of the notice under section 14(4)(a) or 15, as the case may be.
- (2) Without prejudice to any other provision of this Ordinance, a deposit-taking company whose registration is revoked or suspended may continue to hold any deposit taken prior to the date referred to in subsection (1).

PART V

OBLIGATIONS OF REGISTERED DEPOSIT-TAKING COMPANIES

17. (1) Without prejudice to the provisions of Parts IV, IX and XI of the Companies Ordinance relating to company accounts, every registered deposit-taking company shall, in accordance with this section, in each year lodge with the Commissioner duly signed copies of—

Accounts, etc., to be lodged with the Commissioner annually.
(Cap. 32.)

- (a) in the case of a company (other than a private company) registered under Part I of the Companies Ordinance—
- (i) the profit and loss account of the company;
 - (ii) the balance sheet as at the date to which such profit and loss account is made up;
 - (iii) the auditor's report attached to such profit and loss account and balance sheet; and
 - (iv) the report by the directors (with respect to the state of the company's affairs) attached to such balance sheet,
- which are required to be laid before the company in general meeting in accordance with the Companies Ordinance;
- (b) in the case of a private company registered under Part I of the Companies Ordinance, or a company registered under Part IX of the Companies Ordinance, the documents specified in paragraph (a) as if the company were a company to which paragraph (a) applies; and
- (c) in the case of a company incorporated outside Hong Kong and which has complied with Part XI of the Companies Ordinance, the documents specified in paragraph (a) which are required to be delivered to the Registrar of Companies in accordance with section 336 of the Companies Ordinance.
- (2) The documents specified in subsection (1)(a) shall—
- (a) on the first occasion, be the documents in respect of the first financial year which ends on a date not earlier than six months immediately preceding the date of application for registration; and
 - (b) on subsequent occasions, be the documents in respect of each subsequent financial year of the company.
- (3) The documents specified in subsection (1) shall be lodged within 6 months after the end of the financial year to which such documents relate.
- (4) For the purposes of paragraph (c) of subsection (1), a company to which that paragraph applies shall be treated as if it were required to comply with section 336 of the Companies Ordinance notwithstanding that that section would not, by virtue of subsection (6) of that section, otherwise apply to it.
- (5) If any document referred to in subsection (1) is not written in the English language, there shall be annexed to the document a translation of it in English, certified by a director or the secretary of the company as a true and correct translation of that document.
- (6) Any registered deposit-taking company that fails to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine of \$500 for each day during which the offence continues.
- (7) Any person who signs any document for the purposes of this section which he knows or reasonably ought to know to be false in a material particular shall be guilty of an offence and shall be liable on conviction upon indictment to a fine of \$20,000 and to imprisonment for 2 years.

18. (1) Every registered deposit-taking company shall cause to be exhibited in accordance with subsection (2) at each place where it carries on a business of taking deposits copies of the documents which it is required to lodge with the Commissioner under section 9 (other than any document or information referred to in paragraph (b) of subsection (2) of that section) and section 17.

Registered deposit-taking companies to exhibit accounts etc. at places of business.

(2) The copies of such documents shall be exhibited in a place in which they may be easily inspected by members of the public and shall remain so exhibited—

- (a) in the case of documents lodged under section 9, from the date on which the company receives a notification of registration under section 10(6) until the date on which documents are lodged under section 17 with the Commissioner for the first time; and
- (b) in the case of documents lodged under section 17, from the date on which they are lodged with the Commissioner under that section until such documents for the next following financial year are lodged with the Commissioner under that section.

(3) Any registered deposit-taking company that fails to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine of \$200 for each day during which the offence continues.

19. (1) Where any change occurs in any of the particulars of a registered deposit-taking company which are specified by the Commissioner under section 36(2), the company shall forthwith notify the Commissioner in writing of such change.

(2) A registered deposit-taking company which ceases to carry on a business of taking deposits shall forthwith notify the Commissioner in writing of such cessation.

(3) Any registered deposit-taking company that fails without reasonable excuse to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000.

20. (1) Without prejudice to sections 17 and 19, the Commissioner may, by notice in writing sent or delivered to a registered deposit-taking company, require the company to provide him with such information relating to the affairs of the company as is required by the notice; and the company shall comply with the notice within such period as is specified in the notice.

(2) If the Commissioner is not satisfied that any information provided by a registered deposit-taking company is sufficiently adequate or accurate, he may send or deliver to the company a further notice requiring it to provide him with such explanation relating to that information or such further information as may be required by the notice; and the company shall comply with the notice within such period as is specified in the notice.

(3) The Commissioner may, in a notice sent or delivered under subsection (1) or (2), specify that any information required to be provided by a registered deposit-taking company shall be certified as correct by the auditors of the company.

(4) Any registered deposit-taking company that—

- (a) fails without reasonable excuse to comply with a notice sent or delivered under subsection (1) or (2); or
- (b) pursuant to a notice sent or delivered under subsection (1) or (2), provides the Commissioner with information which the company knows or reasonably ought to know to be false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction upon indictment to a fine of \$20,000.

21. (1) A registered deposit-taking company shall not in any communication, whether written or oral, represent or imply, or permit to be represented or implied, in any manner to any person that the company has in any respect been approved by the Government or the Commissioner.

Registered deposit-taking companies to notify certain changes to the Commissioner.

Power of Commissioner to require other information relating to the affairs of registered deposit-taking companies.

Certain representations prohibited.

(2) Subsection (1) is not contravened by reason only that a statement is made to the effect that a company is registered under this Ordinance.

(3) Any registered deposit-taking company that contravenes subsection (1) without reasonable excuse shall be guilty of an offence and shall be liable on conviction upon indictment to a fine of \$50,000.

22. (1) A registered deposit-taking company shall not grant or permit to be outstanding to any one person, firm, corporation or company, or to any group of companies or persons which such person, firm, corporation or company is able to control or influence, any advances, loans or credit facilities, including irrevocable documentary letters of credit to the extent to which they are not covered by marginal cash deposits, or give any financial guarantees or incur any other liabilities on their behalf to an aggregate amount of such advances, loans, facilities, guarantees or liabilities in excess of 25 per cent of the paid-up capital and reserves of the registered deposit-taking company:

Limitation on advances by registered deposit-taking companies.

Provided that this subsection shall not apply to—

- (a) transactions with a bank or another registered deposit-taking company;
- (b) transactions to the extent to which they are covered by a form of guarantee acceptable to the Commissioner;
- (c) the purchase of telegraphic transfers;
- (d) the purchase of bills of exchange or documents of title to goods where the holder of such bills or documents is entitled to payment outside Hong Kong for goods exported from Hong Kong;
- (e) any advances or loans made against telegraphic transfers or against any bills or documents referred to in paragraph (d); or
- (f) transactions entered into before the commencement of this Ordinance.

(2) For the purposes of subsection (1)—

- (a) any advances, loans or credit facilities granted or permitted to be outstanding to, and any financial guarantees given and any other liabilities incurred on behalf of, a business or undertaking of which any one person is the sole proprietor shall be deemed to be granted or permitted to be outstanding to or given or incurred on behalf of, as the case may be, that one person;
 - (b) a person shall not be deemed to be able to control or influence a group of companies by reason only that he is a director of any other company in the group.
- (3) Any registered deposit-taking company that contravenes subsection (1) shall be guilty of an offence and shall—
- (a) in the case of a continuing offence, be liable on conviction upon indictment to a fine of \$2,000 for every day during which the offence continues; and
 - (b) in the case of an offence which is not a continuing offence, be liable on conviction upon indictment to a fine of \$50,000.

23. (1) A registered deposit-taking company shall not grant any facility specified in subsection (3) to or on behalf of any person or body specified in subsection (4) if the aggregate amount of such facilities for the time being granted by the registered deposit-taking company to or on behalf of any one or more such persons or bodies would thereby exceed 25 per cent of the paid-up capital and reserves of the registered deposit-taking company.

Limitation on advances to directors, etc.

(2) Without prejudice to subsection (1), a registered deposit-taking company shall not grant any facility specified in subsection (3) to or on behalf of any person specified in subsection (4)(a) or (b) if the aggregate amount of such facilities for the time being granted by the registered deposit-taking company to or on behalf of that person or any of his relatives would thereby exceed 1 per cent of the paid-up capital and reserves of the registered deposit-taking company or \$250,000, whichever is the less.

(3) For the purposes of subsections (1) and (2), the following facilities are specified—

- (a) the granting, or permitting to be outstanding, of unsecured advances, unsecured loans or unsecured credit facilities including unsecured irrevocable documentary letters of credit;
- (b) the giving of unsecured financial guarantees; and
- (c) the incurring of any other unsecured liability.

(4) For the purposes of subsections (1) and (2), the following persons and bodies are specified—

- (a) any director of the registered deposit-taking company;
- (b) any relative of any such director;
- (c) any firm, partnership or private company in which the registered deposit-taking company or any of its directors or any relative of any of its directors is interested as director, partner, manager or agent; and
- (d) any individual, firm, partnership or private company of which any director of the registered deposit-taking company or any relative of any such director is a guarantor.

(5) The provisions of this section shall apply to a facility granted to or on behalf of a person or body jointly with another person or body as they apply to a facility granted to or on behalf of a person or body severally.

(6) This section shall not apply to—

- (a) the purchase of telegraphic transfers; or
- (b) transactions entered into before the commencement of this Ordinance.

(7) For the purposes of subsections (2) and (4), a facility granted to or on behalf of any firm, partnership or private company which a director of a registered deposit-taking company or a relative of such director is able to control, or to or on behalf of a business or undertaking of which a director of a registered deposit-taking company or a relative of such director is the sole proprietor, shall be deemed to be granted to or on behalf of such director or relative of such director.

(8) Any registered deposit-taking company that contravenes subsection (1) or (2) shall be guilty of an offence and shall—

- (a) in the case of a continuing offence, be liable on conviction upon indictment to a fine of \$2,000 for every day during which the offence continues; and
- (b) in the case of an offence which is not a continuing offence, be liable on conviction upon indictment to a fine of \$50,000.

24. For the purposes of sections 22 and 23 there shall be deducted from the paid-up capital and reserves of the registered deposit-taking company any loss disclosed in the balance sheet of the deposit-taking company lodged with the Commissioner under this Ordinance.

Deductions for the purposes of sections 22 and 23.

PART VI MISCELLANEOUS

25. (1) Except as may be necessary for the exercise or performance of any function or duty under this Ordinance or for carrying into effect the provisions of this Ordinance, every person who has been appointed under or who is or has been employed in carrying out or in assisting any person to carry out the provisions of this Ordinance—

Official
secrecy.

- (a) shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any company that may come to his knowledge in the exercise or performance of any function or duty under this Ordinance;
- (b) shall not communicate any such matter to any person other than the person to whom such matter relates; and
- (c) shall not suffer or permit any person to have access to any records in the possession, custody or control of any person to whom this subsection applies.

(2) Subsection (1) does not apply—

- (a) to the disclosure of information in the form of a summary of similar information provided by a number of registered deposit-taking companies if the summary is so framed as to prevent particulars relating to the business of any particular deposit-taking company being ascertained from it; or
 - (b) to the disclosure of information for the purpose of any legal proceedings brought under this Ordinance, or for the purpose of any report of any such proceedings.
- (3) Any person who—
- (a) contravenes subsection (1); or
 - (b) aids, abets, counsels or procures any person to contravene subsection (1),

shall be guilty of an offence and shall be liable on conviction upon indictment to a fine of \$50,000 and to imprisonment for 2 years.

26. Any person who enters into a contract or arrangement, or uses any device or scheme, which has the effect of, or is designed to have the effect of, avoiding the provisions of section 6(1) or section 8(1) or (3) shall be guilty of an offence and shall be liable on conviction upon indictment to a fine of \$50,000.

Offence to
avoid the
provisions of
section 6 or 8.

27. (1) Subject to subsection (5), no person shall—

- (a) issue, or have in his possession for the purposes of issue, any advertisement which to his knowledge is or contains an invitation to members of the public—
 - (i) to deposit money; or
 - (ii) to enter into, or offer to enter into, any agreement to deposit money;
- (b) issue, or have in his possession for the purposes of issue, any document which to his knowledge contains such an advertisement; or
- (c) in any other manner issue or make an invitation to members of the public to do any of the acts referred to in paragraph (a).

Offence to issue
advertisements
and documents
relating to
deposits.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction upon indictment to a fine of \$10,000.

(3) For the purposes of any proceedings under this section, an advertisement or document in which a person named in the advertisement or document holds himself out as being prepared to take in Hong Kong any deposit shall, subject to subsection (4), be presumed, unless such named person proves to the contrary, to have been issued by him.

(4) A person shall not be taken to contravene this section by reason only that he issues, or has in his possession for the purposes of issue, to purchasers copies of any newspaper, magazine, journal or other periodical publication of general and regular circulation, which contain an advertisement to which this section applies.

(5) This section shall not apply to any advertisement to deposit money or to enter into, or offer to enter into, any agreement to deposit money with a registered deposit-taking company or a licensed bank.

28. (1) Any person who, by any fraudulent or reckless misrepresentation, induces another person—

- (a) to deposit money with him or any other person; or
- (b) to enter into or to offer to enter into any agreement to deposit money with him or any other person,

shall be guilty of an offence and shall be liable on conviction upon indictment to a fine of \$1,000,000 and to imprisonment for 7 years.

(2) For the purposes of subsection (1) "fraudulent or reckless misrepresentation" means—

- (a) any statement—
 - (i) which, to the knowledge of the maker of the statement, was false, misleading or deceptive; or
 - (ii) which was false, misleading or deceptive and was made recklessly;
- (b) any promise—
 - (i) which the maker of the promise had no intention of fulfilling;
 - (ii) which, to the knowledge of the maker of the promise, was not capable of being fulfilled; or
 - (iii) which was made recklessly;
- (c) any forecast—
 - (i) which, to the knowledge of the maker of the forecast, was not justified on the basis of facts known to him at the time when he made it; or
 - (ii) which was not justified on the facts known to the maker of the forecast at the time when he made it and was made recklessly; or
- (d) any statement or forecast from which the maker intentionally or recklessly omitted a material fact with the result that the statement or forecast was thereby rendered false, misleading or deceptive.

29. (1) Any person who, by any fraudulent, reckless or negligent misrepresentation, induces another person to deposit money with him or any other person shall be liable to pay compensation to the person so induced for any pecuniary loss that such person has sustained by reason of his reliance on that misrepresentation.

(2) For the purposes of subsection (1) "fraudulent, reckless or negligent misrepresentation" means—

(a) any statement—

- (i) which, to the knowledge of the maker of the statement, was false, misleading or deceptive;
- (ii) which was false, misleading or deceptive and was made recklessly; or
- (iii) which was false, misleading or deceptive and was made without reasonable care having been taken to ensure its accuracy;

(b) any promise—

- (i) which the maker of the promise had no intention of fulfilling;
- (ii) which, to the knowledge of the maker of the promise, was not capable of being fulfilled; or
- (iii) which was made recklessly or without reasonable care having been taken to ensure that it could be fulfilled;

(c) any forecast—

- (i) which, to the knowledge of the maker of the forecast, was not justified on the basis of facts known to him at the time when he made it; or
- (ii) which was not justified on the facts known to the maker of the forecast at the time when he made it and was made recklessly or without reasonable care having been taken to ascertain the accuracy of those facts; or

(d) any statement or forecast from which the maker intentionally, recklessly or negligently omitted a material fact with the result that the statement or forecast was thereby rendered false, misleading or deceptive.

(3) For the purposes of this section—

- (a) where any statement, promise or forecast to which this section relates was made by a company, every person who was a director of the company at the time when the statement, promise or forecast was made shall, until the contrary is proved, be deemed to have caused or permitted it to be made; and
- (b) a person is deemed to be a director of a company if he occupies the position of a director, whatever the title of his office, or he is a person in accordance with whose directions or instructions the directors of the company or any of them act; but a person shall not, by reason only that the directors of a company act on advice given by him in a professional capacity, be taken to be a person in accordance with whose directions or instructions those directors act.

(4) This section does not affect any liability of any person at common law.

(5) An action may be brought under this section notwithstanding that the evidence on which the action is or will be based, if substantiated, discloses the commission of an offence and no person has been charged with or convicted of the offence.

(6) For the purposes of this section "company" means, in addition to a company as defined in section 2, any other body of persons, corporate or unincorporate.

30. (1) Notwithstanding any rule of law, any deposit taken in contravention of section 6 or 8, and any interest accrued thereon, may be recovered by the depositor as money had and received.

Action for recovery of deposits, etc. [cf. 1963 c. 16, s. 16(4).]

Fraudulent inducement to deposit money. [cf. 1963 c. 16, s. 1.]

Liability in tort for inducing persons to deposit money in certain cases.

(2) Where the registration of a deposit-taking company is revoked under section 14 or suspended under section 15, such revocation or suspension shall not affect any right—

- (a) of any person against such company; or
- (b) of such company against any person.

Liability of directors, etc. [c7, 1963 c. 16, s. 22.]

31. (1) Where an offence under this Ordinance committed by a company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other officer of the company or any person who was purporting to act in any such capacity, he as well as the company, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) For the purposes of this section, a person is deemed to be a director of a company if he occupies the position of a director, whatever the title of his office, or is a person in accordance with whose directions or instructions the directors of the company or any of them act; but a person shall not, by reason only that the directors of a company act on advice given by him in a professional capacity, be taken to be a person in accordance with whose directions or instructions those directors act.

(3) For the purposes of this section "company" means, in addition to a company as defined in section 2, any other body of persons, corporate or unincorporate.

Search warrants and seizure.

32. (1) If a magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Ordinance has been committed, the magistrate may issue a warrant empowering any police officer to enter and search any premises specified in the warrant.

(2) A police officer to whom a warrant is issued under subsection (1) may—

- (a) break open any outer or inner door of or in any premises which he is empowered by the warrant to enter and search;
- (b) inspect, seize and remove any thing which the police officer has reasonable grounds for believing to be or to contain evidence of an offence under this Ordinance; and
- (c) remove by force any person who obstructs any entry, search, inspection, seizure or removal which he is empowered by this subsection to make.

(3) A person from whom any books, accounts or other documents have been seized and removed under subsection (2) shall, pending any proceedings for an offence under this Ordinance, be entitled to take copies of or extracts from such books, accounts or other documents.

(4) Any person who obstructs a police officer in the exercise of any power conferred on him by subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and to imprisonment for 6 months.

Certain persons prohibited from acting as officers or employees of registered deposit-taking companies except with consent of Commissioner.

33. (1) No person who—

- (a) is bankrupt or has entered into a composition with his creditors;
- (b) has been convicted in any country or territory of an offence involving fraud or dishonesty; or
- (c) has been a director, or otherwise concerned in the management, of any bank or deposit-taking company which has been wound up by a court or whose licence (in the case of a bank) or registration (in the case of a deposit-taking company) has been revoked,

shall, without the consent in writing of the Commissioner, be a director, manager or secretary of a registered deposit-taking company or an employee of such a company in any other capacity.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction upon indictment to a fine of \$5,000 and to imprisonment for 12 months.

34. (1) Where the Commissioner—

- (a) has refused to register a company under section 10(2);
- (b) has revoked the registration of a company under section 14(1); or
- (c) has suspended the registration of a company under section 15,

the company may, within 14 days—

- (i) after the receipt of the notification of the refusal under section 10(7);
- (ii) after the receipt of the notification of the revocation under section 14(4); or
- (iii) after the receipt of the notification of the suspension under section 15,

as the case may be, appeal to the Governor in Council against the refusal or revocation.

(2) Where registration is refused under section 10(2) or revoked under section 14(1) or suspended under section 15, that refusal, revocation or suspension shall take effect immediately, notwithstanding that an appeal has been or may be made under this section.

35. (1) The Financial Secretary may, by notice in the *Gazette*, exempt any person or class of persons from section 6.

(2) An exemption under this section shall be subject to such conditions as are specified in the notice.

(3) The Financial Secretary may at any time by notice in the *Gazette*—

- (a) revoke an exemption under this section; or
- (b) revoke, vary, or add to, any condition subject to which such exemption is granted.

36. (1) The Commissioner may specify the form of application for registration and of any notice, certificate or other document required for the purposes of this Ordinance.

(2) The Commissioner shall, by notice in the *Gazette*, specify the class of particulars in respect of a registered deposit-taking company to which section 19(1) applies.

37. The Governor in Council may, by notice in the *Gazette*, amend any Schedule.

FIRST SCHEDULE

[ss. 8 & 37.]

SPECIFIED SUM

The sum for the purposes of section 8(1) is \$50,000.

Appeals.

Power to grant exemptions.

Power to specify forms, etc.

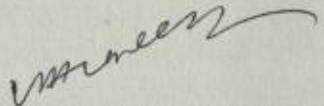
Power to amend Schedules.

SECOND SCHEDULE [ss. 11, 12 & 37.]

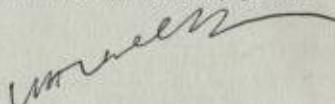
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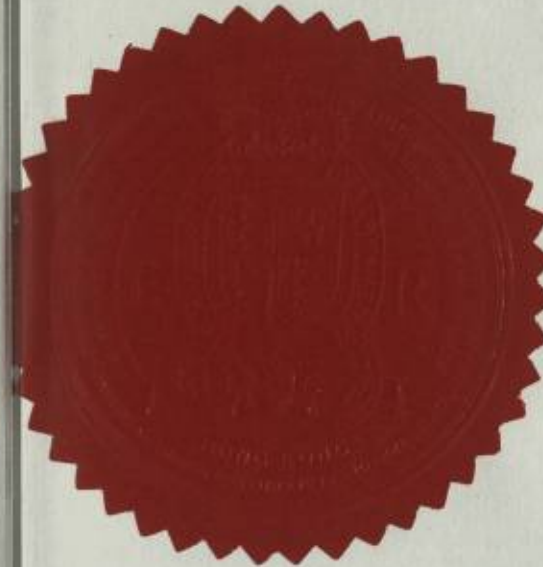
	\$
1. Registration fee (section 11(1))	10,000
2. Renewal of registration fee (section 11(2))	10,000
3. Inspection fee (section 12(3))	10
4. Fee for a copy or extract, per page (section 12(3))	5

Passed by the Hong Kong Legislative Council this 7th day of January, 1976.

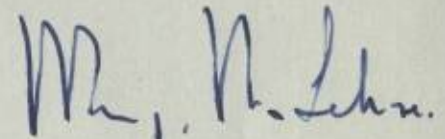

Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



I assent.


Governor.

22nd January, 1976.

1. Registration fee (section 11(1))	10,000
2. Renewal of registration fee (section 11(2))	10,000
3. Inspection fee (section 12(3))	10
4. Fee for a copy or extract, per page (section 12(3))	5

Passed by the Hong Kong Legislative Council this 7th day of January, 1976.

[Signature]
Clerk to the Legislative Council.

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

[Signature]
Clerk to the Legislative Council.

HONG KONG

No. 4 OF 1976



I assent.

[Signature]
Governor.

22nd January, 1976.

An Ordinance to amend the Companies Ordinance.

[23rd January, 1976]

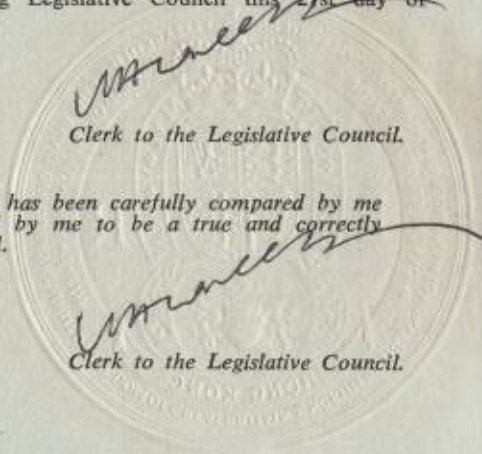
Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Companies (Amendment) Ordinance 1976. Short title.
2. Section 2 of the principal Ordinance is amended by inserting after subsection (7) the following new subsection— Amendment of section 2. (Cap. 32.)
“(8) In subsections (4), (5), (6) and (7) the expression “company” includes any body corporate or corporation.”
3. Section 22 of the principal Ordinance is amended in subsection (1) by deleting “Governor” and substituting the following— Amendment of section 22.
“Registrar”.
4. Part I of the Eighth Schedule to the principal Ordinance is amended by inserting below paragraph (b) the following new paragraph— Amendment of Eighth Schedule.
“(ba) in the case of a company having on the 1st day of June, 1955 a nominal share capital in excess of \$3,000,000, for every \$1,000 or part of \$1,000 of such excess nominal share capital as remains unissued 4.00

The fee under this paragraph shall be paid on or before the 1st day of January, 1977:

Provided that no fee shall be payable under this paragraph by a company which has increased its nominal share capital and paid the additional fee under paragraph (b)."

Passed by the Hong Kong Legislative Council this 21st day of January, 1976.



Clerk to the Legislative Council.

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

Clerk to the Legislative Council.

NO. 5 OF 1976



I assent.

Murray N. Lehn

Governor.

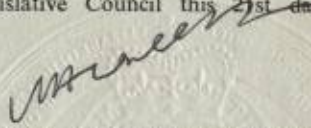
22nd January, 1976.

An Ordinance to make provision for the conservation of wild animals, and for purposes connected therewith.

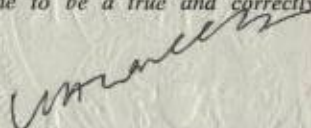
[23rd January, 1976]

Provided that no fee shall be payable under this paragraph by a company which has increased its nominal share capital and paid the additional fee under paragraph (b)."

Passed by the Hong Kong Legislative Council this 21st day of January, 1976.


Clerk to the Legislative Council.

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

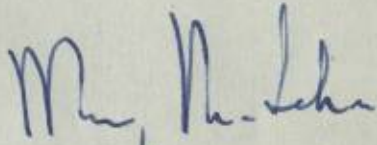

Clerk to the Legislative Council.

HONG KONG

No. 5 OF 1976



I assent.


Governor.

22nd January, 1976.

An Ordinance to make provision for the conservation of wild animals, and for purposes connected therewith.

[23rd January, 1976]

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

1. This Ordinance may be cited as the Wild Animals Protection Ordinance 1976. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.
"animal" means any form of animal life;

"arms" includes—

- (a) any firearm of any description from which any shot, bullet or other missile can be discharged;
- (b) any air gun, air rifle or air pistol from which any shot, bullet or other missile can be discharged; and
- (c) any propelling or releasing instrument or mechanism, from or by which any shell, cartridge or projectile can be discharged;

"authorized officer" means a—

- (a) police officer;
- (b) justice of the peace;
- (c) game warden or honorary game warden appointed under section 16;
- (d) forest officer under the Forests and Countryside Ordinance; or (Cap. 96.)
- (e) fisheries inspector under the Fisheries Protection Ordinance; (Cap. 171.)

First Schedule.	"close season", in relation to game, means the period specified as the close season in the First Schedule during which hunting of that game is prohibited;
	"Director" means the Director of Agriculture and Fisheries;
First Schedule.	"game" means any wild animal specified in the First Schedule;
	"game licence" means a game licence issued under section 14;
	"hunt" includes any act immediately directed at the killing or capture of any wild animal or the taking of any nest, eggs, or young of any wild animal;
	"hunting appliance" means any net, gin, snare, poison or poisoned weapon, bird lime, trap or bright light;
	"licensing authority" means the licensing authority specified in section 3;
	"live decoy" means a live animal intended for use in attracting any other animal;
Second Schedule.	"protected wild animal" means any wild animal specified in the Second Schedule;
	"special permit" means a special permit issued under section 15;
Third Schedule.	"vermin" means any wild animal specified in the Third Schedule;
	"wild animal" means any animal which is not bred or kept in domestication.
Licensing authority.	3. The Director shall be the licensing authority for the purposes of this Ordinance.
Hunting of protected wild animals prohibited.	4. No person shall hunt any protected wild animal.
Protection of nests and eggs.	5. No person shall take, remove, injure, destroy or wilfully disturb a nest or egg of any protected wild animal or game.
Restrictions on hunting game.	6. (1) No person shall, unless he is the holder of a game licence, hunt any game. (2) No person shall hunt any game during the close season.
Hunting of game by certain means prohibited.	7. No person shall— (a) hunt any game by means of a live decoy or by the emission of recorded noises; (b) hunt any game by means of any hunting appliance or pitfall; or (c) have in his possession any hunting appliance or make a pitfall for the purpose of hunting any game.
Possession of protected wild animals and game.	8. No person shall have in his possession or under his control— (a) any live protected wild animal or live game taken in Hong Kong; (b) any dead protected wild animal, or part of a protected wild animal, killed or taken in Hong Kong; (c) any dead game, or any part of game, killed or taken in Hong Kong during the close season; or (d) any nest or egg of any protected wild animal or game taken in Hong Kong.
Sale or export of protected wild animals.	9. No person shall buy, sell, export or offer for sale or export— (a) any protected wild animal, or part of a protected wild animal, killed or taken in Hong Kong; or

	(b) any nest or egg of any protected wild animal or game taken in Hong Kong.	
	10. (1) No person shall hunt in any area specified in the Fourth Schedule.	Hunting and carrying of firearms in certain areas prohibited. Fourth Schedule.
	(2) Subject to subsection (3), no person shall carry any arms in any area specified in the Fourth Schedule.	
	(3) Subsection (2) shall not apply—	
	(a) to the carrying of arms along a public highway in such a specified area; and	
	(b) to members of Her Majesty's armed forces, police officers or members of the Preventive Service whilst on duty.	
	11. No person shall hunt any wild animal, other than vermin, in any area specified in the Fifth Schedule.	Hunting in certain areas prohibited. Fifth Schedule.
	12. No person shall without lawful authority or reasonable excuse shoot at any wild animal from any place situate within 100 yards of an inhabited house or a road normally used by motor vehicles.	Shooting near houses and roads prohibited.
	13. (1) Subject to subsection (2), no person shall, except in accordance with a permit in writing granted by the licensing authority, enter into or be within any area specified in the Sixth Schedule during the period specified in respect thereof in that Schedule.	Entry in restricted areas. Sixth Schedule.
	(2) Subsection (1) shall not apply to—	
	(a) a public officer on duty within any such area;	
	(b) a person engaged on public works within any such area; or	
	(c) a person ordinarily resident in such specified area.	
	(3) A person who under subsection (2) lawfully enters or is within any area specified in the Sixth Schedule shall not—	
	(a) unless he is a police officer on duty, be in possession of any arms;	
	(b) be in possession of any hunting appliance; or	
	(c) hunt any wild animal.	
	14. (1) The licensing authority may, on application made to him in Form 1 of the Seventh Schedule and on payment of the fee prescribed in the Eighth Schedule, issue a game licence in Form 2 of the Seventh Schedule.	Game licence. Seventh Schedule. Eighth Schedule.
	(2) The licensing authority may require an applicant for a game licence to undergo tests as to the applicant's knowledge of the provisions of the First, Second, Third, Fourth, Fifth and Sixth Schedules and his ability to identify the wild animals specified in the First and Second Schedules.	
	(3) A game licence shall be valid for one year from the date on which it is issued.	
	(4) If the First Schedule is amended during the validity of a game licence, such amendment shall have effect also to amend the game licence consequentially.	First Schedule.
	(5) A person to whom a game licence is issued shall carry the game licence with him whilst engaged in hunting, and when setting out for or returning from a hunting expedition.	
	(6) Notwithstanding subsection (3), a game licence may be revoked at any time by the licensing authority if the holder of the game licence—	

(a) contravenes any provision of this Ordinance, whether or not he is convicted of an offence under this Ordinance; or

(b) injures or endangers the safety of any person by discharging any arms whilst hunting game.

(7) If the licensing authority is satisfied that a game licence has been lost, destroyed or accidentally defaced, he may issue a duplicate thereof on payment of the fee prescribed in the Eighth Schedule.

(8) Any person who is aggrieved by the refusal or revocation of a game licence may, within 14 days after the receipt of the notice of refusal or revocation, appeal in writing to the Colonial Secretary whose decision shall be final.

15. Notwithstanding any provision of this Ordinance, the Director may grant to any person a special permit in writing, upon such conditions as he thinks fit, to do anything which is prohibited under this Ordinance.

16. The Governor may appoint any person to be a game warden or honorary game warden for the purposes of this Ordinance and any such appointment shall be published in the *Gazette*.

17. (1) If an authorized officer finds a person hunting or has reasonable grounds for believing that a person has been hunting or is about to hunt, he may require such person to produce for inspection his game licence or special permit.

(2) If an authorized officer has reasonable grounds for believing that a person has committed an offence under section 18, he may—

(a) arrest such person; and

(b) seize—

(i) any protected wild animal or game, or part of any protected wild animal or game;

(ii) any nest or egg of any protected wild animal or game; or

(iii) any arms, hunting appliance, live decoy or device for the emission of recorded noises,

whether in the possession of such person or not, in respect of which the authorized officer has reason to believe that the offence was committed.

(3) Where an authorized officer arrests a person under subsection (2) he shall forthwith take such person to the nearest police station and shall there hand him over to the custody of a police officer and thereupon the provisions of section 52 of the Police Force Ordinance shall apply.

(4) If any thing seized under subsection (2) is perishable, the Director may cause it to be sold or otherwise disposed of forthwith.

18. Any person who—

(a) contravenes section 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13;

(b) without lawful excuse fails to comply with a requirement of an authorized officer under section 17(1); or

(c) wilfully resists or obstructs an authorized officer exercising any power under section 17(2),

shall be guilty of an offence and—

(i) if the offence was committed in respect of a protected wild animal, shall be liable on conviction to a fine of \$5,000; and

(ii) in any other case, shall be liable on conviction to a fine of \$3,000.

Eighth Schedule.

Special permits.

Game wardens.

Powers of inspection and arrest.

(Cap. 232.)

Offences and penalty.

19. Where in any proceedings for an offence under section 8 or 9 (read with section 18) it is alleged that—

(a) any protected wild animal or game was killed or taken in Hong Kong; or

(b) any nest or egg of any protected wild animal or game was taken in Hong Kong,

it shall be so presumed, until the contrary is proved by the person charged with the offence.

20. Where a person is convicted of an offence under section 18, a magistrate may order—

(a) any protected wild animal or game, or part of any protected wild animal or game;

(b) any nest or egg of any protected wild animal or game; or

(c) any arms, hunting appliance, live decoy or device for the emission of recorded noises,

in respect of which the offence is committed to be forfeited to the Crown.

21. (1) If any damage is caused to growing crops by a person, or by his attendants or dogs, whilst engaged in hunting, he shall be liable to pay to the owner of the crops by way of compensation such sum of money as a magistrate may, on hearing a complaint under Part II of the Magistrates Ordinance, order.

(2) Any compensation ordered to be paid under subsection (1)—

(a) shall be paid within 7 days after the date of the order; or

(b) shall, if not paid in accordance with paragraph (a), be recovered as if it were a fine imposed by a magistrate under this Ordinance.

22. (1) The Governor may by order published in the *Gazette* amend any Schedule.

(2) Where the Governor amends the Fourth, Fifth or Sixth Schedule, an amendment of an area specified in any such Schedule or the insertion therein of a new area shall be described by reference to a plan signed and dated by the Director and deposited in the Land Office, Victoria, and such plan shall be available for inspection at the Land Office, Victoria, and copies of it shall be available for inspection at every District Office in the New Territories.

23. (1) The Wild Birds and Wild Mammals Protection Ordinance is repealed.

(2) A game licence issued under section 13 of the repealed Wild Birds and Wild Mammals Protection Ordinance which is in force at the commencement of this Ordinance shall be deemed, for the purposes of this Ordinance, to have been issued under section 14.

FIRST SCHEDULE

[ss. 2, 14 & 22.]

Game

Sus scrofa—Wild Pig.

Close season
during which hunting
is prohibited

From 1st February to 30th
September, both days inclu-
sive.

Burden of proof.

Forfeiture.

Compensation for damage to crops.

(Cap. 227.)

Power to amend Schedules.

Repeal and transitional provision.

(Cap. 170.)

Game	<i>Close season during which hunting is prohibited</i>
<i>Francolinus</i> species—Chinese Francolin.	From 15th February to 31st October, both days inclusive.
<i>Streptopelia</i> species—Dove.	From 1st March to 14th October, both days inclusive.
<i>Gallinago</i> and <i>Lymnocyptes</i> species—Snipe.	} From 1st May to 31st August, both days inclusive.
<i>Rostratula</i> species—Painted Snipe.	
<i>Scolopax</i> species—Woodcock.	
Members of the following genera— <i>Anas</i> , <i>Aythya</i> , <i>Aix</i> , <i>Bucephala</i> , <i>Mergus</i> , <i>Tadorna</i> , <i>Dendrocygna</i> and <i>Nettapus</i> —Wild Duck.	
<i>Anser</i> species—Wild Goose.	
<i>Coturnix</i> species—Quail.	
<i>Turnix</i> species—Button Quail.	

SECOND SCHEDULE

[ss. 2 & 22.]

PROTECTED WILD ANIMALS

- Manis pentadactyla*—Pangolin or Scaly Ant-eater.
Lutra lutra—Otter.
Herpestes urva—Crab-eating Mongoose.
Muntiacus reevesi—Reeves' Muntjac or Barking Deer.
Paguma larvata—Masked Palm Civet.
Viverricula indica—Small Indian Civet.
Viverra zibetha—Large Indian Civet.
Melogale moschata—Chinese Ferret-badger.
Vulpes vulpes—Common Red Fox.
Felis bengalensis—Leopard Cat.
Hystrix hodgsoni—Chinese Porcupine.
- All species of the families—
- | | |
|------------------------|---------------------------|
| <i>Delphinidae</i> | — Dolphins and porpoises. |
| <i>Balaenopteridae</i> | } — Whales. |
| <i>Physeteridae</i> | |
| <i>Ziphiidae</i> | |
| <i>Dugongidae</i> | — Dugongs. |
- and all other marine mammals.
- All wild birds other than game.
Python molurus bivittatus—Burmese Python.

THIRD SCHEDULE

[ss. 2 & 22.]

VERMIN

All wild animals other than protected wild animals and game.

FOURTH SCHEDULE

[s. 10.]

AREAS IN WHICH HUNTING AND THE CARRYING
OF FIREARMS (OTHER THAN ALONG A
PUBLIC HIGHWAY) ARE PROHIBITED

- Area A.* The direct and indirect catchment areas of the Fu Shui, Tai Lam, Shing Mun and Kowloon Reservoirs, excluding the indirect catchment area of the Kowloon Reservoir east of the Tai Po Road and the area occupied by the Hong Kong Gun Club adjacent to Route Twisk, but including all of the Tai Po Kau Forest and Plantation.
- Area B.* The direct catchment area of the Plover Cove Reservoir and the areas adjacent thereto.
- Area C.* The direct and indirect catchment area of the Shek Pik Reservoir and the areas adjacent thereto.
- Area D.* The Chi Ma Wan Peninsula.
- Area E.* The Agriculture and Fisheries Department Sai Kung Experimental Farm.
- Area F.* The Agriculture and Fisheries Department Ta Kwu Ling Experimental Farm.
- Area G.* The Fanling Golf Course and the areas adjacent thereto.
- Area H.* The Agriculture and Fisheries Department Castle Peak Livestock Breeding Centre and Farm.
- Area I.* Port Island (Chik Chau).
- Area K.* Hole Island (Hei Lo To) and Basalt Island.

All the above areas are delineated and marked in green on a plan entitled "Wild Birds and Wild Mammals Protection Ordinance (Fourth and Fifth Schedules)" which was signed by the Director of Agriculture and Fisheries on the 3rd June 1971 and deposited in the Land Office, Victoria. The plan may be inspected at the Land Office, Victoria, and copies of the plan are available for inspection at all the District Offices in the New Territories.

- Area L.* Part of the Deep Bay Marshes, otherwise known as the Mai Po Marshes, and part of the adjoining mangrove swamps.

Area L is delineated and marked in green on a plan entitled "Wild Birds and Wild Mammals Protection Ordinance (Fourth and Fifth Schedules)" which was signed by the Director of Agriculture and Fisheries on the 9th March 1973 and deposited in the Land Office, Victoria. The plan may be inspected at the Land Office, Victoria, and copies of the plan are available for inspection at all the District Offices in the New Territories.

FIFTH SCHEDULE [ss. 11 & 22.]

AREAS IN WHICH THE HUNTING OF ANY WILD ANIMAL (OTHER THAN VERMIN) IS PROHIBITED

- Area 1.* Hong Kong Island.
Area 2. Cheung Chau Island.
Area 3. The indirect catchment area of the Plover Cove Reservoir and the areas adjacent thereto.
Area 4. Kowloon, New Kowloon, Tsuen Wan and the areas adjacent thereto.
Area 5. Hei Ling Chau.
Area 6. Chau Kung Island.
Area 7. Sek Kwu Chau.
Area 8. Tai O Island.

All the above areas are delineated and marked in yellow on a plan entitled "Wild Birds and Wild Mammals Protection Ordinance (Fourth and Fifth Schedules)" which was signed by the Director of Agriculture and Fisheries on the 3rd June 1971 and deposited in the Land Office, Victoria. The plan may be inspected at the Land Office, Victoria, and copies of the plan are available for inspection at all the District Offices in the New Territories.

SIXTH SCHEDULE [ss. 13 & 22.]

AREAS IN WHICH ENTRY OR PRESENCE IS RESTRICTED

<i>Area A</i>	<i>Restricted Period</i>
Fung Shui wood behind the village of Yim Tso Ha, Starling Inlet, New Territories.	From 1st April to 30th September, both days inclusive.

Area A is delineated and marked in yellow on a plan entitled "Wild Birds and Wild Mammals Protection Ordinance (Seventh Schedule)" which was signed by the Director of Agriculture and Fisheries on the 3rd June 1971 and deposited in the Land Office, Victoria. The plan may be inspected at the Land Office, Victoria, and copies of the plan are available for inspection at all the District Offices in the New Territories.

<i>Area B</i>	<i>Restricted Period</i>
Part of the Deep Bay Marshes otherwise known as the Mai Po Marshes, and part of the adjoining mangrove swamps.	At all times.

Area B is delineated and marked in red on a plan entitled "Wild Birds and Wild Mammals Protection Ordinance (Seventh Schedule)" which was signed by the Director of Agriculture and Fisheries on the 4th June 1975 and deposited in the Land Office, Victoria. The plan may be inspected at the Land Office and copies of the plan are available for inspection at the District Office in the New Territories.

SEVENTH SCHEDULE [ss. 14 & 22.]
[條例第一四及二二條]FORM 1
表格一

WILD ANIMALS PROTECTION ORDINANCE 1976
一九七六年保護野生鳥獸條例
(No. 5 of 1976)
(一九七六年第五號)

FORM OF APPLICATION FOR A GAME LICENCE
申領狩獵牌照表格

I,
本人
of
地址為：

hereby make application for the issue of a game licence.
茲申請發給狩獵牌照。

I will, when required, undergo a test as to my knowledge of the provisions of the First, Second, Third, Fourth, Fifth and Sixth Schedules to the Wild Animals Protection Ordinance 1976 and my ability to identify wild animals specified in the First and Second Schedules.
倘有需要，本人願接受試驗，以測驗本人對一九七六年保護野生鳥獸條例內第一、第二、第三、第四、第五及第六附表所載規定之認識，與辨認第一及第二附表所指定之野生鳥獸之能力。

I enclose 2 copies of my photograph (passport type and size).
茲附上本人照片兩張（種類及尺寸與護照用者相同）。

Signature
簽署

Date
日期

Certified that *A. The applicant is in possession of an Arms Licence.
茲證明： *甲 該申請人持有槍械牌照。

*B. I am prepared to grant an Arms Licence should the applicant be issued with a Game Licence.
*乙 倘申請人領得狩獵牌照，則本人將發給槍械牌照。

Signature and
Official Stamp
簽署及公印
*Commissioner of Police,
Hong Kong.*
香港警務處處長

Date
日期

- * Delete whichever is inapplicable.
- * 將不適用者刪去。

FORM 2
表格二

WILD ANIMALS PROTECTION ORDINANCE 1976
一九七六年保護野生鳥獸條例

(No. 5 of 1976)
(一九七六年第五號)

GAME LICENCE
狩獵牌照
(Section 14)
(條例第一四條)

Photograph
of
licence holder.
持牌人照片

This game licence is issued to
茲將本狩獵牌照發予
..... of
其地址為：

The licence holder is entitled to hunt the game specified in this licence during the hunting season specified herein in respect of such game, subject to the restrictions contained in, and any amendments made to the First Schedule to, the Wild Animals Protection Ordinance 1976.

持牌人有權在本牌照所指定有關獵物之狩獵季節，狩捕本牌照所指定之獵物，惟須受一九七六年保護野生鳥獸條例內載之限制，並遵守對該條例第一附表所作之任何修訂。

Game
獵物名稱

Sus scrofa—Wild Pig.
野豬

Francolinus species—Chinese
Francolin.
鸕鶿

Hunting Season
狩獵季節

From 1st October to 31st January, both days inclusive.
自十月一日起至次年一月三十一日止(包括首尾兩天)。

From 1st November to 14th February, both days inclusive.
自十一月一日起至次年二月十四日止(包括首尾兩天)。

Game
獵物名稱

Hunting Season
狩獵季節

Streptopelia species—Dove.
鴿

From 15th October to the last day of February, both days inclusive.
自十月十五日起至次年二月最後一日止(包括首尾兩天)。

Gallinago and *Lymnocyptes* species—
Snipe.
沙鷄

Rostratula species—Painted Snipe.
彩鷄

Scolopax species—Woodcock.
山鵲

Members of the following genera—
Anas, Aythya, Aix, Bucephala,
Mergus, Tadorna, Dendrocygna
and *Nettapus*—Wild Duck.
野鴨

Anser species—Wild Goose.
野鵞

Coturnix species—Quail.
鸕鶿

Turnix species—Button Quail.
三趾鶿

From 1st September to 30th April, both days inclusive.
自九月一日起至次年四月三十日止(包括首尾兩天)。

CONDITIONS
條件

- This licence is valid from
本牌照之有效期自 年 月 日起
to
至 年 月 日止 (包括首尾兩天)。
- The licence holder must carry this licence with him whilst engaged in hunting and when setting out for or returning from a hunting expedition, and must produce it for inspection when required to do so by an authorized officer.
持牌人在進行狩獵及在出發狩獵或狩獵歸來時，均須攜帶本牌照；如遇獲授權人士着令出示牌照，則須照辦，以供查閱。
- This licence is not transferable.
本牌照不得轉讓。

Fee paid:
已繳費用:

Hong Kong 19.....
 香港 年 月 日

.....
Signature of licence holder.

持牌人簽署

.....
Licensing Authority.

發牌當局

The attention of the licence holder is drawn to the provisions of the
 Wild Animals Protection Ordinance 1976.

持牌人須留意一九七六年保護野生鳥獸條例之規定。

EIGHTH SCHEDULE

[ss. 14 & 22.]

	FEES	\$
(a) Fee for a game licence		250
(b) Fee for a duplicate game licence		10

Passed by the Hong Kong Legislative Council this 21st-day of
 January, 1976.

[Signature]
 Clerk to the Legislative Council.

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

[Signature]
 Clerk to the Legislative Council.



I assent.

[Signature]
 Governor
 12th February, 1976.

An Ordinance to provide for the control of the importation of plants, plant
 pests and soil, for the prevention of the spread of plant pests and for
 matters incidental to and connected therewith.

.....
Signature of licence holder.

持牌人簽署

.....
Licensing Authority.

發牌當局

The attention of the licence holder is drawn to the provisions of the Wild Animals Protection Ordinance 1976.

持牌人須留意一九七六年保護野生鳥獸條例之規定。

EIGHTH SCHEDULE

[ss. 14 & 22.]

	FEE	\$
(a) Fee for a game licence	250	
(b) Fee for a duplicate game licence	10	

Passed by the Hong Kong Legislative Council this 21st day of January, 1976.

HONG KONG

No. 6 OF 1976



I assent.

M. N. Sze
Governor

12th February, 1976.

An Ordinance to provide for the control of the importation of plants, plant pests and soil, for the prevention of the spread of plant pests and for matters incidental to and connected therewith.

[]

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

PART I
PRELIMINARY

1. This Ordinance may be cited as the Plant (Importation and Pest Control) Ordinance 1976 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

2. In this Ordinance, unless the context otherwise requires—
“authorized officer” means a public officer authorized by the Director under section 3;

Interpretation.

“Director” means the Director of Agriculture and Fisheries;

“import”, in relation to a plant, plant pest or soil, means to bring, or cause to be brought, into Hong Kong any plant, plant pest or soil by land, air or water or through the post;

“in transit”, in relation to a plant, plant pest or soil, means a plant, plant pest or soil which is brought into Hong Kong solely for the purpose of taking it or causing it to be taken out of Hong Kong;

“phytosanitary certificate” means a phytosanitary certificate referred to in section 6(2);

"plant" includes—

- (a) timber, trees and shrubs; and
- (b) leaves, roots, flowers, fruit, tubers, bulbs, corms, stocks, cuttings, layers, slips, suckers, seeds, and any part of a plant, whether or not intended for growing, planting or propagation or from which further plants may be grown, planted or propagated;

"plant import licence" means a licence referred to in section 6(1);

"plant pest" means any bacterium, fungus, virus, mycoplasma, alga or other plant or any invertebrate animal which is capable of being injurious or destructive to plants;

"premises" includes any vehicle, vessel or aircraft;

"prohibited", in relation to a plant, plant pest or soil, means any plant, plant pest or soil the importation of which is not permitted except in accordance with and subject to the terms and conditions of a plant import licence or a written authorization of the Director;

"quarantine area" means an area declared under section 14 to be a quarantine area;

"soil" includes earth, sand, clay and peat.

3. The Director may authorize in writing any public officer to exercise any of the powers and perform any of the duties conferred or imposed on an authorized officer by this Ordinance.

PART II

CONTROL OF IMPORTATION OF PLANTS

4. (1) No person shall import any plant specified in the first column of Part I of the First Schedule from any country specified opposite thereto in the second column of that Part, unless—

- (a) it is imported subject to the conditions (if any) of a plant import licence issued in respect thereof;
- (b) it has been fumigated or disinfected in the country of its origin;
- (c) it is accompanied by a valid phytosanitary certificate which certifies that the plant is free from the plant pest specified in relation to such plant in the last part of the second column of the relevant item in Part I of the First Schedule; and
- (d) it is imported subject to the condition that every such plant shall be grown in quarantine until the Director is satisfied either that it is free from plant pests or that it is diseased and must be destroyed.

(2) No person shall import any plant specified in the first column of Part II of the First Schedule from any country specified opposite thereto in the second column of that Part, unless—

- (a) it is imported subject to the conditions (if any) of a plant import licence issued in respect thereof;
- (b) it is accompanied by a valid phytosanitary certificate; and
- (c) it is imported subject to the conditions specified opposite thereto in the third column of that Part and such conditions relating to quarantine as may be specified by the Director.

(3) Subject to section 5, no person shall import any plant other than a plant specified in the First Schedule unless—

- (a) it is imported subject to the conditions of a plant import licence issued in respect thereof; and
- (b) it is accompanied by a valid phytosanitary certificate.

Appointment of authorized officers.

Prohibition of importation of certain plant. First Schedule.

5. Section 4(3) shall not apply to—

- (a) any plant specified in Part I of the Second Schedule; and
- (b) any plant specified in Part II of the Second Schedule if it is accompanied by a valid phytosanitary certificate.

Exempted plants. Second Schedule.

6. (1) A plant import licence shall be in Form 1 set out in the Third Schedule and may be issued by the Director upon application made to him and subject to such conditions as he thinks fit.

Plant import licences and certificates, etc. Third Schedule, Form 1.

(2) A phytosanitary certificate accompanying any plant to be imported shall not be valid for the purposes of this Ordinance unless it is—

- (a) similar in substance to Form 2 set out in the Third Schedule;
- (b) completed in English or in Chinese characters, or accompanied by a translation in English or in Chinese characters; and
- (c) signed, not more than 14 days prior to the date of the export of the plant from the country in which it was grown, by or on behalf of an authorized officer of the Plant Protection Service of that country.

Third Schedule, Form 2.

(3) The Director may, upon application made to him in such form as he may determine and upon payment of such fee as may be prescribed, examine any plant and may issue in respect of such plant a phytosanitary certificate in the form set out in Form 2 in the Third Schedule.

(4) Phytosanitary examination of plants may be made at the premises of the applicant subject to payment of such fee as may be prescribed.

7. No person shall import any plant pest or any plant infected by or infested with a plant pest, save in accordance with the terms of an authorization in writing issued to him by the Director.

Prohibition on importing plant pests.

8. (1) No person shall import any soil save in accordance with the terms of an authorization in writing issued to him by the Director.

Prohibition on importing soil.

(2) Subsection (1) shall not apply to soil imported from China.

9. (1) This Ordinance shall not apply to any plant, plant pest or soil which is in transit, if the conditions set out in subsection (2) are complied with in respect of the plant, plant pest or soil.

Exemptions for plants, plant pests and soil in transit.

(2) The conditions referred to in subsection (1) are—

- (a) that the plant, plant pest or soil is packed, and remains packed, in a container which is sealed, closed or wrapped in such a manner that no plant pest may escape from the container; and
- (b) that the container in which the plant, plant pest or soil is contained and the cargo or baggage in which the container is included—
 - (i) remain at all times on the vehicle, vessel or aircraft in which they were brought into Hong Kong; or
 - (ii) if taken from such vehicle, vessel or aircraft are not removed from the place where they are brought into Hong Kong other than for the purpose of being taken out of Hong Kong.

(3) If any condition set out in subsection (2) is not complied with, the Director may, unless the plant, plant pest or soil which is in transit is exported immediately or otherwise disposed of in such manner as the Director may determine, cause it to be destroyed.

(4) The Director may recover the cost of any action taken under subsection (3) as a debt due to the Crown from the person who brought or caused to be brought the plant, plant pest or soil into Hong Kong.

Declarations concerning examination of prohibited plants etc.

10. (1) The Director may require—

- (a) any person importing anything into Hong Kong; or
- (b) any person arriving in Hong Kong,

to declare to an authorized officer any prohibited plant, or any soil or anything which may be infected by or infested with a plant pest which that person is importing or has in his possession or under his charge.

(2) The importer or the person in possession or in charge of any plant or any soil, or anything which may be infected by or infested with a plant pest referred to in subsection (1) shall, if required by the Director or an authorized officer, produce it for inspection to the Director or to an authorized officer.

(3) An authorized officer may detain any container, package or other article, not being personal luggage, accompanying any person arriving in Hong Kong, which he has reason to believe contains any prohibited plant, a plant pest or any soil.

(4) For the purposes of examining any container, package or other article detained under subsection (3) an authorized officer may—

- (a) require the person in possession or in charge to open it; or
- (b) open it if such person refuses to do so.

(5) If the container, package or other article is unclaimed, or if there is no person apparently in possession or in charge thereof, it may be opened on the authority of the Director.

(6) Where a container, package or other article is opened in accordance with subsection (5) it shall—

- (a) if it contains no plant, plant pest or soil or if it contains plant, plant pest or soil which has been imported in accordance with this Ordinance, be returned to the custody of the airline company or shipping company which brought it into Hong Kong; and
- (b) if it contains any plant, plant pest or soil which has been imported in contravention of any provision of this Ordinance, be dealt with in accordance with section 20.

PART III

CONTROL OF PLANT PESTS

Search for plant pests.

11. (1) If it is made to appear by information on oath before a magistrate that there is reasonable cause to believe that any person has in his possession or charge or on his land or premises any plant pest, the magistrate may grant a warrant to the Director or an authorized officer to enter and search for and seize any plant pest or any plant or soil believed to be infected by or infested with a plant pest.

(2) Where under subsection (1) a person is authorized to search land or premises for any plant pest, he may—

- (a) enter at any reasonable time and search the land or premises accordingly; and
- (b) without further notice treat or destroy any plant pest or any plant or soil he believes to be infected by or infested with a plant pest in such manner as the Director may direct.

(3) The Director may recover the cost of any action taken under subsection (2)(b) as a debt due to the Crown from the person in possession or in charge of the plant pest, plant or soil.

Control of plant pests.

12. (1) If the Director is satisfied that a plant pest exists in or has been introduced into Hong Kong, he may by notice direct any person who

is the owner or in possession or custody of any plant or soil infected by or infested with such plant pest—

- (a) to surrender the plant or soil to him without compensation; or
- (b) to destroy the plant pest or take such other action as is necessary to prevent its spread.

(2) A notice under subsection (1) shall be in such form as may be specified by the Director and shall be deemed to be served on any person if it is delivered to him personally or left for him at his last known place of residence or business or sent by post in a letter addressed to him there.

13. (1) Where a notice served under section 12 is not complied with within 4 days after the day on which it was served the Director may take such steps as he thinks fit to destroy the plant pest or prevent its spread.

Non-compliance with notice.

(2) The Director may recover the cost of any action taken under subsection (1) as a debt due to the Crown from the person served with the notice.

PART IV

QUARANTINE

14. The Director may, by order published in the *Gazette*, declare any area to be a quarantine area.

Declaration of quarantine area.

15. (1) No person shall enter a quarantine area except in accordance with a permit issued by the Director or an authorized officer.

Prohibition of entry into quarantine area.

(2) Subject to section 16(3), no person shall move any plant, plant pest or soil into or away from a quarantine area except in accordance with a permit issued by the Director or an authorized officer.

16. (1) The Director may, by order published in the *Gazette*, declare that such plants as he may specify shall, after importation, be grown or propagated only in a quarantine area.

Certain plants to be grown only in quarantine area.

(2) Any plant specified under subsection (1) which is imported shall be kept in a quarantine area until such time as the Director is satisfied that it is free from plant pests.

(3) Any person who has in his possession or charge or on his land or premises any plant specified under subsection (1), shall within 4 days of the date of the publication of the order referred to in that subsection take the plant to a quarantine area and deliver it to the officer in charge thereof.

(4) If any person who has in his possession or charge or on his land or premises any plant specified under subsection (1) contravenes subsection (3), the Director or an authorized officer may—

- (a) at any reasonable time enter, without a warrant, the land or premises; and
- (b) without further notice, seize the plant and cause it—
 - (i) to be removed and destroyed; or
 - (ii) to be removed and grown or propagated in a quarantine area.

(5) The Director may recover the cost of any action taken under subsection (4)(b) as a debt due to the Crown from the person in possession or in charge of the plant.

(6) The Director may charge such fees as may be prescribed in respect of the maintenance and treatment of plants which are grown or propagated in a quarantine area.

Conditions under which a plant or soil may be removed from a quarantine area.

17. (1) Any plant or soil which has undergone quarantine and treatment and which, after examination by an authorized officer, is certified by him to be free from disease and plant pest may, when all fees and incidental expenses have been duly paid, be removed from the quarantine area on the issue by the Director or an authorized officer of a permit to remove the same.

- (2) (a) Any plant or soil which is in a quarantine area and in respect of which a permit to remove the same has been issued shall be removed by the owner within 7 days from the day on which the permit to remove was issued.
- (b) If such plant or soil is not removed or remains unclaimed after a period of 7 days from the day on which the permit to remove was issued, the Director or an authorized officer may direct that the plant or soil shall be destroyed or otherwise disposed of in such manner as he thinks fit without liability for compensation.
- (3) (a) Where the Director or an authorized officer is satisfied that a plant or soil is diseased and cannot be successfully treated he shall serve a notice on the owner thereof informing him of his intention to destroy such plant or soil.
- (b) The Director or an authorized officer may after 7 days of the service of the notice under paragraph (a) direct that the plant or soil shall be destroyed without liability for compensation.
- (c) A notice under paragraph (a) shall be in such form as may be specified by the Director and shall be deemed to be served on the owner if it is delivered to him personally or left for him at his last known place of residence or business or sent by post in a letter addressed to him there.

18. The Crown, the Director and public officers shall not be liable—

- (a) for any damage caused to any plant; or
- (b) for the loss of any plant,

while the plant is being kept in, or being taken to or from, a quarantine area in accordance with this Part.

PART V

POWERS OF AUTHORIZED OFFICERS

General powers of authorized officers.

19. (1) An authorized officer may, for the purposes of this Ordinance—

- (a) require a plant import licence or any document which relates to the origin of any plant, plant pest or soil to be produced to him;
 - (b) examine and take copies of a plant import licence or any document referred to in paragraph (a);
 - (c) take without payment but subject to the issue of an official receipt, such sample of any plant or soil in respect of which any plant import licence has been issued as may be required by the Director for the purpose of examination and investigation;
 - (d) examine any plant or soil if he considers it necessary to do so to ascertain whether or not the provisions of this Ordinance are being, or have been, complied with by any person in respect of that plant or soil.
- (2) An authorized officer may require—
- (a) any person to whom a plant import licence has been issued; and

- (b) any servant, employee or agent of any person referred to in paragraph (a),

to furnish such information or take such action as may be necessary to enable the authorized officer to exercise the powers conferred on him under this Ordinance.

(3) When a sample of any plant or soil has been taken by an authorized officer under subsection (1)(c), the Director may, after examination and investigation, direct that the sample be returned to the owner or otherwise disposed of in such manner as the Director thinks fit.

20. (1) An authorized officer may seize, remove and cause to be destroyed without liability for compensation, any plant imported in contravention of section 4(1).

Seizure and disposal of illegally imported plants etc.

(2) Subject to subsection (3), an authorized officer may seize without liability for compensation and remove any plant, plant pest or soil which is imported in contravention of—

- (a) any provision of this Ordinance other than section 4(1);
- (b) any condition of a plant import licence; or
- (c) any authorization issued by the Director under section 7 or 8(1).

(3) An authorized officer who seizes and removes any plant, plant pest or soil under subsection (2) may either—

- (a) cause it to be treated in such manner as he thinks fit and thereafter, on payment to the Director of the appropriate prescribed fee, return it to the person from whom he seized it; or
- (b) without liability for compensation, destroy it or otherwise dispose of it in such manner as he thinks fit.

PART VI

DECISIONS AND APPEALS

21. (1) The Governor may give such directions as he thinks fit, either generally or in any particular case, with respect to the exercise or performance by the Director or an authorized officer, of any powers or duties under this Ordinance.

Director and authorized officers to be subject to the Governor's directions.

(2) The Director and every authorized officer shall, in the exercise or performance of any powers or duties under this Ordinance, comply with any directions given by the Governor under subsection (1).

22. (1) Any person aggrieved by a decision, act or omission of the Director or of any authorized officer, taken, done or made in the exercise of any powers or the performance of any duties under this Ordinance may, within 14 days from the date when he was informed of the decision, act or omission or when the decision, act or omission became known to him (whichever is the later) or within such further period as the Governor may allow in any particular case, by notice in writing lodge an objection to the decision, act or omission with the Colonial Secretary.

Appeals to the Governor.

(2) On consideration of an objection lodged in accordance with subsection (1), the Governor may confirm, vary or reverse the decision, act or omission of the Director or authorized officer, or substitute therefor such other decision or make such other order as he thinks fit.

PART VII
MISCELLANEOUS

- Offences. 23. Any person who without reasonable excuse contravenes—
 (a) any provision of section 4, 7, 8(1), 15 or 16(3);
 (b) any requirement made under section 10(1), (2) or (4)(a) or section 19(1)(a) or (2);
 (c) any condition imposed by virtue of section 4(1)(d), (2)(c) or section 6(1);
 (d) any direction given under section 12(1),
 shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months.
- Obstruction of authorized officers. 24. Any person who obstructs an authorized officer in the exercise of any power or the performance of any duty conferred or imposed on him by this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months.
- Amendment of Schedules. 25. The Governor may, by order published in the *Gazette*, amend the First, Second or Third Schedule.
- Power to make regulations. 26. The Governor in Council may make regulations for all or any of the following purposes—
 (a) prescribing the fees payable under this Ordinance;
 (b) providing generally for the better carrying out of the provisions and purposes of this Ordinance.
- Revocation. (Cap. 60, sub. leg.) 27. The Import (American Tropics) (Prohibition) Regulations are revoked.

FIRST SCHEDULE [ss. 4 & 25.]

PROHIBITED PLANTS

PART I

Importation prohibited unless all the conditions specified in section 4(1) are complied with.

Plant	Country
1. Rubber and any other plant belonging to the genus <i>Hevea</i>	Bolivia Brazil Columbia Costa Rica El Salvador French Guiana Guatamala Guyana Honduras, Republic Mexico Nicaragua Panama Peru Surinam, Republic Trinidad & Tobago Venezuela and any other country in which South American Leaf Blight (<i>Dothidelia ulei</i>) is present.

Plant	Country
2. Any plant belonging to the family Sterculiaceae or to the family Bombacaceae	Cameroun Dahomey Gambia Ghana Guinea, Republic Guinea, Portugese Ivory Coast Liberia Mali Niger Nigeria Senegal Sierra Leone Togo Upper Volta and any other country in which the Swollen Shoot Virus Complex of Cacao is present.
3. Cacao and any other plant belonging to the genus <i>Theobroma</i>	Bolivia Brazil Columbia Ecuador French Guiana Grenada Guyana Peru Surinam, Republic Trinidad & Tobago Venezuela and any other country in which Witches' Broom Disease (<i>Marasmius perniciosus</i>) is present.
4. Maize and any other plant belonging to the genus <i>Zea</i> —vegetative material, excluding seeds	Canada Italy Mexico Peru Poland Puerto Rico Romania Yugoslavia U.S.A. U.S.S.R. and any other country in which <i>Xanthomonas stewarti</i> is present.
5. Tea (<i>Camellia sinensis</i>) vegetative material	Japan Sri Lanka and any other country in which either <i>Exobasidium reticulatum</i> or Phloem Necrosis Virus, is present.

PART II

Importation prohibited unless all the conditions specified in section 4(2) are complied with.

Plant	Country	Conditions
1. Any plant of the following genera: <i>Ananas</i> <i>Citrus</i> <i>Ipomoea</i> <i>Musa</i>	Any country, other than China.	Every such plant shall be grown in quarantine until the Director is satisfied that it is free from plant pests and may be released or that it is diseased and must be destroyed.
2. Cotton, and any other plant of the genus <i>Gossypium</i>	Any country in North and South America.	Every plant shall be fumigated in the country of origin by a method accepted by the Director as being effective against Boll Weevils (<i>Anthonomus</i> spp.).
3. Groundnut and any other plant of the genus <i>Arachis</i>	Any country, other than China.	May only be imported as decorticated seeds.
4. Rice and any other plant of the genus <i>Oryza</i> intended for propagation.	Belize Columbia Costa Rica Cuba Guatemala India Japan Mexico Panama Salvador Sri Lanka Surinam, Republic United States of America Venezuela and any other country in which White Tip Nematode (<i>Aphelenchoides oryzae</i>) or Hoja Blanca disease is present.	Every consignment shall on importation be immediately handed to the Director who shall cause the plant to be grown in quarantine for one generation.

SECOND SCHEDULE [ss. 5 & 25.]

PLANTS REQUIRING NO PLANT IMPORT LICENCE

PART I

- Cut Flowers.
- Fruit for consumption:
 - fresh, or
 - preserved, dried or canned.

- Vegetables for consumption (including edible tubers, roots, corms and bulbs).
- Grains, pulses, seeds and spices for human or animal consumption or for industrial use.
- Timber and timber products including rattan and bamboo.
- Dried tobacco and manufactured articles incorporating dried leaves.
- Plants produced in and imported from China.

PART II

- Seeds other than grains, pulses, seeds and spices for human or animal consumption or for industrial use.

THIRD SCHEDULE [ss. 6 & 25.]

FORMS

FORM 1

PLANT (IMPORTATION AND PEST CONTROL) ORDINANCE 1976
(No. 6 of 1976)

PLANT IMPORT LICENCE

Permission is hereby given to

Mr./Mrs./Miss (name)
of
..... (address)

to import the following plants/plant products/seeds provided that they are accompanied by a valid phytosanitary certificate.

Species of Plant
Quantity
Source/Origin
Period of Validity of the Licence
Other conditions:

.....
Director of Agriculture and Fisheries.

Date

PHYTOSANITARY CERTIFICATE

PLANT PROTECTION SERVICE No.
OF:

This is to certify—
that the plants or plant products described below or representative samples
of them were thoroughly examined on (date)
by (name) an
authorized officer of the (service)
..... and were found to the best of his
knowledge to be substantially free from injurious diseases and pests; and
that the consignment is believed to conform with the current phytosanitary
regulations of the importing country both as stated in the additional
declaration hereon and otherwise.

Identity and Description of Consignment.

Name and address of exporter:
Name and address of consignee:
Number and description of packages:
Distinguishing marks:
Origin:
Means of conveyance:
Point of entry:
Quantity (or weight) and name of produce:
Botanical name:
Fumigation or disinfection treatment (if any)
Date: Treatment:
Duration and Temperature: Chemical:
Additional Information: Concentration:

Additional Declaration

..... 19.....

(Signature)

(Stamp of the Service)

(Rank)

Passed by the Hong Kong Legislative Council this 11th day of
February, 1976.

W. Green
Clerk to the Legislative Council.

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

W. Green
Clerk to the Legislative Council.



I assent.

Wm. W. Phelps

Governor.

13th February 1876

HONG KONG

No. 7 OF 1976



I assent.

M. J. M. Lehn
Governor.

12th February, 1976.

An Ordinance to amend the Factories and Industrial Undertakings Ordinance.

[13th February, 1976]

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

1. This Ordinance may be cited as the Factories and Industrial Undertakings (Amendment) Ordinance 1976. Short title.

2. Section 2 of the principal Ordinance is amended in subsection (1) by— Amendment of section 2. (Cap. 59.)

(a) inserting after the definition of "mineral" the following definition—

“new non-industrial building” means a building or part of a building—

(a) which is not constructed or intended to be used for industrial purposes; and

(b) in respect of which an occupation permit or temporary occupation permit under section 21 of the Buildings Ordinance is issued on or after 1st March 1976;” and

(Cap. 123.)

- (b) inserting after the definition of "scheduled trade" the following definition—

Fourth Schedule. "service trade" means any trade which is deemed to be a service trade under the Fourth Schedule;"

Amendment of section 8.

3. Section 8 of the principal Ordinance is amended by deleting "or Third Schedule" and substituting the following—

"Third or Fourth Schedule".

Amendment of section 9.

4. Section 9 of the principal Ordinance is amended—

- (a) in subsection (5) by inserting after "may" where it first occurs the following—

", subject to subsection (5A)."; and

- (b) by inserting after subsection (5) the following new subsections—

"(5A) Except as provided in subsection (5B), a certificate of registration or provisional registration shall not be issued in respect of a registrable workplace in a new non-industrial building.

(5B) The Commissioner for Labour or any officer authorized in writing by him, may issue in respect of a registrable workplace on the ground floor of a new non-industrial building a certificate of provisional registration if he is satisfied that the registrable workplace may be used for the carrying on therein of a service trade with due regard to the safety, health and welfare of the persons employed therein and of other persons."

Addition of Fourth Schedule.

5. The principal Ordinance is amended by adding after the Third Schedule the following new Schedule—

"FOURTH SCHEDULE [ss. 2 & 8.]

SERVICE TRADES

The following trades shall be deemed to be services trades for the purposes of this Ordinance—

- (a) the baking of bread, biscuits or confectionery;
- (b) laundering or dry cleaning;
- (c) tailoring;
- (d) the preparation of food for sale for consumption off the premises whereon it is prepared;
- (e) the repair of domestic or office appliances, equipment, furniture or personal effects, excluding spray painting and remoulding of rubber;
- (f) the repair of bicycles and bicycle parts,

if the undertaking is carried on by way of trade or for purposes of gain and the business is limited mainly to persons living in the vicinity of the premises or place in which the undertaking is carried on."

Passed by the Hong Kong Legislative Council this 11th day of February, 1976.

W. M. Lee
Clerk to the Legislative Council.

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

W. M. Lee
Clerk to the Legislative Council.



I assent.

Wm. W. Lehman

Governor.

12th February, 1976.

An Ordinance to promote and regulate the employment of apprentices in certain trades and occupations, and to provide for matters connected therewith and incidental thereto.

HONG KONG

No. 8 OF 1976



I assent.

M. N. Lehn.
Governor.

12th February, 1976.

An Ordinance to promote and regulate the employment of apprentices in certain trades and occupations, and to provide for matters connected therewith and incidental thereto.

[]

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

PART I

PRELIMINARY

1. This Ordinance may be cited as the Apprenticeship Ordinance 1976 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*. Short title and commencement.

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

"apprentice" means the party to a contract of apprenticeship who agrees to learn a trade or occupation;

"attendance order" means an attendance order made under section 14 requiring a registered apprentice to attend a course of instruction;

"certificate of completion" means a certificate of completion of an apprenticeship given under section 28;

"Commissioner" means the Commissioner for Labour;

"contract of apprenticeship" means an agreement made between an employer and an apprentice whereby the employer agrees to teach and the apprentice agrees to learn a trade or occupation;

"designated trade" means a trade or occupation specified to be a designated trade under section 45;

"employer" means—

- (a) a person who is engaged in a trade, occupation or business and who employs any other person as his employee; and
- (b) the duly authorized agent, manager or factor of such first mentioned person;

"guardian", in relation to an apprentice who is a minor, means the person who is a party to a contract of apprenticeship under section 9 as his guardian;

"inspector" means any person appointed under section 33 as an inspector;

"party", in relation to a contract of apprenticeship, means any person who is a party to the contract under section 9;

"register" means the register of contracts of apprenticeship maintained by the Commissioner under this Ordinance;

"registered contract of apprenticeship" means a contract of apprenticeship registered under this Ordinance or a contract to which section 18(1) applies, and "registered apprentice" means an apprentice who is a party to any such contract;

"technical institution" means the Hong Kong Polytechnic and any institution operated by the Education Department or approved by the Director of Education which provides technical education in subjects appropriate to designated trades;

"variation document" means a document varying a registered contract of apprenticeship referred to in section 21;

"young person" means a person of or over the age of 14 years and under the age of 19 years or such other age as may be determined by the Governor under section 44.

3. This Ordinance shall not apply to any young person who is, or is to be, engaged for or employed in service in any capacity at sea in a ship.

PART II

FUNCTIONS OF THE COMMISSIONER

4. (1) In relation to the employment and training of apprentices in designated trades and apprentices who are parties to contracts of apprenticeship registered under section 17, the Commissioner shall—

- (a) co-operate with technical institutions for the purpose of ensuring that such apprentices obtain the necessary instruction appropriate to the trade to which they are apprenticed;
- (b) ensure that adequate facilities are provided by employers for the training of such apprentices;
- (c) ensure that the training of such apprentices is properly carried out;
- (d) inquire into the progress and welfare of such apprentices;
- (e) investigate complaints from employers or such apprentices, alleged breaches of contracts of apprenticeship or contraventions of this Ordinance;
- (f) generally advise and assist employers in the employment and training of such apprentices.

(2) The Commissioner shall recommend to organizations representing the interests of employers the taking of such steps as are desirable to ensure that there are a sufficient number of employees skilled in designated trades to satisfy the requirement for such employees.

Application of Ordinance.

Functions of the Commissioner.

5. (1) Subject to subsection (3), the Commissioner may, either generally or in any particular case, delegate to an inspector or any other public officer the performance or exercise on his behalf of any of the functions, duties or powers imposed or conferred upon him under this Ordinance.

Delegation by the Commissioner.

(2) Where any function, duty or power under this Ordinance is performed or exercised by an inspector or any other public officer, the Commissioner shall, unless the contrary is proved, be deemed to have delegated to the inspector or other public officer under subsection (1) the performance or exercise of the function, duty or power.

(3) The Commissioner shall not delegate his powers under sections 46 and 47.

PART III

APPRENTICESHIPS

6. (1) Subject to subsection (2) and section 7, an employer may employ a young person in a designated trade only if the young person—

Employment of young persons in designated trades.

- (a) is an apprentice under a valid contract of apprenticeship in accordance with section 8; or
- (b) has completed an apprenticeship, and is in possession of a certificate of completion, in that trade.

(2) The Commissioner may, on application made to him in writing by an employer, exempt the employer in writing from the provisions of subsection (1)—

- (a) in relation to any young person, if the Commissioner is satisfied that the young person has undergone sufficient training in the designated trade in which he is to be or is employed;
- (b) if the employer is, in the opinion of the Commissioner, unable to give any young person adequate training in the designated trade in which he is to be or is employed; or
- (c) if the Commissioner with the advice of the Hong Kong Training Council is, for any other reason, of the opinion that that subsection shall not apply to the employer.

(3) Any employer who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

7. (1) Where a young person is in employment as an apprentice under a contract of apprenticeship in a trade or occupation on the date when such trade or occupation is specified as a designated trade, the employer may continue to employ such apprentice if—

Existing employment of young persons.

- (a) the contract has been registered under section 17; or
- (b) the contract is under section 18(1) not required to be registered.

(2) Where a young person is in employment as an apprentice under a contract of apprenticeship in a trade or occupation on the date when such trade or occupation is specified as a designated trade and subsection (1) does not apply to such contract, the employer shall—

- (a) register the contract under section 16(1); or
- (b) obtain an exemption from registration under section 18(2).

(3) Where a young person is in employment in a trade or occupation but not under a contract of apprenticeship on the date when such trade or occupation is specified as a designated trade, the employer shall within 60 days after the date on which the trade or occupation is so specified (or such further time as the Commissioner may permit),—

- (a) enter into a contract of apprenticeship with the young person in accordance with section 8; or
- (b) on application made to the Commissioner, obtain an exemption in writing from the provisions of section 6(1).

Contents and form of contracts of apprenticeship.

8. (1) Every contract of apprenticeship in a designated trade shall be in writing and shall, in addition to any other particulars, contain the prescribed terms and conditions.

(2) Every such contract of apprenticeship shall be in the specified form or in a form which is substantially similar to the specified form.

Parties to contracts of apprenticeship.

9. (1) Every contract of apprenticeship under section 8 shall be signed by the parties.

(2) The parties to a contract of apprenticeship shall be—

- (a) the employer (of the one part); and
- (b) subject to subsection (3), the apprentice (of the second part).

(3) If at the time of signing a contract of apprenticeship the apprentice is a minor, any one of the following persons shall be joined as a party to the contract as the guardian of the apprentice—

- (a) the father or mother of the apprentice;
- (b) a guardian of the apprentice, if any, appointed under, or acting by virtue of, the Guardianship of Minors Ordinance; or
- (c) any relative or other person who is acceptable to the Commissioner as guardian of the apprentice for the purposes of this Ordinance.

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10. (1) An employer who is a party to a registered contract of apprenticeship shall be bound by the contract until—

- (a) the period of the apprenticeship expires;
- (b) the contract is assigned to another employer under section 24 or 25; or
- (c) the contract is terminated under section 30,

whichever first occurs.

(2) An apprentice who is a party to a registered contract of apprenticeship shall be bound by the contract until—

- (a) the period of the apprenticeship expires, whether or not during that period he attains the age of 21 years; or
- (b) the contract is terminated under section 30,

whichever first occurs.

(3) A guardian who is a party to a registered contract of apprenticeship shall be bound by the contract until—

- (a) the apprentice attains the age of 21 years;
- (b) the period of the apprenticeship expires; or
- (c) the contract is terminated under section 30,

whichever first occurs.

11. (1) No employer shall either by himself or through his agent directly or indirectly or by any pretence or device—

- (a) require or permit any person to pay or give; or
- (b) demand or receive from any person,

any premium, fee, gift, reward, bonus, or commission consisting of money or of any valuable security or of other property or interest in property of any description,—

Premium not to be demanded or received.

- (i) for entering into (whether with that person or any other person) a contract of apprenticeship in a designated trade;
- (ii) for agreeing to a variation, assignment or termination of a registered contract of apprenticeship; or
- (iii) for registering a contract of apprenticeship under section 17.

(2) Any employer who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

12. Any person who—

- (a) induces a registered apprentice to terminate his contract of apprenticeship in contravention of section 30; or
- (b) employs a registered apprentice whom he knows is bound by a contract of apprenticeship to another employer,

shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

Enticement or wrongful employment of apprentices.

PART IV

TRAINING OF APPRENTICES

13. (1) If at any time the Commissioner or an inspector has reasonable cause to believe that the training being provided by an employer to a registered apprentice is inadequate in any respect, the Commissioner or inspector may, by notice in writing served personally or by registered post, require the employer—

Power to require employer to provide adequate training.

- (a) to take such steps to render the training adequate; and
- (b) within such time,

as may be specified in the notice.

(2) Any employer who without reasonable excuse fails to comply with a notice served under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$1,000 and, commencing with the day following the date of conviction for the offence, to a further fine of \$200 for every day during which the offence continues.

14. (1) Where in the opinion of the Commissioner a suitable course of instruction at a technical institution is available for any registered apprentice and the apprentice should attend such course, the Commissioner may make an attendance order in the specified form requiring the apprentice to attend the course whether the course is during his normal hours of employment or otherwise.

Attendance of courses by apprentices.

(2) An attendance order shall—

- (a) specify the technical institution concerned, the name and nature of the course of instruction and the number of hours per week the apprentice is required to attend the course; and
- (b) be served on the employer and the apprentice, and a copy of it shall be sent to the technical institution concerned.

(3) If an attendance order requires an apprentice to attend a course of instruction during his normal hours of employment, the employer shall permit the apprentice to attend the course and the time spent at the course shall be deemed to be time spent at work in the employment of the employer.

(4) If any fees are required to be paid in respect of a course of instruction, and any examinations or tests incidental to such course, which an apprentice is required to attend under an attendance order, such fees shall, subject to subsection (5), be paid by the employer.

(5) An employer may require an apprentice or his guardian (if any) to pay any fees which are required to be paid in respect of a specified course of instruction, and any examinations or tests incidental to such course, which an apprentice is required to repeat by reason of his failure to satisfactorily complete the course or to pass any examination or test held in connexion with the course.

(6) Where during the continuance of an attendance order the employer on whom the attendance order was served under subsection (2) ceases to be the employer by virtue of section 24, 25, 26 or 27, the Commissioner shall—

- (a) serve on the new employer a copy of the attendance order and this section shall bind the new employer as if he were the original employer; and
- (b) notify the technical institution concerned of the name and address of the new employer.

(7) Any employer who fails to permit an apprentice to comply with an attendance order shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000 and, commencing with the day following the date of conviction for the offence, to a further fine of \$200 for every day during which the offence continues during the continuance of the attendance order.

PART V

REGISTRATION OF CONTRACTS OF APPRENTICESHIP

15. (1) Every contract of apprenticeship entered into in compliance with section 6(1)(a) shall be sent by the employer to the Commissioner within 14 days after it is executed (or such further time as the Commissioner may permit) for registration under this Ordinance and the Commissioner shall, subject to subsection (2), register all such contracts.

(2) The Commissioner may refuse to register a contract of apprenticeship sent under subsection (1) if he is satisfied that—

- (a) the apprentice has not attained or will not attain the age of 14 years at the date of commencement of his employment as an apprentice;
- (b) the apprentice is disqualified under section 31 from entering into the contract of apprenticeship;
- (c) the contract does not provide for adequate training in a designated trade;
- (d) the apprentice is not certified medically fit to undertake the employment contemplated by the contract;
- (e) the apprentice has not attained the minimum educational standard prescribed as a prerequisite to employment as an apprentice in the designated trade in which he is to serve his apprenticeship;
- (f) the employer does not employ sufficient persons who are sufficiently skilled in the designated trade concerned and able to give adequate instruction to enable the apprentice to learn and attain a reasonable standard of proficiency in the skills and operations specified by the Commissioner in relation to that trade;
- (g) the employer does not have sufficient machinery, equipment and materials to enable the apprentice to learn the skills and operations specified by the Commissioner in relation to the designated trade concerned during the normal hours of employment laid down by the employer for his employees;

Compulsory registration of new contracts of apprenticeship.

- (h) subject to section 23, the period of apprenticeship required to be served by the apprentice differs from that specified for the designated trade in which he is apprenticed;
- (i) the apprentice is subject to any obligations under any other contract of apprenticeship;
- (j) the contract has not been read over and explained to, and is not clearly understood by, the apprentice and his guardian (if any);
- (k) the apprentice and his guardian (if any) have not freely assented to the contract;
- (l) the contract contravenes this Ordinance;
- (m) the terms and conditions of the contract as a whole are not for the benefit of the apprentice.

(3) Where the Commissioner refuses to register a contract of apprenticeship under subsection (2) he shall forthwith notify the parties to the contract in writing of his refusal and the grounds for refusal and the contract shall cease to be valid with effect from the date specified in such notice.

16. (1) An employer who is a party to a contract of apprenticeship to which section 7(2) applies shall within 60 days after the date on which the trade or occupation to which the contract relates is specified as a designated trade (or such further time as the Commissioner may permit) send the contract to the Commissioner for registration under this Ordinance and the Commissioner shall, subject to subsections (2) and (3) and section 18(2), register such contract.

Compulsory registration of existing contracts of apprenticeship.

(2) Before registering a contract of apprenticeship under subsection (1), the Commissioner may require the parties to make any necessary variations to the contract so that it complies with section 8(1) and such variations shall become part of the contract and shall be signed by the Commissioner and the parties.

(3) The Commissioner may refuse to register a contract of apprenticeship sent under subsection (1) on any ground specified in section 15(2).

(4) Where the Commissioner refuses to register a contract of apprenticeship under subsection (3) he shall forthwith notify the parties to the contract in writing of his refusal and the grounds for refusal and the contract shall cease to be valid with effect from the date specified in such notice.

17. (1) An employer who at the commencement of this Ordinance has entered into a contract of apprenticeship in a trade or occupation which is not a designated trade or subsequently does so, may, if the contract is in a form similar to that specified for contracts of apprenticeship in designated trades, send the contract at any time to the Commissioner for registration under this Ordinance and the Commissioner may, subject to subsections (2) and (3), register such contract.

Voluntary registration of apprenticeship

(2) Before registering a contract of apprenticeship under subsection (1), the Commissioner may require the parties to make any necessary variations to the contract so that it complies with section 8(1) and if the parties agree such variations shall become part of the contract and shall be signed by the Commissioner and the parties.

(3) The Commissioner may refuse to register a contract of apprenticeship sent under subsection (1) if he is satisfied that—

- (a) the trade or occupation to which the contract relates is one in respect of which an apprenticeship is not appropriate or necessary;

(b) had the contract been in respect of a designated trade, he would have refused to register the contract on any ground specified in section 15(2).

(4) Where the Commissioner refuses to register a contract of apprenticeship under subsection (3) he shall forthwith notify the parties to the contract in writing of his refusal and the grounds for refusal.

Exemption from registration of contracts of apprenticeship.

18. (1) A contract of apprenticeship which has been entered into before the commencement of this Ordinance and which has been attested by the Commissioner within one month after it was executed shall not be required to be registered under this Ordinance but shall, for the purposes of this Ordinance, be considered as if it were so registered.

(2) In the case of any contract of apprenticeship to which section 7(2) applies, the Commissioner may, if he is satisfied that the apprentice has undergone the major part of his apprenticeship period, instead of registering the contract grant to the employer an exemption in writing from registration of the contract on such terms and conditions as the Commissioner thinks fit.

(3) Where the Commissioner grants an exemption from registration under subsection (2) he shall forthwith notify the parties to the contract of the exemption and the terms and conditions (if any) under which the exemption is granted.

Effect of not lodging contracts of apprenticeship for registration.

19. If a contract of apprenticeship which is required to be registered under this Ordinance is not sent for registration within the prescribed time or such further time permitted by the Commissioner the employer shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000, and the court may order any employer who is convicted of an offence under this section to send the contract of apprenticeship to the Commissioner for registration.

Compulsory registration of variation documents.

20. (1) Every variation document shall be sent by the employer to the Commissioner within 14 days after it is executed (or such further time as the Commissioner may permit) for registration under this Ordinance and the Commissioner shall, subject to subsection (2), register all such variation documents.

(2) The Commissioner may refuse to register a variation document sent under subsection (1) if he is satisfied that—

- (a) the apprentice and his guardian (if any) have not freely assented to the variation;
- (b) the variation contravenes this Ordinance; or
- (c) the variation is not for the benefit of the apprentice.

(3) Where the Commissioner refuses to register a variation document under subsection (2) he shall forthwith notify the parties to the contract in writing of his refusal and the grounds for refusal.

PART VI

VARIATION OF CONTRACTS OF APPRENTICESHIP

Variation of registered contracts of apprenticeship.

21. Without prejudice to this Part, no variation of a registered contract of apprenticeship shall be valid unless—

- (a) the variation is contained in a document signed by the parties to the contract; and
- (b) the variation document is registered under section 20.

22. (1) Where the Commissioner is of the opinion that a registered apprentice has not or will not satisfactorily complete his apprenticeship on grounds of—

Apprenticeship term may be extended in certain cases.

- (a) absence of the apprentice, due to illness or any other reasonable cause, from employment;
- (b) non-attendance of the apprentice, due to illness or any other reasonable cause, at any course of instruction which he is required to attend under an attendance order; or
- (c) failure of the apprentice to pass any examination or test which he is required to pass,

the Commissioner may extend the period of apprenticeship specified in the contract of apprenticeship for a further period not exceeding one year.

(2) Where the Commissioner extends the period of apprenticeship under subsection (1) he shall—

- (a) enter in the register and in any copy of the contract of apprenticeship produced to him a note of the extended period; and
- (b) notify in writing the parties to the contract and, if necessary, the technical institution concerned of the extended period and the grounds on which the period was extended.

23. (1) Where a person, before entering into a contract of apprenticeship in a designated trade, obtains any special qualification specified by the Commissioner in respect of that designated trade for the purposes of this section, the Commissioner may reduce the minimum period of apprenticeship specified for that designated trade by any period not exceeding one year.

Apprenticeship period may be shortened where special qualification is obtained.

(2) Where the Commissioner reduces the period of apprenticeship under subsection (1) he shall—

- (a) enter in the register and in any copy of the contract of apprenticeship produced to him a note of the reduced period; and
- (b) notify the parties to the contract in writing of the reduced period and the grounds on which the period was reduced.

24. (1) A registered contract of apprenticeship shall not be assigned from one employer to another employer except pursuant to this section or section 25.

Assignment of contract of apprenticeship by employer.

(2) On receipt of an application in writing for approval to assign a contract of apprenticeship, the Commissioner may, after making such inquiries as he thinks fit and obtaining the consent of the apprentice and his guardian (if any), approve the proposed assignment.

(3) Where approval is granted under subsection (2) to the proposed assignment of a contract of apprenticeship, the Commissioner shall forward a form of assignment to the parties for completion by the parties and the new employer and return to the Commissioner.

(4) On receipt of the completed form of assignment by the Commissioner he shall enter the name of the new employer in the register and the date on which the assignment is to come into effect.

(5) Where an assignment of a contract of apprenticeship is registered under subsection (4) the Commissioner shall notify in writing—

- (a) the original employer;
- (b) the new employer; and

(c) the apprentice and his guardian (if any), of the assignment and the date on which it is to come into effect.

(6) Where the Commissioner refuses to approve an application for assignment of a contract of apprenticeship under subsection (2), he shall notify the applicant in writing of his refusal and the grounds for refusal.

Assignment of contract of apprenticeship by the Commissioner.

25. (1) Where—

- (a) the Commissioner is of the opinion that an employer is for any reason unable to, or does not, give an apprentice under a registered contract of apprenticeship adequate training in accordance with the contract; or
- (b) an employer notifies the Commissioner in writing that he is, or will be, unable to give an apprentice under a registered contract of apprenticeship adequate training in accordance with the contract,

the Commissioner may, with the consent of the apprentice and his guardian (if any), assign the contract to another employer who is prepared to accept such assignment and shall forward a form of assignment to the parties for completion by the parties and the new employer and return to the Commissioner. Where the original employer is for any reason unable or refuses to sign the form of assignment, his signature on such form shall not be required.

(2) On receipt of the completed form of assignment by the Commissioner he shall enter the name of the new employer in the register and the date on which the assignment is to come into effect.

(3) When an assignment of a contract of apprenticeship is registered under subsection (2), the Commissioner shall notify in writing—

- (a) the original employer (if he can be traced);
- (b) the new employer; and
- (c) the apprentice and his guardian (if any),

of the assignment and the date on which it is to come into effect.

Effect of death of employer.

26. (1) Where the employer of a registered apprentice dies, the contract of apprenticeship to which the employer was a party shall not be determined by his death if the trade or occupation in which the apprentice was employed is carried on by the personal representative of the deceased employer. Such personal representative shall be the new employer and the contract shall be binding on him as if he were a party to the contract in place of the deceased employer.

(2) Where under subsection (1) a contract of apprenticeship binds a personal representative, he shall, within 30 days after the death of the employer, notify the Commissioner in writing of such death and the date thereof.

(3) The Commissioner shall, on receipt of a notification under subsection (2), enter in the register—

- (a) a note of the death of the employer and the date thereof; and
- (b) the name of the personal representative.

(4) Where the name of the personal representative is registered under subsection (3), the Commissioner shall notify in writing—

- (a) the personal representative; and
- (b) the apprentice and his guardian (if any),

of such registration.

(5) A personal representative who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000.

27. (1) Where the employer of a registered apprentice is a partnership and any change takes place in the partners, the contract of apprenticeship to which the partnership was a party shall not be determined by such change if the trade or occupation in which the apprentice was employed is carried on by the new partners. Such new partners shall be the new employer and the contract shall be binding on them as if they were a party to the contract in place of the partnership.

Effect of change in partners.

(2) Where under subsection (1) a registered contract of apprenticeship binds the new partners, they shall, within 30 days after the date of the change in the partners, notify the Commissioner in writing of such change and the date thereof. A notification by any one of the partners shall be sufficient.

(3) The Commissioner shall, on receipt of a notification under subsection (2), enter in the register—

- (a) a note of the change in the partners and the date thereof; and
- (b) the names of the new partners.

(4) When the names of the new partners are registered under subsection (3), the Commissioner shall notify in writing—

- (a) such partners; and
- (b) the apprentice and his guardian (if any),

of such registration.

(5) A new partner who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000.

PART VII

COMPLETION OR TERMINATION OF APPRENTICESHIPS

28. (1) An employer shall, within 14 days (or such further time as the Commissioner may permit) after the date of expiry of a period of apprenticeship of—

Completion of apprenticeships.

- (a) a registered apprentice; or
- (b) an apprentice whose contract of apprenticeship is exempted from registration under section 18(2),

complete a certificate of completion in the specified form in relation to the apprentice and send it to the Commissioner.

(2) On receipt of a certificate of completion under subsection (1), the Commissioner shall, if he is satisfied that the apprentice has satisfactorily completed his apprenticeship in accordance with his contract of apprenticeship—

- (a) countersign the certificate of completion and give it to the apprentice; and
- (b) in the case of a registered apprentice, enter in the register a note of the completion of the apprenticeship.

(3) Any employer who fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000.

Suspension of
apprentice for
misconduct,
etc.

29. (1) An employer may suspend from employment with or without pay, any registered apprentice for a period not exceeding 14 days—

- (a) in accordance with an express provision in the contract of apprenticeship providing for suspension;
- (b) as a disciplinary measure for any reason for which the employer could terminate the contract of apprenticeship in accordance with an express provision in the contract providing for termination;
- (c) pending a decision by the employer as to whether or not he will exercise his right to terminate the contract of apprenticeship in accordance with an express provision in the contract;
- (d) pending the outcome of any criminal proceedings against the registered apprentice arising out of or connected with his employment;

Provided that where such criminal proceedings are not concluded within the period of 14 days such suspension may be extended till the conclusion of the criminal proceedings.

- (2) Where a registered apprentice is suspended under subsection (1)—
 - (a) the employer shall, within 3 days after the date of the commencement of the suspension; and
 - (b) the apprentice may at any time after he is notified by his employer of the suspension,

report the matter to the Commissioner, and the report made by the employer shall be in writing stating the period of suspension and the grounds for the suspension.

(3) The Commissioner shall, on receipt of a report under subsection (2), after making such inquiries as he thinks fit,—

- (a) confirm the suspension;
- (b) set aside the suspension; or
- (c) set aside part of the period of suspension,

and where a period of suspension is set aside the employer shall, if the suspension was without pay, pay the apprentice the wages which would have accrued to him during such suspension.

(4) The Commissioner shall notify the parties in writing of his decision under subsection (3) and shall enter the decision in the register.

(5) An employer who contravenes subsection (2)(a) shall be guilty of an offence and shall be liable on conviction to a fine of \$1,000.

30. (1) Subject to subsection (3), a registered contract of apprenticeship may be terminated—

- (a) by the parties, if all the parties agree to the termination;
- (b) by any party, in accordance with any express provision in the contract of apprenticeship providing for such termination;
- (c) by the apprentice in the event of his marriage;
- (d) by the Commissioner—
 - (i) if he is satisfied that the employer is unable to, or does not, give the apprentice adequate training in accordance with the contract of apprenticeship; or
 - (ii) if he is satisfied that it is for the benefit of the apprentice to terminate the contract.

Termination of
contracts of
apprenticeship.

(2) Not less than 14 days' notice in writing shall be given, where a contract of apprenticeship is to be terminated—

- (a) under subsection (1)(a), by either party to the Commissioner;
- (b) under subsection (1)(b), by the party wishing to terminate the contract to the other party and the Commissioner;
- (c) under subsection (1)(c), by the apprentice to his employer and the Commissioner;
- (d) under subsection (1)(d), by the Commissioner to all the parties.

(3) A termination of a registered contract of apprenticeship shall not be valid until—

- (a) in the case of termination under subsection (1)(a), the Commissioner is satisfied that all the parties agree to the termination;
- (b) in the case of termination under subsection (1)(b) or (d), the Commissioner has given all the parties an opportunity to be heard by, or to make representations to, him;
- (c) in the case of termination under subsection (1)(c), the Commissioner is satisfied that the apprentice is married,

and the Commissioner has entered in the register a note of the termination and the date on which it is to come into effect.

(4) Where under subsection (3) the Commissioner enters the termination of a contract of apprenticeship in the register he shall notify all the parties of the termination and the date on which it is to come into effect.

(5) If the Commissioner decides not to enter the termination of a contract of apprenticeship in the register he shall notify all the parties of his decision and the reasons for such decision.

31. (1) Where a registered contract of apprenticeship is terminated—

- (a) under section 30(1)(b) on the ground of misconduct by the apprentice; or
- (b) on the ground of a breach or repudiation of the contract of apprenticeship by an apprentice,

Effect of
termination of
contract of
apprenticeship
for misconduct,
etc.

such former apprentice shall, during the period of 2 years after the date of the termination, be disqualified from—

- (i) entering into a contract of apprenticeship in any designated trade; or
- (ii) attending any course of instruction at a technical institution specified by the Commissioner in respect of any designated trade.

32. (1) Where the employment of a registered apprentice ceases otherwise than on completion of his apprenticeship under section 28 or on termination of a contract of apprenticeship under section 30, the employer shall, within 14 days after such cessation of employment, send to the Commissioner a notice in the specified form in relation to the apprentice.

Notification of
termination of
employment of
an apprentice.

(2) The Commissioner shall, on receipt of a notice under subsection (1), enter in the register a note of the cessation of employment of the apprentice.

(3) An employer who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$1,000.

PART VIII
MISCELLANEOUS

Appointment of inspectors, etc.

33. The Governor may appoint inspectors and such other officers as he may consider necessary for carrying out the purposes of this Ordinance.

Power of Governor to give directions.

34. (1) The Governor may give to the Commissioner and to any public officer such directions as he thinks fit with respect to the performance or exercise of their functions, duties or powers under this Ordinance, either generally or in any particular case.

(2) A person to whom a direction is given by the Governor under subsection (1) shall, in the performance or exercise of his functions, duties or powers under this Ordinance, comply with that direction.

Powers of entry and inspection.

35. The Commissioner and an inspector may, for the purposes of this Ordinance—

- (a) enter, inspect and examine, by day or night, any premises or place in which he knows, or has reasonable cause to believe, that an apprentice or a young person is employed;
- (b) in any such case, take with him any person whom he may reasonably need to assist him;
- (c) require the production, for purposes of inspection, of any record, return, report or other document relating to the employment of an apprentice or young person, and may take copies of any such document;
- (d) make such examination and inquiry as may be necessary to ascertain whether the requirements of this Ordinance are complied with, and seize anything which may appear to be evidence of an offence under this Ordinance;
- (e) examine, with respect to matters under this Ordinance, any person whom he finds in any premises or place which he is entitled under this section to enter, and require any such person to answer any questions relating to those matters and to make a statutory declaration as to the truth of the answers to those questions.

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

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

(2) No public officer shall disclose to an employer of a registered apprentice or his representative that a visit to the premises or place where an apprentice is employed was made in consequence of the receipt of any such complaint as is referred to in subsection (1).

(3) Save as provided in subsection (4), where as a result of or in connexion with the enforcement of a contract of apprenticeship or any provision of this Ordinance any manufacturing or commercial secret or any working process comes to the knowledge of a public officer, such officer shall not at any time (whether or not at the relevant time he is still a public officer) disclose such secret or process to any person.

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

(5) Any person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000.

37. Any notice to be served or given or any document to be served or sent under this Ordinance may, except where the Ordinance otherwise provides, be given, sent or served by registered post.

Service of notices.

38. For the purposes of this Ordinance, the Commissioner may, by notice in writing served by registered post or by notice in the *Gazette*, require any employer or class of employers to make returns and reports in such form and at such times as he may in such notice direct.

Returns to be made to the Commissioner.

39. Where a dispute arises between the parties to a registered contract of apprenticeship regarding an alleged breach of any term or condition of the contract, any such party may refer the dispute to the Commissioner who shall endeavour to settle it by conciliation.

Reference of disputes to the Commissioner.

40. (1) Any person aggrieved by a decision of the Commissioner or any public officer in the performance or exercise of any function, duty or power under this Ordinance may appeal to the Governor against the decision.

Appeals to the Governor.

(2) An appeal under subsection (1) shall be in writing sent to the Colonial Secretary within—

- (a) 14 days after the date on which the aggrieved person was informed of the decision or he otherwise comes to know of the decision, whichever is the later; or
- (b) such further period as the Governor may in any case allow.

(3) On consideration of an appeal under subsection (1), the Governor may confirm, vary or reverse the decision of the Commissioner or other public officer, or substitute therefor such other decision or make such other order as he thinks fit, which shall be final.

(4) Where a decision or order of the Governor under subsection (3) is in respect of a registered contract of apprenticeship, or a variation or assignment of such contract, the Commissioner shall enter such decision or order in the register.

41. Any person who obstructs the Commissioner, an inspector or any person authorized by the Commissioner in writing, performing or exercising any function, duty or power under this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and to imprisonment for 6 months.

Obstruction.

42. (1) No prosecution for an offence under section 6, 12 or 19 shall be commenced without the consent in writing of the Commissioner.

Prosecution of offences.

(2) Before the Commissioner gives his consent to prosecute under subsection (1) he shall hear the person against whom the allegation is made, or give him an opportunity of being heard.

(3) A prosecution for any offence under this Ordinance may be conducted by an officer of the Labour Department authorized in that behalf in writing by the Commissioner.

(4) Nothing in this section shall derogate from the powers of the Attorney General in respect of the prosecution of criminal offences.

43. (1) A certificate—

- (a) stating whether or not a contract of apprenticeship is registered under this Ordinance; or

Evidence by certificate.

- (b) containing a copy of any entry required to be made under this Ordinance in the register,

and purporting to be signed by or on behalf of the Commissioner shall be admitted in evidence without further proof on its production in any legal proceedings and—

- (i) until the contrary is proved, it shall be presumed that the certificate is so signed; and
(ii) the certificate shall be *prima facie* evidence of the facts stated therein.

(2) A copy of a contract of apprenticeship or a variation document certified by or on behalf of the Commissioner as a true copy of a contract of apprenticeship or variation document, as the case may be, shall be admitted in evidence without further proof on its production in any legal proceedings and—

- (a) until the contrary is proved, it shall be presumed that the certificate is so signed; and
(b) the certified copy of the contract of apprenticeship or variation document shall be *prima facie* evidence of its contents.

Power to extend age limit of young persons.

44. (1) The Governor may, by notice in the *Gazette* extend the upper age limit in the definition of "young person" in section 2 from 18 years to an age limit not exceeding 21 years.

(2) Sections 6 and 7 shall not apply to an employer in respect of a person who—

- (a) is in his employment in a designated trade at the date when the upper age limit in the definition of "young person" is extended under subsection (1); and
(b) is included within the definition of "young person" by virtue of the extension,

for so long as the employer continues to employ the young person in that designated trade.

Governor to specify designated trades.

45. The Governor shall by order specify any trade or occupation to be a designated trade.

Specification of certain matters by the Commissioner.

46. (1) The Commissioner may, for the purposes of this Ordinance, specify—

- (a) the form of contracts of apprenticeship;
(b) the form of register and any other forms required to be specified under this Ordinance;
(c) the periods of apprenticeship to be served by apprentices in designated trades;
(d) the skills and operations to be taught to registered apprentices by employers;
(e) the training programmes to be followed in the teaching of registered apprentices;
(f) the courses of instruction to be attended by registered apprentices;
(g) the special qualifications for the purposes of section 23;
(h) the examinations and tests required to be passed by registered apprentices prior to the completion of their apprenticeships;
(i) the records to be kept in respect of registered apprentices;

- (j) any other matters which he thinks it expedient to specify.

(2) The Commissioner may publish in the *Gazette* any matter specified by him under subsection (1).

(3) Copies of any form specified by the Commissioner shall be supplied to an employer free of charge on application to the Commissioner.

47. (1) The Commissioner may make regulations for all or any of the following purposes— Regulations.

- (a) prescribing the terms and conditions to be included in a contract of apprenticeship in a designated trade;
(b) prescribing the period of probation to be served by apprentices in designated trades and the termination of contracts of apprenticeship during the period of probation;
(c) prescribing the minimum standard of education required to be attained by persons as a pre-requisite to their employment as apprentices in designated trades;
(d) prescribing the hours of employment of registered apprentices;
(e) providing for the frequency and manner of payment of wages to registered apprentices;
(f) providing for the medical examination of apprentices in designated trades;
(g) providing for the registration of contracts of apprenticeship and other matters which are required to be registered under this Ordinance and the maintaining of the register;
(h) prescribing any thing which is to be or may be prescribed under this Ordinance;
(i) generally for the better carrying out of the provisions and purposes of this Ordinance.

(2) Any regulations made under this section may provide that a contravention of specified provisions thereof shall be an offence and may prescribe penalties therefor not exceeding a fine of \$5,000.

(3) All regulations made under subsection (1) shall be submitted to the Governor and shall be subject to the approval of the Legislative Council.

48. The following provisions of the Employment Ordinance shall *mutatis mutandis*, and subject to any specific provisions to the contrary contained in this Ordinance or in a contract of apprenticeship, apply to employers, registered apprentices and registered contracts of apprenticeship under this Ordinance— Application of the Employment Ordinance. (Cap. 57.)

- (a) Part IVA (Protection against anti-union discrimination);
(b) Part V (Payment of wages);
(c) Part VI (Deductions from wages);
(d) Part VII (Sickness allowance);
(e) Part VIII (Holidays with pay); and
(f) Part IX (Ancillary provisions relating to sickness allowance and holidays with pay).

49. (1) The Labour Tribunal Ordinance is amended in paragraph 1 of the Schedule— Consequential amendments. (Cap. 25.)

- (a) by deleting at the end of sub-paragraph (a) the following—
"or";

(b) by inserting after sub-paragraph (a) the following new sub-paragraph—

“(aa) the breach of a term, whether express or implied, of a contract of apprenticeship; or”; and

(c) by inserting in sub-paragraph (b) after “Ordinance” the following—

“or the Apprenticeship Ordinance 1976”.

(Cap. 57.)

(2) The Employment Ordinance is amended in section 4—

(a) in subsection (2), by deleting paragraph (e); and

(b) by adding after subsection (2) the following new subsection—

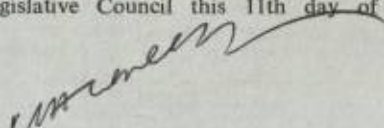
“(2A) This Ordinance shall not apply to contracts of apprenticeship registered under the Apprenticeship Ordinance 1976 except to the extent provided in that Ordinance.”

(Cap. 59,
sub. leg.)

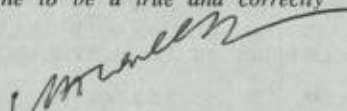
(3) The Factories and Industrial Undertakings Regulations are amended by adding before regulation 4 in Part II the following new regulation—

“Application of this Part to apprentices.
(8 of 1976.)
3A. The application of this Part to young persons who are registered apprentices under the Apprenticeship Ordinance 1976 and their employers shall be subject to any specific provisions to the contrary in that Ordinance.”

Passed by the Hong Kong Legislative Council this 11th day of February, 1976.

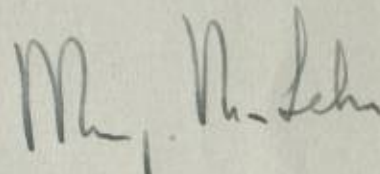

Clerk to the Legislative Council.

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


Clerk to the Legislative Council.



I assent.


Governor.

11th March, 1976.

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(c) by inserting in sub-paragraph (b) after "Ordinance" the following—

"or the Apprenticeship Ordinance 1976".

(Cap. 57.)

(2) The Employment Ordinance is amended in section 4—

(a) in subsection (2), by deleting paragraph (e); and

(b) by adding after subsection (2) the following new subsection—

(8 of 1976.) "(2A) This Ordinance shall not apply to contracts of apprenticeship registered under the Apprenticeship Ordinance 1976 except to the extent provided in that Ordinance."

(Cap. 59,
sub. leg.)

(3) The Factories and Industrial Undertakings Regulations are amended by adding before regulation 4 in Part II the following new regulation—

"Application of this Part to apprentices.
(8 of 1976.) 3A. The application of this Part to young persons who are registered apprentices under the Apprenticeship Ordinance 1976 and their employers shall be subject to any specific provisions to the contrary in that Ordinance."

Passed by the Hong Kong Legislative Council this 11th day of February, 1976.

W. M. M. M.
Clerk to the Legislative Council.



I assent.

M. N. Lehn

Governor.

11th March, 1976.

Amend the Public Health and Urban Services Ordinance.

[12th March, 1976]

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 and Urban Services (Amendment) Ordinance 1976. Short title.

2. Section 2 of the principal Ordinance is amended by inserting after the definition of "registered ventilation contractor" the following— Amendment of section 2.
(Cap. 132.)
"reptiles" means all reptiles commonly used for human consumption and any other reptiles sold or offered for sale for human consumption;"

3. Section 27 of the principal Ordinance is amended— Amendment of section 27.

(a) by deleting "such person as shall have been appointed and shall have accepted the appointment as registered contractor in respect of such site in accordance with the provisions of regulations made under the Buildings Ordinance" in each place where it occurs in subsections (1) and (3) and substituting in each such place the following—

"the appointed contractor in respect of the site"; and

(b) by adding after subsection (4) the following new subsections—

“(5) In subsections (1) and (3) “the appointed contractor in respect of the site” means—

(Cap. 123.)

- (a) the person who is the registered contractor appointed in respect of the site in accordance with the Buildings Ordinance; or
- (b) in the case of a site which is owned by the Crown, the person who has been appointed the contractor in respect of the site, if he has entered on the site at the relevant time.
- (6) A document which purports—
 - (a) to be signed by a person authorized by the Building Authority and to certify that a person specified therein was at a time specified therein the registered contractor appointed in respect of a building site specified therein in accordance with the Buildings Ordinance; or
 - (b) to be signed by a person authorized by the Director of Housing or the Director of Public Works and to certify that at a time specified therein—
 - (i) a building site specified therein was owned by the Crown; and
 - (ii) a person specified therein was appointed the contractor in respect of that building site,

shall be admitted in evidence in any proceedings for an offence under subsection (1) or subsection (3) on its production before the court without further proof.

(7) On the production of a document under subsection (6)—

- (a) the court before which the document is produced shall, until the contrary is proved, presume that—
 - (i) the signature to the document is genuine;
 - (ii) the person signing it was duly authorized to sign at the time he signed it; and
- (b) such document shall be *prima facie* evidence of the matters contained therein.”.

Amendment of section 40.

4. Section 40 of the principal Ordinance is amended by deleting subsection (2) and substituting the following—

“(2) Regulations under this section may prohibit, restrict or otherwise control the laundering or dry cleaning for gain of—

- (a) clothing;
- (b) bedding;
- (c) household linen; and
- (d) table, kitchen, bathroom and other linen used in hotels, apartment houses, restaurants and similar establishments, or provided in business premises for use of customers,

otherwise than in a laundry.”.

5. Section 42A of the principal Ordinance is amended by deleting “Governor” in each place where it occurs in subsections (1) and (3) and substituting the following—

“Authority”.

Amendment of section 42A.

6. Section 57 of the principal Ordinance is amended by inserting after “live poultry” in both places where it occurs the following—

“, live reptiles”.

Amendment of section 57.

7. Section 76A(1) of the principal Ordinance is amended by deleting “Governor” and substituting the following—

“Authority”.

Amendment of section 76A.

8. Section 79 of the principal Ordinance is amended by deleting “Governor” in each place where it occurs in subsections (1), (2), (3) and (5) and substituting the following—

“Authority”.

Amendment of section 79.

9. Section 92C of the principal Ordinance is amended by—

Amendment of section 92C.

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

(b) inserting the following new subsection—

“(2) Any person who contravenes section 92A shall be guilty of an offence.”.

10. The principal Ordinance is amended by deleting “Governor” in each place where it occurs in sections 105A(1) and (5), 105G, 105K(1), 105M(1) and (5) and 106(1) and (6) and substituting in each place the following—

“Authority”.

Amendment of sections 105A, 105G, 105K, 105M and 106.

11. The principal Ordinance is amended by adding after section 119 the following new section—

Addition of section 119A.

“Power of Authority to direct removal and disposal of human remains.”

119A. The Authority may by order direct the removal, from any grave situated within a public cemetery, of any human remains or any urn or other receptacle containing any human remains, which have been interred therein for a period of not less than six years, and may direct the disposal thereof in such decent manner as he may think fit:

Provided that no such order shall be made until one month's notice of intention to make such order has been published in the *Gazette*.”.

12. Section 122 of the principal Ordinance is repealed and replaced by the following—

Replacement of section 122.

“Defray of expenses of reburial, etc.”

122. Whenever, pursuant to any powers conferred by this Part, the Governor in Council, or the Authority, or a magistrate, has caused any human remains to be exhumed or removed, the expenses of exhumation or removal, and of reburial or disposal, shall be defrayed—

(a) if ordered by—

(i) the Governor in Council under section 119;

(ii) a magistrate or a coroner under section 18 of the Coroners Ordinance; or

(Cap. 14.)

(iii) the Director of Urban Services as the Authority under section 118(4) or 119A, out of the general revenue; and

(b) if ordered by the Urban Council as the Authority under section 118(4) or 119A, out of the funds of the Urban Council.”.

Amendment of section 124A.

13. Section 124A(4) of the principal Ordinance is amended by deleting “Governor” and substituting the following—
“Authority”.

Amendment of section 125.

14. Section 125 of the principal Ordinance is amended by—

(a) deleting “, other than a regulation relating to payment of fees” in subsection (1)(a); and

(b) inserting after subsection (1) the following new subsection—

“(1A) Except where the licensing authority is the Urban Council, subsection (1)(a) shall not authorize a licensing authority to include in any registration, licence or permit a declaration waiving any provision relating to the payment of fees in a regulation made under this Ordinance.”.

Amendment of Third Schedule.

15. The Third Schedule to the principal Ordinance is amended—

(a) by inserting in the first, second and third columns the following new items—

(i) after the item relating to section 42(1)—

“42A(1) and (3)	Secretary for Home Affairs	Secretary for Home Affairs”;
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(ii) after the item relating to section 75—

“76A(1)	Secretary for the Environment	Secretary for the Environment”;
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(iii) after the item relating to section 78(1), (2) and (3)—

“79(1), (2), (3) and (5)	Secretary for the Environment	Secretary for the Environment”;
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(iv) after the item relating to section 105(1), (2)(b), (3) and (4)—

“105A(1) and (5)	Secretary for Home Affairs	Secretary for Home Affairs”;
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(v) after the item relating to section 105F(1)—

“105G	Secretary for Home Affairs	Secretary for Home Affairs”;
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(b) by deleting the item relating to section 105K and substituting the following new items—

“105K(1)	Secretary for Home Affairs	Secretary for Home Affairs
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105K(2) and (3)	Urban Council	Director of Urban Services”;
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(c) by inserting in the first, second and third columns the following new items—

(i) after the item relating to section 105L(1)—

“105M(1) and (5)	Secretary for Home Affairs	Secretary for Home Affairs”;
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(ii) after the item relating to section 105Q—

“106(1) and (6)	Secretary for Home Affairs	Secretary for Home Affairs”;
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(iii) after the item relating to section 118(5)—

“119A	Urban Council in respect of cemeteries specified in Part I of the Fifth Schedule	Director of Urban Services in respect of cemeteries specified in Part III of the Fifth Schedule”;
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(iv) after the item relating to section 124(1) and (2)—

“124A(4)	Secretary for the Environment	Secretary for the Environment”.
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16. The Ninth Schedule to the principal Ordinance is amended by deleting the item relating to section 92C and substituting therefor in the first, second and third columns the following new items—

“92C(1)	\$1,000 fine and 6 months imprisonment	—
92C(2)	\$1,000 fine and 6 months imprisonment	\$10 fine”.

Amendment of Ninth Schedule.

Passed by the Hong Kong Legislative Council this 10th day of March, 1976.

[Signature]
Clerk to the Legislative Council.

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

[Signature]
Clerk to the Legislative Council.



I assent.

Mary R. Scher

Governor.

11th March, 1976.

Provide for the designation, control and management of country parks and

HONG KONG

No. 10 OF 1976



I assent.

Mary N. Scher
Governor.

11th March, 1976.

Provide for the designation, control and management of country parks and special areas, the establishment of the Country Parks Board, and for purposes connected therewith.

[]

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

**PART I
PRELIMINARY**

1. This Ordinance may be cited as the Country Parks Ordinance 1976 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*. Short title and commencement.

2. In this Ordinance, unless the context otherwise requires— Interpretation.
"Authority" means the Director of Agriculture and Fisheries;
"Board" means the Country Parks Board established under section 5;
"country park" means any area that is designated as a country park under section 14;
"leased land" means any land which is—
(a) held under a Crown lease or a tenancy granted by the Crown or any agreement for such a lease or tenancy;

- (b) vested in any person by an Ordinance; or
 (c) occupied under—
 (i) a licence issued under section 5 of the Crown Land Ordinance;
 (ii) a licence or permit granted or issued under any other Ordinance; or
 (iii) a deed or memorandum of appropriation;

"special area" means any area designated as such under section 24.

PART II

DUTIES OF AUTHORITY AND ESTABLISHMENT OF COUNTRY PARKS BOARD

3. Subject to this Ordinance, the control and management of country parks and special areas are vested in the Authority.

4. It shall be the duty of the Authority—
 (a) to make recommendations to the Governor for the designation of areas as country parks or special areas;
 (b) to develop and manage country parks and special areas;
 (c) to take such measures in respect of country parks and special areas as he thinks necessary—
 (i) to encourage their use and development for the purposes of recreation and tourism;
 (ii) to protect the vegetation and wild life inside country parks and special areas;
 (iii) to preserve and maintain buildings and sites of historic or cultural significance within country parks and special areas but without prejudice to the Antiquities and Monuments Ordinance; and
 (iv) to provide facilities and services for the public enjoyment of country parks and special areas;
 (d) generally to administer this Ordinance.

5. (1) There is hereby established a Country Parks Board which shall—
 (a) act as a consultative body to advise the Authority upon any matter referred to it by the Authority;
 (b) consider and to advise the Authority on, the policy and programmes prepared by the Authority in respect of country parks and special areas, including proposed country parks and special areas; and
 (c) consider any objections that may be lodged under section 11 or section 17.
 (2) The Board shall consist of—
 (a) the Authority, who shall be the Chairman; and
 (b) not less than 10 other members, of whom not less than 5 shall be public officers.

(3) The members of the Board, other than those members who are public officers, shall be appointed for a period of 2 years or for such lesser period as the Governor may in any particular case determine and shall be eligible for re-appointment.

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

(5) 5 members of the Board shall form a quorum at any meeting thereof.

(6) The Chairman of the Board shall preside at all meetings thereof:

Provided that if at any meeting the Chairman is absent there shall preside such member of the Board as shall be elected from among those present at the meeting.

(7) The Board may appoint committees for the better discharge of its functions under this Ordinance and a committee so appointed may include persons who are not members of the Board:

Provided that at least two-thirds of the members of every committee shall be members of the Board.

(8) The Authority shall appoint a public officer to be the Secretary of the Board.

(9) If a member of the Board has any pecuniary interest, whether direct or indirect, in any matter before the Board, he shall disclose the fact and nature of his interest at a meeting of the Board and, if so required by the Board, shall withdraw from the meeting at which the Board is considering the matter and in any case shall not vote thereon.

(10) Subject to this Ordinance the Board and any committee thereof may determine its own procedure at meetings.

6. (1) The Board may transact any of its business by circulation of papers, and, subject to subsections (2) and (3), a resolution in writing which is approved in writing by a majority of the members shall be as valid and effectual as if it had been passed at a meeting of the Board by the votes of the members so approving the resolution.

Transaction of business by circulation of papers.

(2) Any member of the Board may, by notice in writing to the Chairman, require any business which is being transacted by circulation of papers to be transacted at a meeting of the Board.

(3) Where a notice under subsection (2) has been given to the Chairman, any resolution in respect of the business the subject of the notice which has been approved in writing by a majority of the members under subsection (1) shall be void.

7. (1) The Governor may give such directions as he thinks fit, either generally or in any particular case, with respect to the exercise or performance by the Authority or a public officer of any powers, functions or duties under this Ordinance.

Power of Governor to give directions.

(2) The Authority and every public officer shall, in the exercise or performance of any powers, functions or duties under this Ordinance comply with any directions given by the Governor under subsection (1).

PART III

DESIGNATION OF COUNTRY PARKS

8. (1) The Authority shall, at the direction of the Governor, prepare draft maps showing proposed country parks.

Preparation of draft maps.

(2) Any map prepared under subsection (1) shall, to the extent that it is practicable, show or make provision for such facilities and services as the Authority considers appropriate for the country park.

(Cap. 28.)

Control and management of country parks and special areas.

Duties of the Authority.

(Cap. 53.)

Establishment of Country Parks Board.

(3) The Authority may, in conjunction with any draft map prepared under subsection (1), prepare explanatory material relating to the map, which may be in the form of diagrams, illustrations, notes or descriptive matter; and any such explanatory material shall be part of the map.

(4) The Authority shall consult the Board on the preparation of any draft map under this section.

Inspection of
draft map.

9. (1) Where the Authority has prepared a draft map under section 8, he shall publish in the *Gazette* a notice in English and in Chinese—

- (a) containing a general description of the area shown in the draft map;
- (b) giving particulars of the places and times at which a copy of the map may be inspected by the public; and
- (c) specifying the time within which, and the manner in which, objections to the draft map may be made.

(2) Where the Authority publishes a notice under subsection (1) he shall—

- (a) publish a copy of the notice in 3 issues of one English language and two Chinese language daily newspapers; and
- (b) display a copy of such notice in some conspicuous part of the proposed country park.

(3) A copy of a draft map shall be available for inspection by the public free of charge at such offices of the Government as the Authority thinks fit for a period of 60 days from the date of publication of a notice under subsection (1) and during the hours when those offices are normally open to the public.

(4) The Authority shall supply a copy of the draft map upon payment of such fee as the Authority may determine.

Effect of
publication
of notice
under
section 9(1).

10. (1) After the publication of a notice by the Authority under section 9(1), no new development shall be carried out within the area of the proposed country park shown in the draft map without the prior approval of the Authority.

(2) The granting of approval by the Authority under subsection (1) shall be in addition to any other approval which may be required in respect of the new development.

(3) For the purposes of this section—

1971 c. 78,
s. 22(1) & (2).

"development" means the carrying out of building, engineering, mining or other similar operations in, on, over or under land, or the making of any material change in the use of any buildings or other land other than—

- (a) the carrying out of works for the maintenance, improvement or alteration of any building;
- (b) the use of any land for the purpose of agriculture, forestry or fisheries and the use for any of those purposes of any building occupied together with land so used;
- (c) the use of any buildings or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of dwelling house as such; or
- (d) the carrying out of any works for the purpose of inspecting, repairing or renewing any sewer, mains, pipes, cables or other apparatus;

"new development" means any development other than development in respect of which all the necessary approvals and permissions had been obtained prior to the date of publication in the *Gazette* of a notice under section 9(1).

11. (1) Any person aggrieved by a draft map available for inspection under section 9 may within the period of 60 days referred to in section 9(3) send to the Authority and to the Secretary of the Board a written statement of his objection to the draft map.

Objections.

(2) A written statement under subsection (1) shall set out—

- (a) the nature of and reasons for the objection; and
- (b) if the objection would be removed by an alteration to the draft map, any alteration proposed.

(3) Where the Authority receives a written statement of objection under subsection (1), he may within 30 days of receipt of the objection send to the Secretary of the Board his written representations concerning such objection.

(4) Upon receipt of an objection under subsection (1) and any representations by the Authority under subsection (3), the Secretary of the Board shall fix a time and place for the hearing of the objection by the Board and shall give 14 clear days' notice thereof to the objector.

(5) The objector may attend the meeting of the Board at which the objection is to be heard, and may be heard in person or by his authorized representative.

(6) Upon the hearing of an objection, the Board may—

- (a) reject the objection in whole or in part; or
- (b) direct the Authority to make amendments to the draft map to meet such objection in whole or in part.

(7) Where the Board rejects the objection under subsection (6)(a), the Secretary of the Board shall notify in writing the objector of the Board's decision.

12. The Authority shall, within 6 months from the last day of the period during which objections may be lodged, submit the draft map to the Governor in Council for approval, and shall at the same time submit—

Submission of
draft map to
Governor
in Council.

- (a) a schedule of objections and representations made under section 11; and
- (b) a schedule of the amendments made by the Authority pursuant to a direction under section 11(6)(b) with a view to meeting such objections.

13. (1) Upon submission of a draft map under section 12, the Governor in Council shall—

Power of
Governor in
Council upon
submission of
draft map.

- (a) approve the draft map;
- (b) refuse to approve it; or
- (c) refer it to the Authority for further consideration and amendment.

(2) Where the Governor in Council refuses to approve a draft map under subsection (1)(b), the Authority shall as soon as possible after such refusal give notice in the *Gazette* of such refusal.

(3) The Governor in Council may by order published in the *Gazette* correct any omission from or error in any map approved by him.

(4) Every map approved by the Governor in Council shall be signed by the Authority and shall be deposited in the Land Office and if the map relates to the New Territories certified copies of such approved maps shall be deposited in each District Land Office in the New Territories.

(5) The deposit of maps under subsection (4) shall be notified in the *Gazette*.

(6) The Authority shall supply a copy of an approved map to any person upon payment of such fee as the Authority may determine.

14. Where the Governor in Council has approved a draft map under section 13 and it has been deposited in the Land Office, the Governor shall, by order in the *Gazette*, designate the area shown in the approved map to be a country park.

15. (1) The Governor in Council may refer any map approved by him under section 13 to the Authority for replacement by a new map or for amendment.

(2) Upon any reference under subsection (1), sections 8 to 14 shall apply in respect of a new map in replacement of the map referred to or any amendment to the map referred in like manner as they applied to the map it replaces or amends; and where the reference is in respect of an amendment the word "map" in sections 8 to 14 shall be construed as referring to the map showing the amendment.

(3) A map referred to the Authority shall be replaced by the new approved map or read as one with any approved amendment as the case may be.

(4) The Land Officer shall endorse accordingly the map deposited under section 13 which has been replaced or amended and shall cause the copies of the maps deposited in the District Land Offices to be similarly endorsed.

PART IV

CONTROL OF LAND IN COUNTRY PARKS

16. (1) Notwithstanding any Ordinance or the terms of any lease or agreement for a lease, in any case where the Authority is of the opinion that any use or proposed use of any leased land by the occupier within a country park would substantially reduce the enjoyment and amenities of the country park as such, he may request the appropriate Land Authority to exercise the powers conferred by this section.

(2) Where the Land Authority receives a request under subsection (1), he may, by notice in writing—

- (a) require the occupier, within such period, not being less than 3 months, as the Land Authority may determine, to discontinue or modify the use; or
- (b) prohibit the occupier from proceeding with the proposed use or, within such period, not being less than 3 months, as the Land Authority may determine, require the occupier to modify the proposed use,

so as to avoid the enjoyment and amenities of the country park being substantially reduced; and where the occupier is not the Crown lessee, the Land Authority shall, where practicable, serve on the Crown lessee a copy of the notice given to the occupier.

(3) A notice under subsection (2) shall notify the occupier, and where the occupier is not the Crown lessee, the Crown lessee, of his right to object under section 17.

Designation
of country
parks.

Replacement or
amendment of
approved maps.

Control of
use of land
in country
park.

(4) An occupier who fails to comply with the requirements of a notice given to him under subsection (2) shall be guilty of an offence and shall be liable to a fine of \$5,000 and, in addition, to a fine of \$100 for each day during which the offence has continued.

(5) Where an occupier or Crown lessee objects under section 17 the operation of the notice against which he is objecting shall be suspended until the final determination of the objection.

(6) Notwithstanding any proceedings which may be taken under subsection (3), where the requirements of a notice under subsection (2) are not complied with, the leased land which is the subject of the requirements may be resumed in accordance with the Crown Lands Resumption Ordinance, and for the purposes of section 3 of that Ordinance it shall be deemed that the resumption of such land is required for a public purpose. (Cap. 124.)

(7) In this Part "Land Authority" means—

- (a) in relation to leased land within a country park situated in the New Territories, the Secretary for the New Territories; and
- (b) in relation to leased land within a country park in Hong Kong other than the New Territories, the Director of Public Works.

17. (1) Where a notice is served on an occupier or Crown lessee under section 16(2) in respect of the use or proposed use of any land held by him—

- (a) under a Crown lease or any agreement for such lease; or
- (b) under any Ordinance,

he may, within 1 month of the service on him of such notice, send to the Authority, the Land Authority and to the Secretary of the Board a written statement of objection to the notice.

(2) A written statement under subsection (1) shall set out the nature of and reasons for the objection.

(3) Where the Authority and the Land Authority receive a written statement under subsection (1) they may within 14 days of receipt of the statement send to the Secretary of the Board their written representations concerning such objection.

(4) Upon receipt of a written statement under subsection (1) and any representations under subsection (3), the Secretary of the Board shall fix a time and place for the hearing of the objection by the Board and shall give 14 clear days' notice thereof to the objector.

(5) The objector may attend the meeting of the Board at which the objection is to be heard, and may be heard in person or by his authorized representative.

(6) Upon the hearing of the objection, the Board may—

- (a) reject the objection;
- (b) uphold the objection; or
- (c) direct the Land Authority to amend the notice served under section 16(2).

(7) Where the Board rejects the objection or directs the Land Authority to amend the notice the Secretary shall notify the objector in writing of the Board's decision and shall also notify the objector of his right of appeal under subsection (8).

Objection to
notice under
section 16(2).