

(2) Any member who feels aggrieved by such discharge may through the normal service channels appeal to the Governor and the Governor may cancel or confirm such discharge or give such other directions with reference thereto and such determination shall be binding on all persons.

(3) Commanding Officers may inflict such summary punishments as are laid down in the regulations to the Ordinance for minor offences committed by members under their command.

- (4) (a) If any officer or member, when on duty with the Force or any part thereof, or when wearing the uniform of the Force, commits an offence against this Ordinance or any regulations made thereunder he may if he is an officer be placed under arrest by a superior officer and and if he is a member be placed under arrest by an officer, warrant officer or non-commissioned officer of the Force, who is his superior in rank.
- (b) An officer or member may not be kept under arrest longer than during the period which he would have been on duty with the Force or would be in uniform.
- (c) Every such arrest shall be forthwith reported to the appropriate Commanding Officer who will inform the Commandant.
- (d) Release from such arrest shall be without prejudice to any subsequent proceedings for discharge or summary punishment under the provisions of this section.

25. (1) Without prejudice to the provisions of subsection 3, or to the provisions of section 24 or to such provisions, if any, as may be contained in regulations made hereunder whereby officers or members may be deprived of an instruction allowance or of bounty every officer and member who—

- (a) fails without reasonable excuse to attend the training and instruction which he is by virtue of regulations made hereunder from time to time required to attend; or
- (b) fails to use his best endeavours to obtain the full benefit of such training and instruction or to discharge any duty lawfully assigned to him in the course of such training and instruction,

shall be guilty of an offence: Provided that no prosecution for an offence against this section shall be commenced without the consent of the Commandant.

(2) No officer or member shall be liable to prosecution under subsection (1) in respect of the year during which he attains such age of compulsory retirement as may be prescribed by regulations.

Failure by officers or members to attend training or instruction and in connexion therewith.

(3) If any volunteer other than a person referred to in subsection (2) quits the Force without completing the requirements of efficiency in any year, he shall forfeit the sum of one hundred dollars: Provided that the Commandant may exempt from liability any volunteer who in his opinion quitted the Force for a reasonable and *bona fide* cause and used reasonable diligence in his training until he quitted the Force.

(4) If any volunteer fails to fulfil any of his obligations under this Ordinance, such failure shall be deemed to be sufficient cause for discharge within the meaning of section 24(1): Provided that no volunteer shall be discharged for this cause if the Commandant or the Governor in the case of appeal is of opinion that such volunteer had a reasonable excuse for such failure.

(5) For the purpose of this section the year shall be deemed to start on the 1st day of October.

26. Any officer or member who feels that he has a just cause for complaint in any matter relative to the Force may present his complaint to the Service Commander of his unit through the Commanding Officer and the Commandant with a right of appeal to the Governor whose decision shall be final.

Complaints.

27. Any person who wilfully obstructs any part of the Force or any officer or member in the performance of any service or duty under this Ordinance or regulations made thereunder shall be guilty of an offence.

Obstructing the Force.

28. Any person who is guilty of an offence against section 23, 25 or 27 shall be liable to a fine of one thousand dollars.

Penalties.

PART V.

Property of the Force.

29. All moneys subscribed by or to, or for the use of the Force as a whole, or lawfully used by it, not being the property of an individual member of the Force, and the exclusive right to sue for and recover current subscriptions, arrears of subscriptions and the moneys due to the Force as a whole, shall vest in the Commandant with power for him to sue, to make contracts and conveyances, and to do all other lawful things relating thereto and the Commandant shall be deemed to be a public officer and the service of the Force as a whole shall be deemed to be a public service.

Vesting of property of Force in Commandant.

Wrongful disposal of property

30. If any officer or member gives, sells, pledges, lends or otherwise disposes without proper authority or permission any arms, ammunition, appointments, clothing, supplies or any other article or thing being public property of the Force or any part thereof entrusted to or held by him, he shall upon summary conviction by a magistrate be liable to a fine of one thousand dollars and to make good the value thereof as assessed by the Commandant.

Return of arms etc.

31. If any officer or member fails duly to deliver up in good condition (fair wear and tear only excepted), any arms, clothing, or appointments which he is liable under this Ordinance to deliver up, or any arms, clothing and appointments being public property or property of the Force or any part thereof, which he has been ordered to deliver up either temporarily or permanently, he shall be guilty of an offence and liable to a fine of one thousand dollars and to make good the value thereof as assessed by the Commandant.

Recovery of subscriptions and fines.

32. If any person belonging to or having belonged to the Force or any part thereof refuses or neglects to pay anything subscribed or undertaken to be paid by him towards any of the funds or expenses of the Force or any part thereof, or due under the rules of the Force as approved by the Governor or any of the units in the Force and actually payable by him, or to pay any fine incurred by him under the rules of the Force or any unit in the Force, such money or fine shall (without prejudice to any other remedy) be recoverable from him, with costs. Such moneys excluding such costs as aforesaid when recovered shall be paid into the Commandant's Welfare Fund.

PART VI.

Miscellaneous.

Summary remedies.

33. Any money, pecuniary penalty, or fine recoverable under this Ordinance may be recovered in a summary way before a magistrate.

Appearance before magistrate of Commandant.

34. The Commandant may appear before a magistrate by any member of the Force authorized by him in writing under his hand.

35. It shall be lawful for the Accountant General to pay to the Commandant for the purpose of the Force such sums in each year as may be authorized by the Governor out of moneys voted by the Legislative Council. Moneys so voted will be applied to each unit of the Force in accordance with decisions made by the Governor with the advice and consent of the Legislative Council.

Payments of public money for Force.

36. (1) Every officer and member shall, on his enrolment into the Force or as soon afterwards as may be, whether or not he has previously been a member of the Hong Kong Royal Naval Volunteer Reserve, the Hong Kong Naval Volunteer Force or the Hong Kong Volunteer Defence Corps, make an oath or declaration in the form appropriate to his case as set forth in subsection (2).

Oath to be taken.

(2) The form of oath or declaration shall be as follows—

“I ^{swear}_{declare} that I will be faithful and bear true allegiance to His Majesty King George VI, His Heirs and Successors, according to law, and that I will faithfully serve as an officer or as a member in accordance with the provision of the Royal Hong Kong Defence Force Ordinance, 1951”.

For officers and members other than British subjects—

“I ^{swear}_{declare} that I will faithfully serve as an officer or member in accordance with the provisions of the Royal Hong Kong Defence Force Ordinance, 1951”.

(3) Every such oath or declaration shall be administered by a Justice of the Peace of the Colony.

37. Where reference is made in any Ordinance to the Hong Kong Volunteer Defence Corps, the Hong Kong Naval Volunteer Force and to the Hong Kong Defence Force it shall be deemed to refer to the Force which is raised and maintained under section 3 hereof.

Reference in other Ordinances to H.K.V.D.C., H.K.N.V.F. and H.K.D.F., deemed to refer to Force.


38. The Hong Kong Defence Force Ordinance, 1948, is hereby repealed: Provided that all persons enrolled in the Hong Kong Defence Force under the provisions of that Ordinance shall be deemed to be enrolled in the Force under the provisions of this Ordinance, and that all acts done under the provisions of

Repeal of Ordinance No. 63 of 1948.

that Ordinance, shall be deemed to have been done under the provisions of this Ordinance.

Com-
mencement. 39. This Ordinance shall come into force on such day as the Governor shall notify by proclamation in the *Gazette*.

Passed the Legislative Council of Hong Kong, this 5th day of September, 1951.

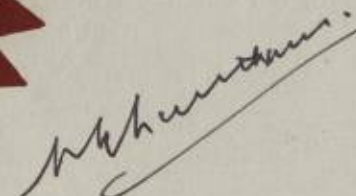

Deputy Clerk of Councils.

HONG KONG

No. 26 OF 1951.



I assent.


Governor.
6th September, 1951.

An Ordinance to provide for the placing at the disposal of His Majesty's Royal Navy for general service officers and men of the Hong Kong Royal Naval Volunteer Reserve, and ships of war maintained by the Colony.

[.]

WHEREAS by the Colonial Naval Defence Act, 1931 (21 Geo. 5 ch. 9) it is provided that the legislature of any colony may, with the approval of His Majesty in Council, make provision, either in conjunction with any other colony or not, for maintaining vessels of war; and that where the legislature of any colony has made provision for raising a force for the naval defence of the colony within its territorial waters, that legislature may, with the approval of His Majesty in Council, further make such provision regarding the discipline and service of officers and men of that force as is contained in this Ordinance;

AND WHEREAS by the said Act it is further provided that His Majesty in Council may, on such conditions as he thinks fit, authorize the Admiralty to accept any offer made by the Govern-

ment of a colony to place at His Majesty's disposal for general service in the Royal Navy, vessels of war maintained, or officers or men of such force as aforesaid, raised by the colony;

AND WHEREAS by the Royal Hong Kong Defence Force Ordinance, 1951, provision has been made for raising and maintaining a force for the naval defence of Hong Kong called the Hong Kong Royal Naval Volunteer Reserve;

AND WHEREAS it is provided by the Colonial Naval Defence Act, 1949 (12 & 13 Geo. 6, ch. 18) that nothing in the Colonial Naval Defence Act, 1931 (21 Geo. 5 ch. 9) shall be deemed to require the assent of His Majesty in Council before the legislature of a colony may make provisions in exercise of any power conferred by the Colonial Naval Defence Act, 1931 (21 Geo. 5 ch. 9) or the Colonial Naval Defence Act, 1949 (12 & 13 Geo. 6 ch. 18), but no provision so made by a legislature shall have effect unless or until it is approved by His Majesty in Council;

BE it therefore enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof:

Short title and date of commencement.

1. This Ordinance may be cited as the Hong Kong Royal Naval Volunteer Reserve (General Service) Ordinance, 1951, and shall come into operation on such date as the Governor by notice in the *Gazette* may appoint, but no such notice shall be issued until His Majesty in Council shall have been pleased to approve the provisions of this Ordinance.

Interpretation.

2. In this Ordinance—
“men” shall have the same meaning as the expression “members” in the Royal Hong Kong Defence Force Ordinance, 1951;
“Naval Reserve” means the Hong Kong Royal Naval Volunteer Reserve established under the Royal Hong Kong Defence Force Ordinance, 1951;
“officer”, “member”, “training” and “instruction” shall have the meanings severally assigned to them in the Royal Hong Kong Defence Force Ordinance, 1951.

Vessels of war.

3. (1) The Governor in Council may provide, either in conjunction with any other colony or not, for maintaining and using vessels of war.

(2) The Governor in Council may, by agreement with such other colony, if any, offer to place at His Majesty's disposal for general service in the Royal Navy any vessel of war so provided.

4. Officers and men of the Naval Reserve are liable to service, training or instruction in any ship establishment or other place without the limits of the Colony or its territorial waters whether belonging to the Colony or not.

Service and training outside the Colony.

5. All the enactments and regulations for the time being in force for the enforcement of discipline in the Royal Navy shall apply, with the modifications set out in the Schedule to this Ordinance, to the officers and men of the Naval Reserve during such period as they are called out, in training or under instruction, whether ashore or afloat or within or without the limits of the Colony.

Enactments and regulations in force in Royal Navy to apply to the Naval Reserve.

6. All or any of the officers and men of the Naval Reserve may be entered on the express terms of accepting general service in the Royal Navy in emergency, and such officers and members shall when in such general service form part of the Royal Naval Volunteer Reserve.

Entry for service with Royal Navy in emergency.

7. The Governor in Council may offer to place at His Majesty's disposal for general service in the Royal Navy such officers and men of the Naval Reserve as have been entered on terms of accepting such service.

General service of the Naval Reserve in the Royal Navy.

SCHEDULE.

1. Where in the Naval Discipline Act and in the King's Regulations and Admiralty Instructions, in so far as the same are applicable to the officers or men of the Naval Reserve, any power or duty is vested in or imposed upon the Admiralty, such power or duty shall, in respect of the Naval Reserve be vested in, exercised or performed by the Governor: Provided that this paragraph shall not apply when the Naval Reserve is called out.

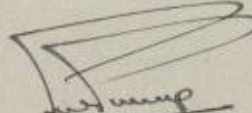
2. Where not inconsistent with the subject matter of the Naval Discipline Act, the word “Hong Kong” shall be read in place of the words “England” or “United Kingdom” or “United Kingdom of Great Britain and Ireland” wherever they occur.

3. References in the Naval Discipline Act to “penal servitude” are to be understood as authorizing a sentence of a term of imprisonment for life, or for any other term of not less than three years.

4. Section 52 of the Naval Discipline Act shall be read—
- (a) as if the words "or corporal punishment" were deleted in paragraph (4); and
 - (b) as if after the words "from time to time be allowed by the Admiralty" there were inserted the following—
“(12) Fine not exceeding forty shillings. In default of payment of a fine imposed under this section, the fine shall be recoverable in a summary way before a magistrate. Every such penalty shall be applied as the Governor may direct.”
5. Section 53 of the Naval Discipline Act shall be read—
- (a) as if the words "except in case of sentence of death, which shall only be remitted by His Majesty" in paragraph (1), were deleted;
 - (b) as if in paragraph (11) all the words relating to corporal punishment were deleted, and the paragraph read as follows—
“(11) No officer shall be subject to detention.”
6. Section 56(1) of the Naval Discipline Act shall be read as if the following proviso were added at the end thereof—
“Provided that, except in the case of mutiny, no sentence of a court martial shall be carried into execution unless confirmed by the Governor; such confirmation in the case of sentence of death shall be in addition to the confirmation otherwise required by this Act.”
7. In section 56(2) of the Naval Discipline Act, "the officer in command of the ship to which the offender belongs" shall be read to include the officer in command of the Naval Reserve. But the said subsection shall be read as if the words "award penal servitude or to award imprisonment or" were deleted.
8. Section 56 of the Naval Discipline Act shall also be read as if subsection (4) thereof relating to corporal punishment were deleted.
9. Sections 90A and 98A of the Naval Discipline Act shall not apply to the officers and men of the Naval Reserve.

10. Wherever fines are mentioned in the Naval Discipline Act, the corresponding amounts in local currency shall be substituted for the amounts expressed therein in British currency.

Passed the Legislative Council of Hong Kong, this 5th day of September, 1951.



Deputy Clerk of Councils.

HONG KONG

No. 27 OF 1951.



I assent.

Governor.

6th September, 1951.

An Ordinance to amend the Essential Services Corps Ordinance, 1949.

[.]

BE it 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 Essential Services Corps (Amendment) Ordinance, 1951. Short title.

2. Section 4 of the principal Ordinance is hereby repealed and replaced by the following— Repeal and replacement of section 4 of the principal Ordinance.

4. It shall be lawful for the Governor to raise and maintain a body of persons to assist in the maintenance or the performance of essential services to be known as the Essential Services Corps. The Corps shall consist of such persons as may, in accordance with regulations made under this Ordinance by the Governor, be accepted for service in the Corps and also of such

"Power of Governor to raise Corps.

persons upon whom a liability to enrol in the Corps has been imposed under the provisions of the Compulsory Service Ordinance, 1951."

Amendment of section 7 of the principal Ordinance.

3. Section 7 of the principal Ordinance is hereby amended by the addition after subsection (2) of the following subsection—

"(3) Such regulations may provide that the contravention of any regulation shall constitute an offence and may provide for the punishment thereof by penalties not exceeding a fine of one thousand dollars or imprisonment for six months."

Amendment of section 8 of the principal Ordinance.

4. Section 8 of the principal Ordinance is hereby amended by the deletion of the words "by regulations made under section 7" in the second line thereof and the substitution therefor of the following—

"by the Commissioner of Police, whether by a particular or general description".

Addition of new sections 12 and 13 to the principal Ordinance.

5. The principal Ordinance is hereby amended by the addition of the following sections after section 11 as sections 12 and 13—

"Complaints.

12. Any member who feels that he has a just cause for complaint in any matter relative to the Corps may present his complaint to the Commissioner of the Essential Services Corps, through the Unit Controller of his Unit with a right of appeal to the Governor whose decision shall be final.

Obstructing the Corps.

13. No person shall wilfully obstruct any part of the Corps or any member in the performance of any service or duty under this Ordinance or regulations: Penalty: a fine of one thousand dollars or imprisonment for six months."

Amendment of the Schedule to the principal Ordinance.

6. The Schedule to the principal Ordinance is hereby amended by the addition thereto of the following essential services—

"The procurement, storage and distribution of coal and firewood,
The operation of canteens under the direction of Government,
The maintenance of the Civil Aid Services,
The care of workers in the essential services and their dependants."

7. This Ordinance shall come into force on such day as the Governor shall notify by proclamation in the *Gazette*. Commencement.

Passed the Legislative Council of Hong Kong, this 5th day of September, 1951.

Deputy Clerk of Councils.

HONG KONG

No. 28 OF 1951.

I assent.



McCartney
Governor.

20th September, 1951.

An Ordinance further to amend the Vagrancy Ordinance, 1897.

[21st September, 1951.]

BE it 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 Vagrancy (Amendment) Ordinance, 1951. Short title.

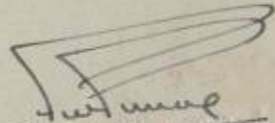
2. Section 24A of the principal Ordinance is hereby amended by the repeal and replacement of subsection (4) by the following—

“(4) Any person against whom an order of expulsion has been made under this section who without the authority of an order of the Governor is found within

Repeal and replacement of section 24A (4) of the principal Ordinance.

the Colony within a period of five years from the date of such order shall be guilty of an offence: Penalty: Imprisonment for six weeks."

Passed the Legislative Council of Hong Kong, this 19th day of September, 1951.

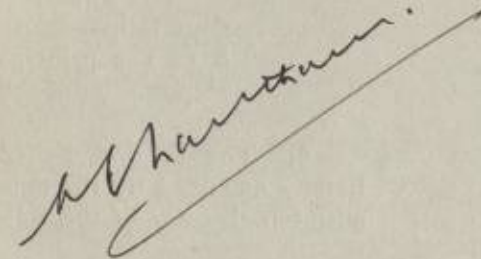

Deputy Clerk of Councils.



HONG KONG

No. 29 OF 1951.

I assent.



Governor.

20th September, 1951.

An Ordinance further to amend the Deportation of Aliens Ordinance, 1935.

[21st September, 1951.]

BE it 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 Deportation of Short title. Aliens (Amendment) Ordinance, 1951.

2. Subsection (2) of section 13 of the principal Ordinance is hereby amended by the deletion of the words "one year" in the last line thereof and the substitution therefor of the words "three years in cases where the period of deportation or banishment exceeded five years, and to imprisonment for any term not exceeding two years in cases where the period of deportation or banishment did not exceed five years".

Amendment of section 13 of the principal Ordinance.

Addition
of new
section 17A
to the
principal
Ordinance.

3. The principal Ordinance is hereby amended by the insertion of the following section as section 17A thereof—

17A. (1) It is hereby declared that the Governor in Council may by order rescind any deportation order under the provisions of section 3 of the principal Ordinance.

(2) The Governor in Council may by order rescind any deportation order made under the provisions of section 8 of the principal Ordinance as substituted by the Deportation of Aliens (Amendment) Ordinance, 1948, now repealed.

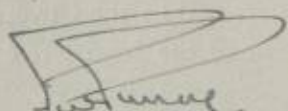
(3) The Governor may by order rescind any deportation order made under the provisions of section 8 of the principal Ordinance as substituted by the Deportation of Aliens (Amendment) Ordinance, 1949."

Amendment
of Second
Schedule
to the
principal
Ordinance.

4. The Second Schedule to the principal Ordinance is hereby amended by the deletion of item 11 thereof and the substitution therefor of the following—

"11. The Protection of Women and Juveniles Ordinance, 1951—sections 3, 4, 5, 6, 8, 10, 12, 17, 18, 19, 20, 21, 22, 25 and 26."

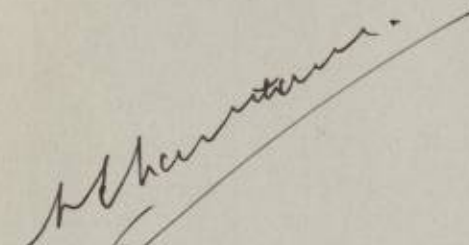
Passed the Legislative Council of Hong Kong, this 19th day of September, 1951.


Deputy Clerk of Councils.

HONG KONG

No. 30 OF 1951.

I assent.


Governor.

20th September, 1951.

An Ordinance to repeal the Nederlandsch-Indische Handelsbank Ordinance, 1907, and the Nederlandsche Handel-Maatschappij Ordinance, 1907.

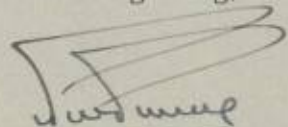
[21st September, 1951.]

BE it 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 Dutch Banks (Repeal) Ordinance, 1951. Short title.

2. The Nederlandsch-Indische Handelsbank Ordinance, 1907, and the Nederlandsche Handel-Maatschappij Ordinance, 1907, are hereby repealed. Repeal of Ordinances No. 9 of 1907 and No. 10 of 1907.


Passed the Legislative Council of Hong Kong, this 19th day of September, 1951.


Deputy Clerk of Councils.

HONG KONG

No. 31 OF 1951.

I assent.



W. Charles
Governor.

20th September, 1951.

An Ordinance to provide for the incorporation of the Children's Playground Association.

[21st September, 1951.]

BE it 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 Children's Play-ground Association Ordinance, 1951. Short title.

2. In this Ordinance—
"Association" means the Children's Playground Association; Inter-pretation.
"constitution" means the constitution of the Children's Play-ground Association approved from time to time by its members for the time being.

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

Objects of the Association.

4. The objects of the Association shall be to provide recreational facilities for the children of the Colony for whom no facilities or no adequate facilities exist and generally to promote their welfare.

Powers of the Association.

5. The Association shall have full power to do all such acts and things as may be necessary or expedient for or conducive to the carrying out of the aims and objects of the Association under its constitution and without prejudice to the generality of such power the Association shall have full power—

- (a) to acquire by purchase lease exchange or otherwise hold and enjoy land buildings messuages or tenements of what nature or kind soever and wheresoever situate whether in the Colony or elsewhere;
- (b) to acquire by purchase or otherwise goods and chattels of what nature or kind soever;
- (c) to invest moneys on deposit in any bank in the Colony or in any government bonds or on mortgage of any land buildings messuages or tenements in the Colony or elsewhere or in or on debentures debenture-stocks stock funds shares or securities of any corporation or company carrying on business in the Colony or elsewhere; and
- (d) to grant sell convey assign surrender yield up mortgage demise let reassign transfer or otherwise dispose of any land buildings messuages tenements mortgages debentures debenture-stock funds securities goods and chattels vested in the Association upon such terms as the Association may deem fit.

Vesting of property.

6. The land buildings messuages and tenements belonging or purporting to belong to the Children's Playground Association hitherto unincorporated (hereinafter called the "Unincorporated Association") and all moneys securities for money goods chattels and effects whatsoever the property of the Unincorporated Association or purporting so to be are hereby transferred to and vested in the Association, but subject as regards the said land buildings messuages and tenements to the payment of the rents and observance and performance of all the covenants conditions and reservations contained in the Crown Lease under which the same are respectively held.

Members and associates.

7. The Association shall consist of such members as provided by its constitution.

Existing members to become members.

8. All the existing members of the Unincorporated Association at the date of the passing of this Ordinance shall be the first members of the Association.

9. The existing constitution of the Unincorporated Association shall be the constitution of the Association but the same may be changed or amended by the Association at any time and from time to time in accordance with the provisions of the constitution for the time being in force.

Existing constitution to become constitution of Association.

10. A copy of the constitution of the Association and of any amendment thereto, and a list of the names and addresses of the members of the executive committee of the Association for the time being, certified in each case as correct by the chairman of the executive committee or by the secretary of the Association shall be forwarded to the Registrar of Companies for registration.

Filing of constitution and names of executive members.

11. The Association shall pay such fee for registering any document with any public registry as may be payable under any enactment relating thereto.

Registration fee.

12. Any person may inspect any of the documents registered by the Association in pursuance of section 10, upon payment of such fee as may be payable under any enactment relating thereto.

Inspection and search fee.

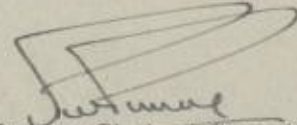
13. All deeds documents and other instruments requiring the seal of the Association shall be signed by the chairman of the executive committee and the secretary of the Association or by such other person or persons as the executive committee from time to time appoint and such signing shall be taken as sufficient evidence of the due sealing of such deeds, documents and other instruments.

Sealing of deeds.

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

Saving of the rights of the Crown and certain other rights.

Passed the Legislative Council of Hong Kong, this 19th day of September, 1951.


Deputy Clerk of Councils.

HONG KONG

No. 32 OF 1951.

I assent.



H. Hamilton
Governor.

20th September, 1951.

An Ordinance to repeal the Hotels Ordinance, 1949.

[21st September, 1951.]

BE it 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 Hotels (Repeal) Short title. Ordinance, 1951.
2. The Hotels Ordinance, 1949, is hereby repealed.

Repeal of
Ordinance
No. 5 of
1949.

Passed the Legislative Council of Hong Kong, this 19th day of September, 1951.

[Signature]
Deputy Clerk of Councils.



HONG KONG

No. 33 OF 1951.



I assent.

McChauhan
Governor.

20th September, 1951.

An Ordinance to amend the Registrar General (Establishment) Ordinance, 1949.

[21st September, 1951.]

BE it 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 Registrar General Short title. (Establishment) (Amendment) Ordinance, 1951.

2. Section 3 of the principal Ordinance is hereby repealed and replaced as follows—

Repeal and replacement of section 3 of the principal Ordinance.

“Appoint-
ment of
Registrar
General,
deputies
and
assistants.

- 3. (1) The Governor may appoint—
 - (a) a Registrar General; and
 - (b) such number of—
 - (i) deputies under the style of Deputy Registrar General; and
 - (ii) assistants under the style of Assistant Registrar,

as may in his opinion from time to time be required to assist the Registrar General in the performance of his duties.

[*cf.*
Ordinance
No. 10
of 1931,
s. 75 (2).]

(2) No person shall be appointed Registrar General or Deputy Registrar General unless at the date of such appointment he is a barrister, advocate, solicitor or proctor or a member of the Colonial Legal Service or has successfully passed the examinations required before admission of a barrister, advocate, solicitor, law agent or proctor."

Amendment
of section
4 of the
principal
Ordinance.

3. Section 4 of the principal Ordinance is hereby amended as follows—

(a) by the deletion of the marginal note and the substitution therefor of the following—

"Powers and duties of deputies and assistants." ;

(b) by the deletion of the full-stop after the figure "4" in the first line thereof ;

(c) by the addition of the brackets and figure "(1)" between the figure "4" and the word "Any" in the first line thereof ;

(d) by the addition after subsection (1) of the following—

"(2) Any assistant appointed under section 3 may subject to any instructions of the Governor and to the instructions of the Registrar General or Deputy Registrar General exercise all the powers privileges and discretions vested in the Registrar General other than those conferred upon legal officers by the Legal Officers Ordinance, 1950, and shall subject to such instructions discharge such part of the duties thereof as may be assigned to him."

Ordinance
No. 3
of 1950.

Passed the Legislative Council of Hong Kong, this 19th day of September, 1951.

Deputy Clerk of Councils.

HONG KONG

No. 34 OF 1951.

I assent.



Governor.

11th October, 1951.

An Ordinance to amend the Verandahs and Balconies (Inclosure for Office Accommodation) Ordinance, 1947.

[12th October, 1951.]

BE it 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 Verandahs and Balconies (Inclosure for Office Accommodation) (Amendment) Ordinance, 1951. Short title.

2. Section 4 of the principal Ordinance is hereby amended by the deletion of the figures "1951" and the substitution therefor of the figures "1953". Amendment of section 4 of the principal Ordinance.


Passed the Legislative Council of Hong Kong, this 10th day of October, 1951.

Deputy Clerk of Councils.

HONG KONG


No. 35 OF 1951.

I assent.



McCartney
Governor.

11th October, 1951.



An Ordinance to incorporate The General of The Salvation Army
as a corporation sole having perpetual succession.

[12th October, 1951.]

WHEREAS by a Deed Poll (hereinafter called "the Deed of Constitution") dated the 7th day of August, 1878, and under the hand and seal of William Booth (the founder and General Superintendent of a Religious Society or Organization known as "the Christian Mission") and afterwards enrolled in the Chancery Division of the High Court of Justice in England the original name doctrines and purposes of the said Christian Mission were recited and stated:

AND WHEREAS at some time before the 24th day of June, 1880, the name of the said Religious Society or Organization was changed from "the Christian Mission" to "The Salvation Army" as appears by a Memorandum of that date under the hand of the said William Booth endorsed on the Deed of Constitution and afterwards enrolled in the Central Office of the Supreme Court of Judicature in England:

AND WHEREAS the said Religious Society or Organization has since been and is now known as The Salvation Army and The General Superintendent thereof has since been and is now known as The General of The Salvation Army :

AND WHEREAS by a Deed Poll (hereinafter called "the Supplemental Deed of Constitution") dated the 26th day of July, 1904, under the hand and seal of the said William Booth and afterwards enrolled in the Central Office of the Supreme Court of Judicature in England the provisions of the Deed of Constitution were supplemented by provisions dealing with matters and contingencies not taken account of in the Deed of Constitution :

AND WHEREAS by a Deed Poll dated the 21st day of November, 1930, under the hand and seal of Edward John Higgins and afterwards enrolled in the Central Office of the Supreme Court of Judicature in England the provisions of the Supplemental Deed of Constitution were (pursuant to a power in that behalf thereby reserved) added to and varied :

AND WHEREAS Albert William Thomas Orsborn has been duly appointed and still is The General of The Salvation Army :

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

Short title.

1. This Ordinance may be cited as The Salvation Army Ordinance, 1951.

Incorporation.

2. (1) The General of The Salvation Army for the time being shall be deemed a corporation sole (hereinafter called "the Corporation") and shall be known and described as "The General of The Salvation Army" and in that name shall have perpetual succession and shall and may have and use a corporate seal and may from time to time break, change, alter and make anew the said seal as to the Corporation may deem fit.

(2) The Corporation may sue and be sued and take all legal proceedings in any of the Courts of the Colony and all writs of summons, notices and legal process may be served upon the Corporation by being left at the residence in this Colony of the duly appointed Attorney of The General for the time being of The Salvation Army.

Powers of the Corporation.

3. (1) The Corporation shall have power to acquire, accept leases of, purchase, take, hold and enjoy any lands, buildings, messuages or tenements of what nature or kind soever and

wheresoever situated and also to invest moneys upon mortgage of any lands, buildings, messuages or tenements or upon the mortgages, debentures, stocks, funds, shares or securities of any Government, municipality, corporation, company or person, and also to purchase, acquire and possess vessels and other goods and chattels of what nature and kind soever.

(2) The Corporation shall further have power by deed under its seal to grant, sell, convey, assign, surrender, exchange, partition, yield up, mortgage, demise, reassign, transfer or otherwise dispose of any lands, buildings, messuages, tenements, mortgages, debentures, stocks, funds, shares or securities, or vessels or other goods and chattels, which are for the time being vested in or belonging to the Corporation, upon such terms as to the Corporation may seem fit.

4. All property, goods and chattels, and all rights which immediately before this Ordinance belonged to or vested in The General of The Salvation Army or any person in trust for or on behalf of The Salvation Army or The General of The Salvation Army are hereby transferred to and vested in the Corporation.

Vesting of property and rights.

5. (1) All deeds, documents and other instruments requiring the seal of the Corporation shall be sealed with the seal of the Corporation in the presence of The General for the time being of The Salvation Army or his Attorney duly authorized by power of attorney and shall also be signed by The General for the time being or his Attorney so authorized as aforesaid.

Use of the Corporate seal.

(2) Such signing shall be taken as sufficient evidence that the said seal was duly and properly affixed and that the same is the lawful seal of the Corporation.

6. No change of the person holding the office of General of The Salvation Army shall affect any immovable or movable property or any interest therein vested in the Corporation but the same shall notwithstanding any such change continue to be vested in the Corporation.

Change of person holding office of General not to affect property and interest.

7. Upon the lodging at the office of the Colonial Secretary of a copy or copies certified by the Chief of Staff of The Salvation Army or the Commissioner acting for the time being as the Chief of Staff of The Salvation Army of a document or documents purporting to be or to record the appointment of and acceptance of

Who to be deemed General of The Salvation Army.

office by a General of The Salvation Army it shall be deemed to be conclusive in evidence that the person named in such certified copy or copies is the person duly authorized to exercise the office of The General for the time being of The Salvation Army until the recording and lodging of a similar certified copy or copies as aforesaid.

Power to appoint Attorney.

8. The General for the time being of The Salvation Army shall have power to appoint an Attorney for such time and purposes and with such powers as may be stated in the power of attorney and a notarially certified copy of the said power of attorney shall be lodged at the office of the Colonial Secretary and the donee of the said power of attorney shall be deemed to be the duly authorized Attorney of The General for the time being of The Salvation Army until the recording and lodging of a subsequent and similarly certified copy power of attorney.

Saving of the rights of the Crown.

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

Passed the Legislative Council of Hong Kong, this 10th day of October, 1951.

Deputy Clerk of Councils.

HONG KONG

No. 36 OF 1951.


I assent.

Governor.

25th October, 1951.

An Ordinance to amend the law as to the effect of death in relation to causes of action, as to the doctrine of contributory negligence and as to the doctrine of common employment.

[26th October, 1951.]

BE it 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 Law Reform Short title. (Miscellaneous Provisions) Ordinance, 1951.

2. (1) Subject to the provisions of this section, on the death of any person after the commencement of this Ordinance all causes of action subsisting against or vested in him shall survive against, or, as the case may be, for the benefit of, his estate: Provided that this subsection shall not apply to causes of action for defamation or seduction or for inducing one spouse to leave or remain apart from the other or to claims for damages on the ground of adultery.

Effect of death on certain causes. 24 & 25 Geo. 5. c. 41, s. 1.

(2) Where a cause of action survives as aforesaid for the benefit of the estate of a deceased person, the damages recoverable for the benefit of the estate of that person—

- (a) shall not include any exemplary damages;
- (b) in the case of a breach of promise to marry shall be limited to such damage, if any, to the estate of that person as flows from the breach of promise to marry;
- (c) where the death of that person has been caused by the act or omission which gives rise to the cause of action, shall be calculated without reference to any loss or gain to his estate consequent on his death, except that a sum in respect of funeral expenses may be included.

(3) No proceedings shall be maintainable in respect of a cause of action in tort which by virtue of this section has survived against the estate of a deceased person, unless either—

- (a) proceedings against him in respect of that cause of action were pending at the date of his death; or
- (b) the cause of action arose not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representative took out representation.

(4) Where damage has been suffered by reason of any act or omission in respect of which a cause of action would have subsisted against any person if that person had not died before or at the same time as the damage was suffered, there shall be deemed, for the purposes of this Ordinance, to have been subsisting against him before his death such cause of action in respect of that act or omission as would have subsisted if he had died after the damage was suffered.

(5) The rights conferred by this Ordinance for the benefit of the estates of deceased persons shall be in addition to and not in derogation of any rights conferred on the dependants of deceased persons by the Fatal Accidents Ordinance, 1889, and so much of this Ordinance as relates to causes of action against the estates of deceased persons shall apply in relation to causes of action under the said Ordinance as it applies in relation to other causes of action not expressly exempted from the operation of subsection (1) of this section.

(6) In the event of the insolvency of an estate against which proceedings are maintainable by virtue of this section, any liability in respect of the cause of action in respect of which the

Ordinance
No. 3 of
1889.

proceedings are maintainable shall be deemed to be a debt provable in the administration of the estate, notwithstanding that it is a demand in the nature of unliquidated damages arising otherwise than by a contract, promise or breach of trust.

3. In assessing damages in any action brought under the Fatal Accidents Ordinance, 1889—

Assessment
of damages.
Ordinance
No. 3 of
1899.
8 Edw. 7, c.
7, s. 1.

- (a) there shall not be taken into account any sum paid or payable on the death of the deceased under any contract of assurance or insurance;
- (b) the funeral expenses of the deceased person, if such expenses have been incurred by the parties for whose benefit the action is brought shall be taken into account.

4. (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage:

Apportion-
ment of
liability
in case of
con-
tributory
negligence.
8 & 9
Geo. 6,
c. 28, s. 1
s. 3 and
s. 4.

Provided that—

- (a) this subsection shall not operate to defeat any defence arising under a contract;
- (b) where any contract or enactment providing for the limitation of liability is applicable to the claim, the amount of damages recoverable by the claimant by virtue of this subsection shall not exceed the maximum limit so applicable.

(2) Where damages are recoverable by any person by virtue of the foregoing subsection subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(3) Section 2 of the Tortfeasors Ordinance, 1936, (which relates to proceedings against, and contribution between, joint and several tortfeasors), shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection (1) of this section in respect of the damage suffered by any person.

Ordinance
No. 11 of
1936.

(4) Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, and accordingly if an action were brought for the benefit of the estate under section 2 the damages recoverable would be reduced under subsection (1) of this section, any damages recoverable in an action brought for the benefit of the dependants of that person under the Fatal Accidents Ordinance, 1889, as modified by section 3, shall be reduced to a proportionate extent.

Ordinance
No. 3 of
1889.

(5) Where, in any case to which subsection (1) of this section applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading any enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said subsection.

(6) Where any case to which subsection (1) of this section applies is tried with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced.

22 & 23
Geo. 5,
c. 36,

(7) Article 21 of the Convention contained in the First Schedule to the Carriage by Air Act, 1932 (which empowers a court to exonerate wholly or partly a carrier who proves that the damage was caused by or contributed to by the negligence of the injured person), shall in its application to the Colony have effect subject to the provisions of this section.

1 & 2 Geo.
5, c. 57.

(8) This section shall not apply to any claim to which section 1 of the Maritime Conventions Act, 1911, applies and that Act shall have effect as if this Ordinance had not been passed.

(9) This section shall not apply to any case where the acts or omissions giving rise to the claim occurred before the passing of this Ordinance.

(10) In this section, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“court” means, in relation to any claim, the court or arbitrator by or before whom the claim falls to be determined;

“damage” includes loss of life and personal injury;

“dependant” means any person for whose benefit an action could be brought under the Fatal Accidents Ordinance, 1889;

“fault” means negligence, breach of statutory duty or other act or omission which gives rise to a liability in tort or would, apart from this section, give rise to the defence of contributory negligence.

Ordinance
No. 3 of
1889.

5. (1) It shall not be a defence to an employer who is sued in respect of personal injuries caused by the negligence of a person employed by him, that that person was at the time the injuries were caused in common employment with the person injured.

Abolition
of the
defence of
common
employ-
ment.
[cf. 11 &
12 Geo. 6,
c. 41. s. 1
and s. 3.]

(2) Any provision contained in a contract of service or apprenticeship, or in an agreement collateral thereto, (including a contract or agreement entered into before the commencement of this Ordinance) shall be void in so far as it would have the effect of excluding or limiting any liability of the employer in respect of personal injuries caused to the person employed or apprenticed by the negligence of persons in common employment with him.

(3) In this section the expression “personal injury” includes any disease and any impairment of a person’s physical or mental condition and the expression “injured” shall be construed accordingly.


Passes the Legislative Council of Hong Kong, this 24th day of October, 1951.

Deputy Clerk of Councils.

HONG KONG

No. 37 OF 1951.

I assent.


Governor.

25th October, 1951.

An Ordinance to amend the Places of Public Entertainment Regulation Ordinance, 1919.

[26th October, 1951.]

BE it 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 Places of Public Entertainment Regulation (Amendment) Ordinance, 1951. Short title.

2. Section 2 of the principal Ordinance is hereby amended— Amendment of section 2 of the principal Ordinance.

(a) by the deletion of paragraph (a) and the substitution therefor of the following—

“(a) “entertainment” includes any concert, stage play, stage performance or other musical, dramatic or theatrical entertainment or any part thereof, any cinematograph display, lecture, story-telling, circus, exhibition of pictures, photographs or books, exhibition of dancing, conjuring or juggling, acrobatic performance, exhibition of abnormal persons or

animals, any sporting exhibition or contest, any bazaar, any merry-go-round, flying wheel, or other mechanical device designed for amusement;" and

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

"(c) "place of public entertainment" means any place on which there is any erection or structure, any premises or building whether temporary or permanent or any water-borne craft or other place in or at which a public entertainment takes place whether on one occasion or more;"

(d) "stage play" includes every tragedy, comedy, farce, opera, revue, burletta, interlude, melodrama, pantomime or other entertainment of the stage or any part thereof."

3. Section 3 of the principal Ordinance is hereby amended—

(a) by the deletion of the words "permanent or temporary building or matshed for any" in the second line thereof and the substitution therefor of the words "place of"; and

(b) by the deletion of the words "building or matshed" in the fifth line thereof and the substitution therefor of the word "place".

4. Section 4 of the principal Ordinance is hereby amended—

(a) by the insertion in the second line of subsection (1) between the word and comma "invited," and the word "or" of the words "or which persons may attend by reason of being members of a club, association or other organization, incorporated or otherwise"; and

(b) by the deletion from subsection (1) of the words "and in the case of a cinematograph display at a Chinese theatre to which the public are invited, such person must also obtain a permit in writing for such performance from the Secretary for Chinese Affairs." and the substitution therefor of the words "; any person contravening the provisions of this subsection shall upon summary conviction be liable to a fine not exceeding one thousand dollars."

5. Section 6 of the principal Ordinance is hereby amended—

(a) by the repeal and replacement of paragraph (a) as follows—

"(a) the mode of application for licences for places of public entertainment, and the issue of such licences

Amendment of section 3 of the principal Ordinance.

Amendment of section 4 of the principal Ordinance.

Amendment of section 6 of the principal Ordinance.

to such persons and for such periods of time and during such hours, as may be respectively determined in each licence;"

(b) by the repeal and replacement of paragraph (d) as follows—

"(d) prescribing the materials of which any place of public entertainment shall be constructed and regulating the construction of such place and the construction and arrangement of staircases, corridors, gangways, vestibules, seating accommodation, entrances, exits, doors and fastenings of in or appertaining to such place and all other matters appertaining to the same;"

(c) by the repeal and replacement of paragraph (e) as follows—

"(e) requiring the exercise of all such measures as may be prescribed in any such regulation against overcrowding, and for the control and prevention of fires and for the maintenance of sanitary conditions in any place of public entertainment;"

(d) by the repeal and replacement of paragraph (f) as follows—

"(f) the maintenance of peace and good order in a place of public entertainment;"

(e) by the repeal and replacement of paragraph (g) as follows—

"(g) the entry and inspection for the purposes of securing compliance with this Ordinance and of any regulations made thereunder of a place of public entertainment at any time by the Commissioner of Police, the Secretary for Chinese Affairs, the Building Authority and any other officer authorized by the Governor in that behalf;" and

(f) by the repeal and replacement of paragraph (k) as follows—

"(k) providing that contraventions of specified offences shall constitute an offence and that such offences shall be punishable by penalties not exceeding a fine of one thousand dollars and imprisonment for six months;"

Amendment
of section 7
of the
principal
Ordinance.

6. Section 7 of the principal Ordinance is hereby amended—

- (a) by the deletion in the third and fourth lines of subsection (1) of the words "the Secretary for Chinese Affairs, the Commissioner of Police, or a District Officer" and the substitution therefor of the words "the Commissioner of Police"; and
- (b) by the repeal and replacement of subsection (4) thereof as follows—

"(4) Every person who contravenes the provisions of this section shall upon summary conviction be liable to a fine of two thousand dollars."

Addition
of new
section 8
to the
principal
Ordinance.

7. The following section shall be inserted as section 8 immediately after section 7 of the principal Ordinance—

"Appeal to
Governor
in Council.

8. (1) Whenever any person is dissatisfied with the exercise of the discretion of any person to whom discretionary power is given under this Ordinance in respect of any act, matter, or thing, which is by this Ordinance made subject to the exercise of the discretion of such authority, or with any action or decision of any such person either as to the carrying out of or the meaning of any of the provisions of this Ordinance, or whenever any of the provisions of this Ordinance are, owing to special conditions, undesirable, the person so dissatisfied may, unless proceedings have already been taken before a magistrate in relation thereto, appeal to the Governor in Council, who, if in his opinion the exercise of such discretion or such action or decision requires modification, revocation, or setting aside, or such special conditions exist as render any such provision undesirable, may make such order in respect thereof as may be just.

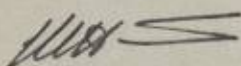
Ordinance
No. 2 of
1950.

(2) The provisions of section 39A of the Interpretation Ordinance, 1950, shall apply to any such appeal.

(3) In this section the expression "this Ordinance" includes all regulations hereunder and any licence permit authority or other matter provided for by the

Ordinance or regulations: Provided that this section shall not apply to the censoring of cinematograph films under the provisions of regulations 177, 178 and 179 of the regulations appearing in the 1937 Edition of the Regulations of Hong Kong at page 932 of Volume III."

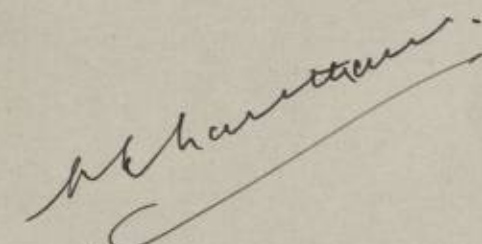
Passes the Legislative Council of Hong Kong, this 24th day of October, 1951.


Deputy Clerk of Councils.

HONG KONG

No. 38 OF 1951.

I assent.



Governor.

25th October, 1951.

An Ordinance to amend the Royal Hong Kong Defence Force Ordinance, 1951.

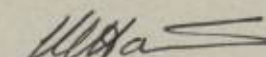
[26th October, 1951.]

BE it 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 Royal Hong Kong Defence Force (Amendment) Ordinance, 1951. Short title.

2. Subsection (3) of section 36 of the principal Ordinance is hereby amended by substituting the words "made either before an officer of the Force or before" for the words "administered by" in the first line thereof. Amendment of subsection (3) of section 36 of the principal Ordinance.

Passed the Legislative Council of Hong Kong, this 24th day of October, 1951.


Deputy Clerk of Councils.

HONG KONG

No. 39 OF 1951.



I assent.

McArthur
Governor.

8th November, 1951.

An Ordinance to make provision for the protection of third parties against risks arising out of the use of motor vehicles.

[9th November, 1951.]

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

1. This Ordinance may be cited as the Motor Vehicles Short title. Insurance (Third Party Risks) Ordinance, 1951.

2. In this Ordinance—

"the Authority" means the Governor in Council or such other person, or body of persons, as may be nominated by the Governor in Council by notice in the *Gazette*;

"authorized insurer", in relation to a policy of insurance or security, means any company, underwriter, or co-operative society, which, at the time the policy of insurance or security

Inter-pretation.

in question is issued or given, is authorized by the Authority under section 3 to carry on motor vehicle insurance business in this Colony;

20 & 21
Geo. 5,
c. 43, s. 121.

“driver”, where a separate person acts as steersman of a motor vehicle, includes that person as well as any other person engaged in the driving of the vehicle, and the expression “drive” shall be construed accordingly;

“insurer” means any company, underwriter, or co-operative society, which is for the time being authorized by the Authority under section 3, to carry on motor vehicle insurance business in this Colony;

20 & 21
Geo. 5,
c. 43, s. 1.

“motor vehicle” means a vehicle intended or adapted for use on roads, and propelled by any form of mechanical power, and includes a motor bicycle with or without a side-car or trailer, a motor tricycle and a bicycle or tricycle assisted by a motor, but not a vehicle drawn by any other motor vehicle, nor any conveyance for use solely on railways or tramways;

20 & 21
Geo. 5,
c. 43, s. 42.

“motor vehicle insurance business” means the business of effecting contracts of insurance against loss of, or damage to or arising out of or in connexion with the use of, motor vehicles, including third party risks;

20 & 21
Geo. 5,
c. 43, s. 121.

“owner”, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement;

“policy of insurance” includes a covering note;

(Cap. 220).

“road” has the meaning assigned by section 2 of the Vehicle and Road Traffic Ordinance;

(Cap. 11).

“statutory declaration” means a statement in writing lawfully sworn, affirmed or declared in accordance with the Statutory Declaration Ordinance, or if made outside this Colony in writing sworn or affirmed in the manner provided by the law in force in the place where the oath or affirmation is made.

Authority
for
carrying
on motor
vehicle
insurance
business.

3. (1) Subject to the provisions of subsection (2), the Authority may, by notice in the *Gazette*, authorize any company, or any underwriter being a member of any association of underwriters approved by the Authority, or any co-operative society, to carry on motor vehicle insurance business in this Colony: Provided that the Authority shall not grant such authorization

unless the Authority is satisfied as to the financial stability of the company, underwriter or co-operative society and for such satisfaction may require the making of a deposit not exceeding two hundred thousand dollars which shall be subject to the provisions of paragraphs (a), (b), (c), (e) and (f) of section 5 and the substituted paragraph (d) of section 5 contained in subsection (3) of section 7 of this Ordinance relating to deposits.

(2) Where the Authority ceases to be satisfied as to the financial stability of any company, underwriter, or co-operative society, which is by a notice under subsection (1) authorized to carry on motor vehicle insurance business in this Colony, the Authority may, by notice in the *Gazette*, revoke such authorization and declare that the company, underwriter or co-operative society to which or to whom the notice relates is no longer authorized under this section to carry on such business in this Colony. Any such notice shall have effect from such time and date as is specified therein.

4. (1) Subject to the provisions of this Ordinance it shall not be lawful for any person to use, or to cause or permit any other person to use, a motor vehicle on a road unless there is in force in relation to the user of the vehicle by that person or that other person, as the case may be, such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Ordinance.

Obligation
on users of
motor
vehicles to
be insured
against
third
party
risks.
20 & 21
Geo. 5,
c. 43, s. 35.

(2) If a person acts in contravention of this section, he shall be liable to a fine of one thousand dollars and to imprisonment for three months, and a person convicted of an offence under this section shall (unless the magistrate for special reasons thinks fit to order otherwise and without prejudice to the power of the magistrate to order a longer period of disqualification) be disqualified for holding or obtaining a licence to drive a motor vehicle for a period of twelve months from the date of the conviction.

A person disqualified by virtue of a conviction under this section or of an order made thereunder for holding or obtaining a licence shall, for the purposes of the Vehicle and Road Traffic Ordinance, be deemed to be disqualified by virtue of a conviction under the provisions of that Ordinance.

(Cap. 220).

(3) Notwithstanding any enactment prescribing a time within which proceedings may be brought before a court of summary jurisdiction, proceedings for an offence under this section may be brought—

- (a) within a period of six months from the date of the commission of the alleged offence; or
- (b) within a period which exceeds neither three months from the date on which it came to the knowledge of the prosecutor that the offence had been committed nor one year from the date of the commission of the offence,

whichever period is the longer.

(4) This section shall not apply to—

- (a) any motor vehicle which is the property of His Majesty or the Government upon any occasion upon which such vehicle is being used by a person authorized by His Majesty or the Government to use the same on such occasion; or
- (b) any motor vehicle at any time when it is being driven for police purposes by, or under the direction of, any police officer; or
- (c) any motor vehicle owned by a person who has made a deposit with the Accountant General to the value of two hundred thousand dollars and has not required such deposit to be returned to him, at any time when such motor vehicle is being driven by the owner or by a servant of the owner in the course of his employment, or is otherwise subject to the control of the owner.

(5) Subsection (1) shall not come into force until such date as may be fixed by order of the Governor in Council published in the *Gazette*.

Provisions regarding deposits under section 4.

5. The following provisions shall apply in relation to any deposit made under paragraph (c) of subsection (4) of section 4 or required under the proviso to subsection (1) of section 3—

- (a) a deposit may be made in cash or in securities approved by the Accountant General (hereinafter referred to as

“approved securities”), or partly in cash and partly in approved securities and the value of securities shall be taken as the market value on the day of deposit;

- (b) when approved securities are deposited the depositor shall, if so required by the Accountant General, take, at or before the time they are so deposited, such steps as the Accountant General may require to vest the same in the Accountant General;
- (c) the Accountant General may permit the substitution of other approved securities for those previously deposited or the substitution of cash for approved securities, or *vice versa*, and may where he considers that the approved securities have fallen below their value at the time of the deposit, require the depositor to deposit the difference in value in further approved securities or cash;
- (d) the Accountant General shall, if required by the depositor by notice in writing, cause the deposit to be returned to the depositor by repaying to him any cash deposited or retransferring to him any securities, as the case may be;
- (e) subject to the provisions of paragraph (f) of this subsection, the deposit shall be deemed to form part of the assets of the depositor and the interest or dividends accruing due in respect thereof shall be payable to the depositor;
- (f) no part of the deposit shall, so long as any liabilities, being such liabilities as are required to be covered by a policy of insurance under this Ordinance, which have been incurred by the depositor, have not been discharged or otherwise provided for, be applicable in discharge of any other liabilities incurred by the depositor.

6. (1) In order to comply with the requirements of this Ordinance, a policy of insurance must be a policy which—

- (a) is issued by an authorized insurer; and
- (b) insures such person, persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any person caused by or

Requirements in respect of policies. 20 & 21 Geo. 5, c. 43, s. 36.

arising out of the use of the motor vehicle on a road: Provided that such a policy shall not be required to cover—

(i) liability in respect of the death arising out of and in the course of his employment of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person arising out of and in the course of his employment; or

(ii) except in the case of a motor vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment, liability in respect of the death of or bodily injury to persons being carried in or upon or entering or getting on to or alighting from the motor vehicle at the time of the occurrence of the event out of which the claims arise; or

(iii) any contractual liability.

(2) Notwithstanding anything in any law, a person issuing a policy of insurance under this section shall be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons.

(3) A policy shall be of no effect for the purposes of this Ordinance unless and until there is issued by the insurer in favour of the person by whom the policy is effected a certificate (in this Ordinance referred to as a "certificate of insurance") in the prescribed form and containing such particulars of any conditions subject to which the policy is issued and of any other matters as may be prescribed, and different forms and different particulars may be prescribed in relation to different cases or circumstances.

7. (1) In order to comply with the requirements of this Ordinance a security in respect of third party risks must—

(a) be given either by an authorized insurer or by some body of persons which carries on in this Colony the business of giving securities of a like kind and which—

(i) has deposited and keeps deposited with the Accountant General the sum of two hundred thousand dollars in respect of that business; or

(ii) has been exempted by the Authority, under the provisions of subsection (2) from the obligation to make such deposit;

(b) consist of an undertaking by the giver of the security to make good, subject to any conditions specified therein, and up to the amount, in the case of an undertaking

Requirements in respect of securities. 20 & 21 Geo. 5, c. 43, s. 37.

carrying on the business of transporting for hire or reward passengers by motor vehicles, of not less than four hundred thousand dollars and, in any other case, of not less than eighty thousand dollars, any failure by the owner of the vehicle or such other persons or classes of persons as may be specified in the security duly to discharge any such liability as is required to be covered by a policy of insurance under the last preceding section which may be incurred by him or them.

(2) The Authority may grant exemption from the obligation to make a deposit under paragraph (a) of subsection (1), either in relation to any specific body of persons or in relation to any class of body of persons: Provided that the Authority shall not grant exemption as aforesaid unless the Authority is satisfied as to the financial stability of the body of persons, or the body of persons of the class in question, as the case may be.

(3) The provisions of section 5 shall apply *mutatis mutandis* in relation to any deposit made under paragraph (a) of subsection (1) of this section, subject to the modification that for paragraph (d) of the said section 5 there shall be substituted the following paragraph—

“(d) subject to the provisions of paragraph (f) of this section, the deposit shall be retained by the Accountant General so long as the depositor carries on in this Colony the business in respect of which the deposit is made;”

(4) A security shall be of no effect for the purposes of this Ordinance unless and until there is issued by the person giving the security in favour of the person to whom it is given a certificate (in this Ordinance referred to as a "certificate of security") in the prescribed form and containing such particulars of any condition subject to which the security is issued and of any other matters as may be prescribed in relation to different cases or circumstances.

8. (1) Where any payment is made (whether or not with an admission of liability) by—

(a) an insurer under or in consequence of a policy issued under this Ordinance; or

(b) the owner of a motor vehicle in relation to the user of which a security under this Ordinance is in force; or

(c) the owner of a motor vehicle who has made a deposit under this Ordinance,

Liability to pay certain hospital expenses. 20 & 21 Geo. 5, c. 43, s. 36, s.s. (2). 23 & 24 Geo. 5, c. 53, s. 33.

in respect of the death of or bodily injury to any person arising out of the use of a motor vehicle on a road, and the person who has so died or been bodily injured has to the knowledge of the insurer or such owner as the case may be received treatment at a hospital, whether as an in-patient or as an out-patient, in respect of the injury so arising, there shall also be paid by the insurer or such owner to such hospital the expenses reasonably incurred by the hospital in affording such treatment, after deducting from such expenses any moneys actually received by the hospital in payment of a specific charge for such treatment: Provided that the amount to be paid by the insurer or such owner shall not exceed four hundred dollars for each person so treated as an in-patient, or eighty dollars for each person so treated as an out-patient.

(2) For the purposes of this section, the expression "hospital" means an institution (not being an institution carried on for profit) which provides medical or surgical treatment for in-patients and the expression "expenses reasonably incurred" means—

- (a) in relation to a person who receives treatment at a hospital as an in-patient, an amount for each day such person is maintained in such hospital representing the average daily cost for each in-patient of the maintenance of the hospital and the staff thereof and the maintenance and treatment of the in-patients therein; and
- (b) in relation to a person who receives treatment at a hospital as an out-patient, reasonable expenses actually incurred.

9. Any condition in a policy or security issued or given for the purposes of this Ordinance, providing that no liability shall arise under the policy or security, or that any liability so arising shall cease, in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy or security, shall be of no effect in connexion with such claims as are mentioned in paragraph (b) of subsection (1) of section 6: Provided that nothing in this section shall be taken to render void any provisions in a policy or security requiring the person insured or secured to repay to the insurer or the giver of the security any sums which the latter may have become liable to pay under the policy or security and which have been applied to the satisfaction of the claims of third parties.

Certain conditions to policies or securities to be of no effect. 20 & 21 Geo. 5, c. 43, s. 38.

10. (1) If, after a certificate of insurance has been issued under subsection (3) of section 6 in favour of the person by whom a policy has been effected, judgment in respect of any such liability as is required to be covered by a policy under paragraph (b) of subsection (1) of section 6 (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided or cancelled, the policy, the insurer shall, subject to the provisions of this section, pay to the persons entitled to the benefit of the judgment any sum payable thereunder in respect of the liability, including any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any law relating to interest on judgments.

Duty of insurers to satisfy judgments against persons insured in respect of third party risks. 24 & 25 Geo. 5, c. 50, s. 10.

(2) No sum shall be payable by an insurer under the foregoing provisions of this section—

- (a) in respect of any judgment, unless before or within seven days after the commencement of the proceedings in which the judgment was given, the insurer had notice of the bringing of the proceedings; or
- (b) in respect of any judgment, so long as execution thereon is stayed pending an appeal; or
- (c) in connexion with any liability, if before the happening of the event which was the cause of the death or bodily injury giving rise to the liability the policy was cancelled by mutual consent or by virtue of any provision contained therein, and either—

(i) before the happening of the said event the certificate of insurance was surrendered to the insurer, or the person in whose favour the certificate was issued made a statutory declaration stating that the certificate had been lost or destroyed; or

(ii) after the happening of the said event, but before the expiration of a period of fourteen days from the taking effect of the cancellation of the policy, the certificate was surrendered to the insurer, or the person in whose favour the certificate was issued made such a statutory declaration as aforesaid; or

(iii) either before or after the happening of the said event, but within the said period of fourteen days, the insurer has commenced proceedings under this Ordinance in respect of the failure to surrender the certificate.

(3) No sum shall be payable by an insurer under the foregoing provisions of this section, if, in an action commenced

before, or within three months after, the commencement of the proceedings in which the judgment was given, he has obtained a declaration that, apart from any provision contained in the policy, he is entitled to avoid it on the ground that it was obtained by the non-disclosure of a material fact, or by a representation of fact which was false in some material particular, or, if he has avoided the policy on that ground, that he was entitled so to do apart from any provision contained in it: Provided that an insurer who has obtained such a declaration as aforesaid in an action shall not thereby become entitled to the benefit of this subsection as respects any judgment obtained in proceedings commenced before the commencement of that action, unless before or within seven days after the commencement of that action he has given notice thereof to the person who is the plaintiff in the said proceedings specifying the non-disclosure or false representation on which he proposes to rely, and any person to whom notice of such an action is so given shall be entitled, if he thinks fit, to be made a party thereto.

(4) If the amount which an insurer becomes liable under this section to pay in respect of a liability of a person insured by a policy exceeds the amount for which he would, apart from the provisions of this section, be liable under the policy in respect of that liability, he shall be entitled to recover the excess from that person.

(5) In this section, the expression "material" means of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk, and, if so, at what premium and on what conditions; and the expression "liability covered by the terms of the policy" means a liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel, or has avoided or cancelled, the policy.

(6) In this Ordinance, references to a certificate of insurance in any provision relating to the surrender, or the loss or destruction, of a certificate of insurance shall, in relation to policies under which more than one certificate is issued, be construed as references to all the certificates, and shall, where any copy has been issued of any certificate, be construed as including a reference to that copy.

11. Where a certificate of insurance has been issued under subsection (3) of section 6 in favour of the person by whom a policy has been effected, the happening in relation to any person insured by the policy of any such event as is mentioned in subsection (1) or subsection (2) of section 2 of the Third Parties (Rights against Insurers) Ordinance, 1951, shall, notwithstanding anything in that Ordinance, not affect any such liability of that person as is required to be covered by a policy under paragraph (b) of subsection (1) of section 6, but nothing in this section shall affect any rights against the insurer conferred by that Ordinance on the person to whom the liability was incurred.

Bankruptcy etc. of insured persons not to affect certain claims by third parties. 24 & 25 Geo. 5, c. 50, s. 11. Ordinance No. of 1951.

12. Where a certificate of insurance has been issued under subsection (3) of section 6 in favour of the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any of the following matters—

Avoidance of restrictions on scope of policies covering third party risks. 24 & 25 Geo. 5, c. 50, s. 12.

- (a) the age or physical or mental condition of persons driving the vehicle; or
- (b) the condition of the vehicle; or
- (c) the number of persons that the vehicle carries; or
- (d) the weight or physical characteristics of the goods that the vehicle carries; or
- (e) the times at which or the areas within which the vehicle is used; or
- (f) the horsepower or value of the vehicle; or
- (g) the carrying on the vehicle of any particular apparatus; or
- (h) the carrying on the vehicle of any particular means of identification other than any means of identification required to be carried by or under this Ordinance or by or under the Vehicle and Road Traffic Ordinance,

(Cap. 220).

shall, as respects such liabilities as are required to be covered by a policy under paragraph (b) of subsection (1) of section 6, be of no effect: Provided that nothing in this section shall require an insurer to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability, and any sum paid by an insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this section shall be recoverable by the insurer from that person.

13. (1) Any person against whom a claim is made in respect of any such liability as is required to be covered by a policy under paragraph (b) of subsection (1) of section 6 shall, on demand by or on behalf of the person making the claim, state whether or not he

Duty of person against whom claims are

made to give information as to insurance. 24 & 25 Geo. 5, c. 50, s. 13.

was insured in respect of that liability by any policy having effect for purposes of this Ordinance, or would have been so insured if the insurer had not avoided or cancelled the policy, and, if he was or would have been so insured, give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof under subsection (3) of section 6.

(2) If, without reasonable excuse, any person fails to comply with the provisions of this section, or wilfully makes any false statement in reply to any such demand as aforesaid, he shall be guilty of an offence.

Duty of surrender of certificate of cancellation of policy. 24 & 25 Geo. 5, c. 50, s. 14.

14. Where a certificate of insurance has been issued under subsection (3) of section 6 in favour of the person by whom a policy has been effected and the policy is cancelled by mutual consent or by virtue of any provision in the policy, the person in whose favour the certificate was issued shall, within seven days from the taking effect of the cancellation, surrender the certificate to the insurer or, if it has been lost or destroyed, make a statutory declaration to that effect, and if he fails so to do he shall be guilty of an offence.

Application of sections 10 to 14 to securities. 24 & 25 Geo. 5, c. 50, s. 15.

15. The provisions of sections 10 to 14 inclusive shall apply in relation to securities having effect for the purposes of this Ordinance as they apply in relation to policies of insurance, and in relation to any such security as aforesaid, reference in the said sections to being insured, to a certificate of insurance, to an insurer, and to persons insured, shall be construed respectively as references to the having in force of the security, to the certificate of security, to the giver of the security, and to the persons whose liability is covered by the security.

Requirements as to production of certificate of insurance or of security. 20 & 21 Geo. 5, c. 43, s. 40.

16. (1) Any person driving a motor vehicle on a road shall, on being so required by any police officer, give his name and address and the name and address of the owner of the motor vehicle and produce his certificate, and if he fails so to do or gives a false name or address he shall be guilty of an offence: Provided that, if the driver of a motor vehicle within five days after the date on which the production of his certificate was so required, produces the certificate together with the policy of insurance to which such certificate relates, in person at such police station as may have been specified by him at the time the production of the certificate was required, he shall not be convicted under this subsection of the offence of failing to produce his certificate.

(2) It shall be the duty of the owner of a motor vehicle to give such information as he may be required by or on behalf of a police officer not below the rank of sub-inspector—

- (a) as to the identity of the driver of the motor vehicle on any occasion when the driver was required under subsection (1) to produce his certificate; or
 - (b) for the purpose of determining whether the vehicle was or was not being driven in contravention of section 4 on any occasion when the driver was required under this section to produce his certificate,
- and if the owner fails to do so, he shall be guilty of an offence.

(3) If in any case where, owing to the presence of a motor vehicle on a road, an accident occurs involving personal injury to another person, the driver of the motor vehicle does not at any time produce his certificate to a police officer or to some person who, having reasonable grounds for so doing, has required its production, the driver shall report the accident at a police station as soon as possible, and in any case within twenty-four hours of the occurrence of the accident and there produce his certificate, and if he fails so to do, he shall be guilty of an offence: Provided that a person shall not be convicted under this subsection of the offence of failing to produce his certificate if, within five days after the occurrence of the accident, he produces the certificate in person together with the policy of insurance to which the certificate relates at such police station as may have been specified by him at the time the accident was reported.

(4) In this section, the expression "produce his certificate" means produce for examination the relevant certificate of insurance or certificate of security of such other evidence that the motor vehicle is not or was not being driven in contravention of section 4 as may be prescribed.

- 17. (1) If, with intent to deceive, any person—
 - (a) forges, within the meaning of the Forgery Ordinance, or uses or lends to or allows to be used by any other person, a certificate of insurance or certificate of security within the meaning of this Ordinance; or
 - (b) makes or has in his possession any document so closely resembling such a certificate as to be calculated to deceive,
 he shall be guilty of a misdemeanour.

Forgery, etc., of certificates. 20 & 21 Geo. 5, c. 25, s. 112. (Cap. 209).

(2) If any person for the purpose of obtaining the issue of a certificate of insurance or of a certificate of security under this

Ordinance makes any false statement or withholds any material information, he shall be guilty of an offence and shall be liable to imprisonment for six months and to a fine of one thousand dollars.

(3) If any person issues a certificate of insurance or certificate of security which is to his knowledge false in any material particular, he shall be guilty of an offence and shall be liable to imprisonment for six months and to a fine of two thousand dollars.

(4) If any police officer has reasonable cause to believe that any certificate of insurance or certificate of security produced to him in pursuance of the provisions of this Ordinance by the driver of a motor vehicle is a document in relation to which an offence under this section has been committed, he may seize the document, and thereon the person producing such document shall on being required by a police officer inform him of the means by which and the person from whom he obtained possession of such document and it shall be an offence to give information which is false or withhold material information and such person shall be liable to imprisonment for six months and to a fine of one thousand dollars.

(5) In this section, the expressions "certificate of insurance" and "certificate of security" include any document issued under regulations made under this Ordinance to prescribe evidence which may be produced in lieu of a certificate of insurance or a certificate of security.

(6) Nothing in this section shall be construed to affect the liability of any person to trial and punishment for any offence against any other enactment: Provided that no person shall be punished twice for the same act or omission.

18. Where the driver of a vehicle is alleged to be guilty of an offence under the Ordinance—

- (a) the owner of the vehicle shall give such information as he may be required by or on behalf of the Commissioner of Police to give as to the identity of the driver, and, if he fails to do so shall be guilty of an offence, unless he shows to the satisfaction of the court or magistrate that he did not know and could not with reasonable diligence have ascertained who the driver was; and
- (b) any other person shall, if required as aforesaid, give any information which it is in his power to give and which may lead to the identification of the driver, and, if he fails to do so, he shall be guilty of an offence.

Disclosure of information to the police.
20 & 21 Geo. 5, c. 48, s. 113.

19. (1) Any person on conviction of an offence under this Ordinance shall, unless a penalty is otherwise specifically provided, be liable to imprisonment for three months and to a fine of one thousand dollars.

Offences and general penalty.

(2) Where a person is, by virtue of any power contained in this Ordinance or in any regulations made thereunder, required to do or to abstain from doing any act or thing and makes default in complying with any such requisition, it shall be lawful for the court or magistrate on conviction, in addition to imposing any penalty, to order such person to comply with such requisition and to annex to any such order any condition as to time or mode of action or otherwise which it may think necessary to enforce compliance therewith.

(3) Every person who makes default in complying with any such order of the court or magistrate may, in the discretion of the court, be ordered to pay by way of a penalty a sum not exceeding twenty dollars for every day during which he is thereafter in default or to be imprisoned, until he has remedied his default: Provided that any such person shall not for such non-compliance be liable to the payment of any sums amounting in the aggregate to more than one thousand dollars in addition to any other fine or term of imprisonment to which he may otherwise be liable.

20. (1) The Governor in Council may make regulations for prescribing anything which may be prescribed under this Ordinance, and generally for the purpose of carrying this Ordinance into effect, and in particular, but without prejudice to the generality of the foregoing provisions, may make regulations—

Regulations.
20 & 21 Geo. 5, c. 43, s. 41.

- (a) as to the forms to be used for the purposes of this Ordinance;
- (b) as to applications for, and the issue of, certificates of insurance and certificates of security and any other documents which may be prescribed, and as to the keeping of records of documents and the furnishing of particulars thereof, or the giving of information with respect thereto, and as to the furnishing of copies of certificates of insurance and of certificates of security in respect of the obtaining or renewal of a licence under the Vehicle and Road Traffic Ordinance, and the regulations made thereunder;
- (c) as to the issue of copies of any such certificates or other documents which are lost or destroyed;

(Cap. 220).

- (d) as to the custody, production, cancellation, and surrender of any such certificates or other documents;
- (e) for providing that any provisions of this Ordinance shall, in relation to motor vehicles registered abroad and brought into this Colony for a limited period have effect subject to such modifications and adaptations as may be prescribed;
- (f) as to the system of accounts to be kept, and the returns to be furnished, by insurers.

(2) Any regulation made under this Ordinance may provide that a contravention thereof shall be an offence and that a person guilty of such offence shall be liable to a fine of one hundred dollars and to imprisonment for seven days.

(3) The regulations in the Schedule to this Ordinance shall be in force except so far as they may be rescinded or amended by regulations made under this section.

THE SCHEDULE.

(section 20)

PART I.

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| Citation. | 1. These regulations may be cited as the Motor Vehicles Insurance (Third Party Risks) Regulations, 1951. |
| Inter-pretation. | 2. In these regulations—
"company" means an insurer as defined in section 2 of the Ordinance, or a body of persons by whom a security may be given in pursuance of the Ordinance;
"policy" means such policy of insurance in respect of third party risks arising out of the use of motor vehicles as complies with the requirements of the Ordinance and includes a covering note;
"security" means such security in respect of third party risks arising out of the use of motor vehicles as complies with the requirements of the Ordinance. |

PART II.

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| Issue of certificates of insurance and security. | 3. (1) A company shall issue to every holder of a security or of a policy other than a covering note issued by the company—
(a) in the case of a policy or security relating to a specified vehicle or to specified vehicles, a certificate of insurance |
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in Form A, or a certificate of security in Form D, set out in the Schedule to these regulations in respect of each such vehicle;

- (b) in the case of a policy or security not relating to any specified vehicle or vehicles, such number of certificates in Form B or D, set out in the Schedule to these regulations as may be necessary to enable the requirements of subsection (1) of section 16 of the Ordinance and of these regulations as to the production of evidence that a motor vehicle is not being driven in contravention of section 4 of the Ordinance to be complied with:

Provided that where a security is intended to cover the use of more than ten motor vehicles at any one time, the company by whom it was issued may, with the consent of the Governor, issue one certificate only, and, where such consent has been given, the holder of the security may issue duplicate copies of such certificate, duly authenticated by him, up to such number and subject to such conditions as the Governor may determine.

(2) Every policy in the form of a covering note issued by a company shall have printed thereon, or on the back thereof, a certificate of insurance in Form C set out in the Schedule to these regulations.

4. (1) Every certificate of insurance or certificate of security shall be duly authenticated by or on behalf of the company by whom it is issued.

Authentica-
tion and
time of
issue of
certificates.

(2) The certificate aforesaid shall be issued not later than four days after the date on which the policy or security is issued or renewed.

5. Where under the terms of a policy or security relating to a specified motor vehicle the holder is entitled to drive any motor vehicle other than that specified without contravention of section 4 of the Ordinance, the company by whom the policy or security was issued may and shall on demand being made to them by the holder issue to him a further certificate of insurance in Form A or B, set out in the Schedule to these regulations, or a further certificate of security, as the case may be.

Issue of
further
certificates
of
insurance
and
security.

6. The following evidence that a motor vehicle is not being driven in contravention of section 4 of the Ordinance may be produced by the driver of such motor vehicle on the request of a police officer in pursuance of section 16 of the Ordinance as an alternative to the production of a certificate of insurance or a certificate of security—

Production
of
documents
alternative
to
certificates.

- (a) a duplicate copy of a certificate of security issued in accordance with paragraph (b) of subregulation (1) of regulation 3 of these regulations;
- (b) in the case of a motor vehicle of which the owner has made a deposit with the Accountant General to the value of two hundred thousand dollars in accordance with the provisions of paragraph (c) of subsection (4) of section 4 of the Ordinance and has not required such deposit to be returned to him, a certificate in Form E set out in the Schedule to these regulations, signed by the owner of the motor vehicle or by some person authorized by him in that behalf.

Destruction of certificate.

7. Any certificate issued in accordance with paragraph (b) of regulation 6 of these regulations shall be destroyed by the person by whom it was issued before the motor vehicle to which it relates is sold or otherwise disposed of.

Form of certificates.

8. (1) Every certificate issued in pursuance of the Ordinance and of these regulations shall be printed and completed in black on white paper or similar material.

(2) No certificate so issued shall contain any advertising matter either on the face or on the back thereof:

Provided that the name and address of a company and its principal representative in the Colony by whom a certificate is issued, or a reproduction of the seal or any monogram or similar device of the company, and its principal representative in the Colony shall not be deemed to be advertising matter for the purposes of this rule if it is printed or stamped at the foot or on the back of such certificate.

Record of insurance and security.

9. (1) Every company by whom a policy or a security is issued shall keep a record of the following particulars relative thereto and of any certificates issued in connexion therewith—

- (a) full name and address of the person to whom the policy, security or certificate is issued;
- (b) in the case of a policy relating to a specified motor vehicle or to specified motor vehicles, the index mark and registration number of each such motor vehicle;
- (c) the date on which the policy or security comes into force and the date on which it expires;
- (d) in the case of a policy, the conditions subject to which the persons or classes of persons specified in the policy will be indemnified;
- (e) in the case of a security, the conditions subject to which the undertaking given by the company under the security will be implemented;

and every such record shall be preserved for one year from the date of expiry of the policy or security.

(2) Any person who has made a deposit with the Accountant General to the value of two hundred thousand dollars in pursuance of paragraph (c) of subsection (4) of section 4 of the Ordinance and has not required such deposit to be returned to him shall keep a record of the motor vehicles owned by him and of any certificates issued by him under these regulations in respect of such motor vehicles and of the withdrawal or destruction of any such certificates.

(3) Any person, authority, or company by whom records of documents are required to be kept by these regulations shall, without charge, furnish to the Commissioner of Police on request any particulars thereof.

10. Where to the knowledge of a company a policy or security issued by them ceases to be effective without the consent of the person to whom it was issued otherwise than by effluxion of time or by reason of his death, the company shall forthwith notify the Commissioner of Police of the date on which the policy or security ceased to be effective.

Termination of policy or security.

11. Where with the consent of the person to whom it was issued a policy or security is transferred or suspended or ceases to be effective otherwise than by effluxion of time, such person shall forthwith return any relative certificates to the company by whom they were issued, and a new policy or security shall not be issued to that person, nor shall the said policy or security be transferred to any other person, unless and until the certificates have been returned to the company or the company is satisfied that they have been lost or destroyed.

Return of certificate on expiry of policy or security.

12. Where any company by whom a certificate of insurance or a certificate of security has been issued is satisfied that the certificate has become defaced or has been lost or destroyed, they shall, if requested so to do by the person to whom the certificate was issued, issue to him a fresh certificate.

Loss or destruction of certificates.

13. Every statutory declaration made for the purposes of paragraph (c) of subsection (2) of section 10, or of section 14, of the Ordinance shall be delivered forthwith to the insurer by the person making such declaration.

Statutory declaration.

PART III.

14. In this Part—

Inter-pretation.

“Issuing Authority” means the Hong Kong Automobile Association;

“motor vehicle” means a motor vehicle brought into this Colony by a visitor;

“visitor” means a person bringing a motor vehicle into this Colony and making only a temporary stay therein not exceeding three months.

Applica-tion for certificate of foreign insurance.

15. A visitor who is a holder of a policy of insurance issued outside this Colony in respect of third party risks arising out of the driving by him of a motor vehicle in this Colony may make application to the Issuing Authority for a certificate (hereinafter called “a certificate of foreign insurance”) in Form F, set out in the Schedule to these regulations.

Issue of certificate of foreign insurance.

16. The Issuing Authority may issue a certificate of foreign insurance to any visitor who makes application therefor in the manner prescribed by these regulations.

Particulars necessary on application for certificate of foreign insurance.

17. Every such application as aforesaid shall be signed by the person by whom it is made and shall specify the number of the policy in respect of third party risks held by him, the name and address of the company by which it was issued, the date on which the policy commences and the date on which it expires, and shall also contain a declaration by the applicant that the provisions of the policy with respect to third party risks are effective in relation to the driving of the motor vehicle in this Colony by him or by some other person or persons or classes of persons specified in the declaration.

Signature.

18. Every certificate of foreign insurance shall be signed by some person duly authorized in that behalf by the Issuing Authority.

Period of validity.

19. The period of validity of a certificate of foreign insurance shall not exceed the unexpired period covered by the policy to which it relates.

Effect of certificate of foreign insurance.

20. For the purposes of the Ordinance and of regulation 6 of these regulations, a certificate of foreign insurance shall have effect as if it were a certificate of insurance issued by an insurer and the policy of insurance to which it relates shall be deemed to comply with the requirements of the Ordinance.

21. The provisions of section 9 of the Ordinance shall not apply in relation to any policy of insurance in respect of which a certificate of foreign insurance has been issued.

Applica-tion of provisions of Ordinance.

22. A certificate of foreign insurance shall be forthwith returned by the visitor to the Issuing Authority if the motor vehicle to which it relates is sold or otherwise disposed of or if by reason of his obtaining a new policy or otherwise a new certificate of foreign insurance is issued to him during his stay in this Colony, and if the certificate is not so returned it shall be surrendered to the Issuing Authority by or on behalf of the visitor when the motor vehicle is taken out of this Colony.

Disposi-tion of vehicles.

23. The Issuing Authority shall keep a record of the following particulars relative to any certificates of foreign insurance issued by it—

Records of Issuing Authority.

- (a) the full name and address of the person to whom the certificate is issued and particulars of the persons or classes of persons authorized to drive the motor vehicle;
- (b) the date on which the policy of insurance to which the certificate relates commences and the date on which it expires;
- (c) the date of return of the certificate to the Issuing Authority;

and the Issuing Authority shall without charge furnish to the Commissioner Police on request any particulars thereof.

24. Any person who contravenes the provisions of regulation 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 17 or 22 shall be guilty of an offence and shall be liable to a fine of one hundred dollars and to imprisonment for seven days.

Penalties.

SCHEDULE.

(Regulations 3, 5, 6 and 15)

FORM A.

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) ORDINANCE, 1951.

Certificate of Insurance.

Certificate No. *Policy No.*

- 1. Name of Policy holder.
- 2. Date of the commencement of Insurance.

- 3. Date of expiry of Insurance.
 - 4. Index mark and registration number of vehicle
or (if not registered) Make
- Chassis No.

(I)/(We) hereby certify that the policy to which this certificate relates is issued in accordance with the provisions of the above-mentioned Ordinance.

Date of issue

.....
Authorized Insurer.

FORM B.

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) ORDINANCE, 1951.

Certificate of Insurance.

Certificate No. *Policy No.*

- 1. Name of Policy holder.
- 2. Date of the commencement of Insurance.
- 3. Date of expiry of Insurance.
- 4. Description of vehicles.

(I)/(We) hereby certify that the policy to which this certificate relates is issued in accordance with the provisions of the above-mentioned Ordinance.

Date of issue

.....
Authorized Insurer.

FORM C.

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) ORDINANCE, 1951.

Certificate of Insurance.

(I)/(We) hereby certify that this covering note is issued in accordance with the provisions of the above-mentioned Ordinance.

Index Mark and Registration number of vehicle
or (if not registered)

Make Chassis No.

Hour of issue

Date of issue

.....
Authorized Insurer.

FORM D.

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) ORDINANCE, 1951.

Certificate of Security.

Certificate No. *Security No.*
(Optional)

- 1. Name of holder of security.
- 2. Date of the commencement of security.
- 3. Date of expiry of security.
- 4. Conditions to which security is subject.*

(I)/(We) hereby certify that the security to which this certificate relates is issued in accordance with the provisions of the above-mentioned Ordinance.

.....
(authorized under the said Ordinance to issue securities.)

* Conditions rendered inoperative by section 12 of the Motor Vehicles Insurance (Third Party Risks) Ordinance, 1951, are not to be included under this heading.

FORM E.

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) ORDINANCE, 1951.

Certificate of Deposit.

(I)/(We) hereby certify that (I am)/(we are) the (owner)/(owners) of the vehicle of which the registration mark and number are and that in pursuance of the

provisions of paragraph (c) of subsection (4) of section 4 of the abovementioned Ordinance (I)/(we) have made a deposit with the Accountant General to the value of two hundred thousand dollars and have not required such deposit to be returned to (me)/(us).

Signed

on behalf of

FORM F.

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) ORDINANCE, 1951.

Certificate of Foreign Insurance.

Certificate No.

Policy No.


1. Date to which certificate is valid.
2. Identification mark and number or numbers and make of vehicle.
3. Persons or classes of persons authorized to drive the vehicle.
4. Date of commencement of policy.
5. Date of expiry of policy.

I hereby certify that this certificate is issued in accordance with the regulations made under the Motor Vehicles Insurance (Third Party Risks) Ordinance, 1951.

Signed

on behalf of
(Issuing Authority)

Passed the Legislative Council of Hong Kong, this 7th day of November, 1951.

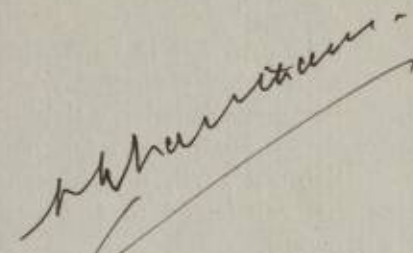

Deputy Clerk of Councils.

HONG KONG

No. 40 OF 1951.



I assent.


Governor.

8th November, 1951.

An Ordinance to confer on third parties rights against insurers of third party risks in the event of the insured becoming insolvent, and in certain other events.

[9th November, 1951.]

1. This Ordinance may be cited as the Third Parties (Rights Short title. against Insurers) Ordinance, 1951.

2. (1) Where under any contract of insurance a person (hereinafter referred to as the insured) is insured against liabilities to third parties which he may incur, then—

- (a) in the event of the insured becoming bankrupt or making a composition or arrangement with his creditors; or
- (b) in the case of the insured being a company, in the event of a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to the company, or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge; or

Rights of third parties against insurers on bankruptcy, etc. of the insured. 20 & 21 Geo. 5, c. 25, s. 1.

(c) in the case of the insured being a co-operative society in the event of an order for cancellation of registration of such co-operative society being made under the Co-operative Societies Ordinance;

(Cap. 33).

if, either before or after that event, any such liability as aforesaid is incurred by the insured, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything in any enactment or rule of law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where an order is made under section 112 of the Bankruptcy Ordinance for the administration of the estate of a deceased debtor according to the law of bankruptcy, then, if any debt provable in bankruptcy is owing by the deceased in respect of a liability against which he was insured under a contract of insurance as being a liability to a third party, the deceased debtor's rights against the insurer under the contract in respect of that liability shall, notwithstanding anything in the said Ordinance, be transferred to and vest in the person to whom the debt is owing.

(Cap. 6).

(3) In so far as any contract of insurance made after the commencement of this Ordinance in respect of any liability of the insured to third parties purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the happening to the insured of any of the events specified in paragraph (a), (b) or (c) of subsection (1) of this section or upon the making of an order under section 112 of the Bankruptcy Ordinance in respect of his estate, the contract shall be of no effect.

(Cap. 6).

(4) Upon a transfer under subsection (1) or subsection (2) of this section, the insurer shall, subject to the provisions of section 4 of this Ordinance, be under the same liability to the third party as he would have been under to the insured, but—

(a) if the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this Ordinance shall affect the rights of the insured against the insurer in respect of the excess; and

(b) if the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this Ordinance shall affect the rights of the third party against the insured in respect of the balance.

(5) For the purposes of this Ordinance, the expression "liabilities to third parties", in relation to a person insured under any contract of insurance, shall not include any liability of that person in the capacity of insurer under some other contract of insurance.

(6) This Ordinance shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company.

3. (1) In the event of any person becoming bankrupt or making a composition or arrangement with his creditors, or in the event of an order being made under section 112 of the Bankruptcy Ordinance in respect of the estate of any person, or in the event of a winding-up order being made with respect to any company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge or of a resolution for a voluntary winding-up being passed with respect to any company, or in the event of an order for cancellation of registration of a co-operative society being made, it shall be the duty of the bankrupt, debtor, personal representative of the deceased debtor, or the company or co-operative society, and, as the case may be, of the trustee in bankruptcy, trustee, liquidator, receiver or manager, or person in possession of the property, to give, at the request of any person claiming that the bankrupt, debtor, deceased debtor, company, or co-operative society, is under a liability to him, such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by this Ordinance and for the purpose of enforcing such rights, if any, and any contract of insurance, in so far as it purports, whether directly or indirectly to avoid the contract or to alter the rights of the parties thereunder upon the giving of any such information in the events aforesaid or otherwise to prohibit or prevent the giving thereof in the said events, shall be of no effect.

Duty to give necessary information to third parties. 20 & 21 Geo. 5, c. 25, s. 2.

(2) If the information given to any person in pursuance of subsection (1) discloses reasonable ground for supposing that there have or may have been transferred to him under this Ordinance rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said subsection on the persons therein mentioned.

(3) The duty to give information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

Settlement
between
insurers
and insured
persons.
20 & 21
Geo. 5,
c. 25, s. 3.

4. Where the insured has become bankrupt or where, in the case of the insured being a company, a winding-up order has been made with respect to the company, or a resolution for a voluntary winding-up has been passed with respect to the company or where, in the case of the insured being a co-operative society, an order for cancellation of registration has been made, no agreement made between the insurer and the insured after liability has been incurred to a third party and after the commencement of the bankruptcy, winding-up or as from the date of such order for cancellation of registration, as the case may be, nor any waiver, assignment or other disposition made by, or payment made to, the insured after the commencement aforesaid shall be effective to defeat or affect the rights transferred to the third party under this Ordinance, but those rights shall be the same as if no such agreement, waiver, assignment, disposition or payment had been made.

Passed the Legislative Council of Hong Kong, this 7th day of November, 1951.

Deputy Clerk of Councils.

HONG KONG

No. 41 OF 1951.



I assent.

Governor.

6th December, 1951.

An Ordinance to authorize the "Star" Ferry Company, Limited, to maintain and operate a ferry service.

[7th December, 1951.]

BE it 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 "Star" Ferry Short Title Company (Service) Ordinance, 1951.

2. In this Ordinance—

- "Company" means the "Star" Ferry Company, Limited;
- "concession" means the sole right to maintain and operate the ferry service;
- "ferry service" means the ferry service authorized by section 4;
- "piers" means the Government pier situated at the northern end of Ice House Street in Victoria and the Government pier at Kowloon Point;
- "undertaking" means all vessels, apparatus and property of whatever nature belonging to the Company and employed in operation of the ferry service.

Inter-pretation.

Concession to Company to maintain and operate ferry service.

3. Subject to the provisions of this Ordinance the Government grants to the Company the sole right to maintain and operate the ferry service authorized by this Ordinance.

Particulars of ferry service. Schedule.

4. The ferry service authorized by this Ordinance is the service described in the Schedule. Such service shall be maintained and operated upon the terms and conditions specified in the Schedule.

Power of Legislative Council to vary Schedule by resolution.

5. The Schedule may be varied at any time, with the consent of the Company, by resolution of Legislative Council: Provided that this section shall not be construed to prejudice the right of the Governor in Council to exercise any power specified in the Schedule as exercisable by him.

Power of Company to make by-laws. Penalties.

6. (1) The Company shall have power to make by-laws for regulating the conditions under which persons and their luggage may be carried in or upon any vessel belonging to the Company in operation of the ferry service, for the prevention of frauds on the Company and for the safe and efficient operation of the service.

(2) Any such by-laws shall be submitted for approval to the Governor in Council and shall be published in the *Gazette* within two weeks after the approval thereof.

(3) Any by-law made under this section may declare any breach of any such by-law to be an offence and may prescribe penalties therefor: Provided that no penalty so prescribed shall exceed a fine of one thousand dollars.

(4) A copy of every by-law clearly printed in English and Chinese in large type shall be posted in a conspicuous place on the Company's business premises and on the piers and also in each vessel of the Company employed in the carriage of passengers in operation of the ferry service.

Power for the Financial Secretary to call upon the Company and certain persons dealing with the

7. (1) It shall be lawful for the Financial Secretary for the purpose of ascertaining the net profits of the Company during any period in respect of which royalty is payable under the terms and conditions contained in the Schedule or of ascertaining whether any deduction which the Company has made or may be seeking to make from profits is reasonable, by writing under his hand to call upon the Company and any person (other than a bank) who has entered into any agreement with the Company or

to whom it has made any payment to produce to such person and at such time and place as may by any general or particular description be specified in such writing such books and statement of account (including bank statements) as he may by such writing require.

Company to produce books and statements of account.

(2) The Company or any person aggrieved by any exercise of the discretion conferred upon the Financial Secretary may appeal to the Governor in Council whose decision shall be final.

(3) Without prejudice to the right of appeal conferred by subsection (2) it shall be an offence to fail to comply with any requirement lawfully made under subsection (1) or any requirement which may have been confirmed or substituted therefor on appeal under subsection (2): Penalty a fine of one hundred dollars in respect of each day during which such failure continues.

8. The Star Ferry Ordinance, 1902, is hereby repealed.

Repeal of Ordinance No. 46 of 1902.

9. Nothing in this Ordinance shall affect or be deemed to affect the rights of His Majesty the King, His Heirs and Successors, or the rights of any body politic or corporate, or of any person except such as are mentioned in this Ordinance and those claiming by from or under them.

Saving of rights of the Crown.

SCHEDULE.

(Section 4).

1. The ferry service authorized shall be the service conducted by the Company for the carriage of persons and their luggage across the harbour of Hong Kong between the piers for the period of fifteen years commencing on the 1st January, 1950, and for the further periods authorized upon exercise of the right of renewal granted by paragraph 19 of this Schedule.

Ferry service.

2. (1) The Company shall use the piers for the purpose of the ferry service: Provided that if the Governor in Council decide at any time to substitute another pier within "the frontage" the Company shall be bound to use such other pier on terms to be agreed or failing agreement on terms to be determined by arbitration.

Piers.

(2) For the purposes of this paragraph "frontage" means—

In Victoria: Praya from the Northern end of Ice House Street to the Western boundary of the Naval Dockyard.

In Kowloon: Kowloon Point from the Eastern side of the public pier at Kowloon Point to the pier to the East of Kowloon Point known as "Holts Wharf".

Pier rent.

3. (1) The Company shall pay as pier rent to the Government for the use of the piers the total sum of \$15,000 per month inclusive of rates. The said rent shall be payable in advance on the first day of each calendar month.

(2) If any other pier be substituted, the amount of the rent therefor shall be such sum as may be agreed between Government and the Company regard being had to the capital cost of the said substituted pier (excluding the cost of frontage) and including interest on capital cost at the rate of 4%: Provided that if such agreed sum results in the monthly total of rent payable as aforesaid being exceeded, then the amount of such excess shall be deducted from the monthly royalty payable under paragraph 5 of this Schedule.

Fares and charges. Appendix I.

4. (1) The fares and charges which may be taken by the Company shall be those specified in Appendix I, or such other fares and charges as may from time to time be fixed by the Governor in Council as fair and reasonable having regard as well to the Company as to the general public.

(2) If by reason of a material change of economic or financial conditions or of any other circumstances affecting the ferry service, the fares and charges for the time being authorized are, in the opinion of the Company, no longer reasonably remunerative, and the Governor in Council upon the request of the Company fails to authorize increased fares and charges to an amount as would, in the opinion of the Company be reasonably remunerative, the question shall be submitted to arbitration, and the Company may charge such increased fares and charges as may be decided upon arbitration to be reasonable, having regard to any change of economic and financial conditions, or other circumstances affecting

the service: Provided that the Governor in Council may at any time, if in his opinion a further change of economic or financial conditions or other circumstances shall have occurred affecting the ferry service and rendering such increased fares and charges unduly high, call upon the Company to make such reduction in the fares and charges as in the opinion of the Governor in Council is reasonable, and if the Company fails to make such reduction voluntarily, the matter shall be referred to arbitration and the fares and charges which the Company shall thereafter be entitled to charge shall be such fares and charges as shall have been decided upon arbitration to be reasonable, having regard to such further change of economic or financial conditions or other circumstances affecting the service.

(3) Whenever under the last preceding sub-paragraph the Governor in Council is of opinion that an increase in fares and charges may be authorized by him or that he would be justified in calling upon the Company to reduce the fares and charges, the Governor in Council may instead vary the rate of royalty in such manner as he may consider reasonable but so that any such variation shall not increase the amount of royalty payable under paragraph 5.

5. (1) In respect of the year ending on the 31st December, 1950, the Company shall within fourteen days of the coming into force of this Ordinance, pay to Government the sum of \$600,000 in full discharge of all sums due by way of royalty under this paragraph or under paragraph 13 for that year. Royalty.

(2) As from the 1st January, 1951, the Company shall pay Government a royalty by way of percentage of the Company's gross monthly receipts upon collection of the fares and charges authorized in Appendix I. The percentage shall be computed in the manner specified in Appendix II and payment in respect of each month shall become due on the 14th day of the subsequent month: Provided that payment of the percentage due from the 1st January, 1951, to the end of the month during which this Ordinance comes into force shall not be deemed to become due until the 14th day of the month next following such lastly mentioned month: Provided further that it shall be lawful

for the Financial Secretary with the object of avoiding in whole or in part any refund under sub-paragraph (3) to direct from time to time the acceptance of payment of a sum which is less than that due under the provisions of this paragraph without prejudice either to the right of Government to demand payment of the full sum due in respect of any month or to final adjustment: Provided also that no royalty shall be payable if and for so long as it is shown to the satisfaction of the Governor in Council that the gross monthly receipts as aforesaid do not exceed the total cost of operating the ferry service.

(3) When in any accounting year of the Company the total royalty payable under sub-paragraph (2) together with the sums payable under paragraph 13 exceeds 25 per cent of the net profit for that year before deductions of such sums then such excess shall be refunded to the Company.

(4) The net profit as aforesaid shall be ascertained in accordance with Part IV of the Inland Revenue Ordinance provided that in making the deductions set forth in section 16 thereof due regard shall be had to the current level of prices and costs, so that any such deduction shall be limited to a sum which in the opinion of the Financial Secretary is reasonable, and so that allowance of any sum by way of depreciation of a capital asset shall be limited to an amount which represents the allowance approved under Part VI of the said Ordinance on what in the opinion of the Financial Secretary is a reasonable price for such asset.

(5) The Financial Secretary and any person authorized by him in writing shall for the purpose of ascertaining the net profit be an authorized representative of the Company for the purposes of section 4 of the Inland Revenue Ordinance to the intent that the Commissioner of Inland Revenue and any assessor or person appointed to carry out duties under the said Ordinance shall on demand by the Financial Secretary without breach of the duties imposed on him by such section disclose all matters relating to the affairs of the Company as the Financial Secretary or such authorized person may require.

(6) In the event of the Company failing to agree with the assessment of net profit made by the Financial Secretary, an

appeal shall lie to the Governor in Council, whose decision shall be final.

6. The Company shall maintain the ferry service in an efficient and adequate manner to the satisfaction of the Governor in Council and shall publish a Schedule subject to the approval of the Director of Marine stating the intended times of departure from the piers.

Company to maintain adequate service.

7. (1) If it be represented in writing to the Governor in Council by the Director of Marine or by fifty inhabitant rate-payers that the Company is not maintaining the ferry service in whole or part in an efficient and adequate manner, the Governor in Council may (if satisfied that the representation merits inquiry) appoint a person or committee of persons to inquire into the matter and report thereon. If upon consideration of such report the Governor in Council is satisfied that the representation is well founded the Governor in Council may issue an order to the Company requiring the Company to remedy such inefficiency or inadequacy in manner specified in such order. Every such order shall be served on the Company and published in the *Gazette*.

Inefficient or inadequate ferry service.

(2) If for the period of three months after the service of such order and its publication in the *Gazette* the Company fails or neglects to comply therewith, the ferry service shall be deemed to have been discontinued and the provisions of paragraph 8 of this Schedule shall apply.

8. (1) If in the opinion of the Governor in Council the Company has discontinued the working of the ferry service or any part thereof for a period of fourteen days the Governor in Council may by order declare the concession to be terminated, and thereupon all the powers and privileges of the Company in respect of the concession shall cease and determine.

Discontinuance of ferry service.

(2) If in the opinion of the Governor in Council the Company has discontinued the working of the ferry service or any part thereof for any period whatsoever it shall be lawful for the Governor in Council notwithstanding the subsistence of the concession to make such arrangements as he may think fit in the public interest for the temporary maintenance of such ferry service or part thereof.

(3) Any net loss incurred by or on behalf of the Government in consequence of the making of any such arrangement as is contemplated in sub-paragraph (2) shall be recoverable by the Government from the Company.

(4) The fact that any such arrangement as is contemplated in sub-paragraph (2) has been made shall not prevent the running of the period of fourteen days referred to in sub-paragraph (1).

(5) This paragraph shall not apply to any discontinuance which in the opinion of the Governor in Council is due to circumstances beyond the control of the Company, but the want of sufficient funds shall not for the purpose of this paragraph be deemed to be a circumstance beyond the control of the Company.

Insolvency of Company.

9. If it appears to the Governor in Council that the Company is insolvent so that it is unable to maintain the ferry service or any part thereof or to operate the same with advantage to the public, the Governor in Council may inquire into the financial affairs of the Company, and if satisfied that the Company is so insolvent as aforesaid may by order declare that the concession shall at the expiration of three months from the making of the order be at an end and the concession shall cease and determine at the expiration of the said period.

Non-payment of pier rent or royalty.

10. If the Governor in Council be satisfied that the Company has without just cause or excuse failed to pay pier rent or royalty when due, it shall be lawful for the Governor in Council by order to be served on the Company and published in the *Gazette* to direct that the concession at the expiration of three months from the making of the order be at an end and the concession shall cease and determine at the expiration of the said period.

Repair of piers.

11. The Company shall at its own expense maintain and keep in repair the piers and carry out any alterations which may be required by the Company and approved by the Director of Public Works from time to time: Provided that the Company shall not be responsible for the cost of repairs due to Act of God, Civil Commotion, War or latent defects, but the onus of proving the cause and the extent of the damage shall rest upon the Company.

12. Except as may be permitted by the Governor in Council, the Company shall not use the piers for any purpose other than the requirements of the ferry service. Use of piers.

13. Subject to the provisions of the Advertisements Regulation Ordinance, the Company may use the piers for advertising purposes: Provided that eighty per cent of the revenue derived by the Company from such purposes shall be paid to Government. Advertis-
ing on
piers.
(Cap. 52).

14. The Company shall not assign or transfer the concession or any powers rights or privileges granted thereunder without the permission of the Governor in Council. Not to
assign.

15. To enable the Accountant General to satisfy himself as to the correctness of the amount of each royalty payment the Company shall with each payment furnish to the Accountant General complete monthly traffic accounts duly certified and audited and give the Accountant General all reasonable facilities for inspection of the Company's records and complete statements showing the computation of the royalty due to the Government as may be required by the Accountant General. Facilities
for
Accountant
General.

16. (1) The Company has represented that the Company is and will continue to be a public Company; that the Company's shares are and will continue to be freely transferable without interference from the directorate; that the majority of the directorate are and will continue to be British subjects; that the management and the administrative staff or an effective majority thereof to the satisfaction of the Governor in Council, are and will be British subjects; that the control is and will be within the Colony and essentially British; that all the books and accounts of the Company will be kept in the English language; that at all times and in all circumstances (including any and every emergency) the Government may be assured that the ferry service will be duly and loyally maintained; and that the situation as above will continue and be observed with the utmost good faith during the subsistence of the concession. Such representation shall be the basis upon which the Company may maintain the ferry service and if at any time the Governor in Council be satisfied that any such representation as aforesaid has failed then the Governor in Council may terminate the concession, in which event the ferry service shall be deemed to have been discontinued and the provisions of sub-paragraphs (2) and (3) of paragraph 8 shall apply. British
interest.

(2) The inclusion in the Articles of Association of Articles containing the restrictions expressly or impliedly contained in the Articles contained in Appendix III shall not be deemed to be a breach of the representations contained in paragraph 1 and it is hereby declared that the Company shall not by this paragraph be deemed to be precluded from altering such Articles provided that such alteration does not authorize any greater interference by the directorate with the free transfer of the Company's shares than is sanctioned by the Articles contained in Appendix III.

(3) For the purposes of this paragraph, "British subject" means a citizen of the United Kingdom and Colonies or a Commonwealth citizen.

Com-
pulsory
purchase.

17. (1) The Governor in Council may, on giving ten months' notice, expiring at the expiration of the concession, such notification to be published in the *Gazette*, require the Company to sell, and thereupon the Company shall sell, to the Government its undertaking for and in consideration of the then value of the same without any addition in respect of goodwill, compulsory purchase, expectation or possibility of renewal, or of any profits which might have been made from the undertaking.

(2) The power of compulsory purchase given by subparagraph (1) shall apply also to any event upon which under the provisions of this Schedule the ferry service has been discontinued or must be deemed to have been discontinued save that in such case no period of notice shall be required and the powers may be exercised by notification published in the *Gazette* at any time after the occurrence of such event.

Arbitration.

18. (1) Every arbitration in respect of the concession shall be heard and determined by a board of arbitrators which shall in each case consist of three members and be constituted in manner following—

(i) the chairman of the board shall be such judge of the Supreme Court as the Chief Justice may designate;

(ii) the two other members of the board shall consist of one member to be nominated by the Governor and the other by the Company: Provided always that the member nominated by the Governor may be a public officer;

(iii) notice in writing of the nomination by the Governor of a member of the board shall be given forthwith to the Company and shall be published in the

Gazette, and if the Company does not nominate a member of the board within seven days from the date of such publication, it shall be lawful for the chairman to nominate and appoint any person, other than a public officer, on behalf of the Company.

(2) (a) The constitution of any board shall be notified in the *Gazette* and within fourteen days from such notification the board shall commence its sittings at such time and place as the chairman may appoint.

(b) The Governor may appoint a secretary to the board and, if the person appointed be not a public officer, may determine his remuneration.

(c) The remuneration of any member of the board shall be assessed according to the amount of work, the time occupied and the complexity of the subject matter of the arbitration and shall be determined in each case by the chairman at the conclusion of the arbitration: Provided that nothing herein contained shall authorize the payment of remuneration to a public officer.

(3) Subject as herein provided every arbitration shall be conducted in accordance with the provisions of the Code of Civil Procedure and as though the parties concerned in the arbitration had entered into a written agreement to submit to arbitration.

(Cap. 4,
rules).

19. (1) The Government will on the written request of the Company made on or before 31st December, 1963, and if there be not at that date any existing breach or non-observance by the Company of any of the terms and conditions specified in this Schedule, permit the continuance of the concession for a further term of five years from the 1st January, 1965, and subject to the said terms and conditions.

Right of
renewal.

(2) The Government will on the written request of the Company made on or before 31st December, 1968, and if there be not at that date any existing breach or non-observance by the Company of any of the terms and conditions specified in this Schedule, permit the continuance of the concession for a second term of five years from the expiration of the last preceding term of five years, and subject to the said terms and conditions.

(3) The Government will on the written request of the Company made on or before 31st December, 1973, and if there be not at that date any existing breach or non-observance by the Company of any of the terms and conditions specified in this

Schedule, permit the continuance of the concession for a third and final term of five years from the expiration of the last preceding term of five years and subject to the said terms and conditions, with the exception of any further right of renewal and so that the total term of the concession shall not extend beyond 31st December, 1979.

Special emergency.

20. Notwithstanding anything herein contained, in the event at any time of any special emergency, the Governor in Council being the sole judge of the occasion and duration of such emergency, the Governor in Council may direct that the Government shall take over the ferry service and continue the same, with or without modification, or suspend the same, as the Governor in Council shall see fit until the emergency no longer exists. The amount (if any) due to the Company consequent upon any such order as aforesaid shall in the absence of agreement be determined by arbitration.

APPENDIX I.

FARES AND CHARGES.

	<i>Per Trip.</i>
First class, passenger, adult	20 cents.
" " " , children under 16 years	10 cents.
Members of His Majesty's Forces in uniform	10 cents.
Children (accompanied) under 3 years	Free.
Second class, passenger	10 cents.
Children (accompanied) under 3 years	Free.
 <i>Monthly Tickets. (Valid for Current Calendar Month Only.)</i>	
Adult	\$8.00
Children under 16 years	\$4.00

No fares or charges shall be collected in respect of members of the Hong Kong Police Force, Police Reserve or Special Constabulary travelling on duty.

APPENDIX II.

ROYALTY.

<i>Amount of Gross Monthly Receipts expressed in Thousands of Dollars.</i>	<i>Percentage Rate of Royalty.</i>
If not exceeding 200	No royalty payable.
Exceeding 200 but not exceeding 210	\$ 5.00
" 210 " " " 220	5.33
" 220 " " " 230	5.67
" 230 " " " 240	6.00
" 240 " " " 250	6.33
" 250 " " " 260	6.67
" 260 " " " 270	7.00
" 270 " " " 280	7.33
" 280 " " " 290	7.67
" 290 " " " 300	8.00
" 300 " " " 310	8.33
" 310 " " " 320	8.67
" 320 " " " 330	9.00
" 330 " " " 340	9.33
" 340 " " " 350	9.67
" 350 " " " 360	10.00
" 360 " " " 370	10.33
" 370 " " " 380	10.67
" 380 " " " 390	11.00
" 390 " " " 400	11.33
" 400 " " " 410	11.67
" 410 " " " 420	12.00
" 420 " " " 430	12.33
" 430 " " " 440	12.67
" 440 " " " 450	13.00
" 450 " " " 460	13.33
" 460 " " " 470	13.67
" 470 " " " 480	14.00
" 480 " " " 490	14.33
" 490 " " " 500	14.67
" 500	15.00

APPENDIX III.

RESTRICTION ON HOLDING OF SHARES.

Notwithstanding any of the provisions of these Articles of Association no shareholder shall without the sanction of the Directors be entitled at any time to be registered as the holder of more than one-tenth of the capital of the Company issued for the time being: Provided nevertheless that the registration of a transfer of shares whereby the holding of any shareholder is increased beyond the said amount shall be conclusive evidence that the sanction of the Directors to such increased holding has been given, but shall not be evidence that the Directors have sanctioned any further increase by such shareholder in his holding.

FORFEITURE AND LIEN.

If any member fail to pay any call or instalment on or before the day appointed for the payment of the same, the Directors may, at any time thereafter during such time as the call or instalment remains unpaid, serve a notice on such member requiring him to pay the same, together with any interest that may have accrued and all expenses that may have been incurred by the Company by reason of such non-payment.

The notice shall name a day (not being less than twenty-one days from the date of such notice), and a place or places, on and at which such call or instalment and such interest and expenses as aforesaid are to be paid. The notice shall also state that, in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call or instalment is payable will be liable to forfeiture.

If the requisitions of any such notice as aforesaid are not complied with, any shares in respect of which such notice has been given may, at any time thereafter, before payment of all calls or instalments, interest and expenses due in respect thereof, be forfeited by a resolution of the directors to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited shares, and not actually paid before the forfeiture.

Any share so forfeited shall be deemed to be the property of the Company and the directors may sell, re-allot, and otherwise dispose of the same in such manner as they think fit.

The Company shall have a first and paramount lien upon all the shares registered in the name of each member (whether solely or jointly with others) and upon the proceeds of sale thereof, for

his debts, liabilities and engagements, solely or jointly with any other person, to or with the Company, whether the period for the payment, fulfilment or discharge thereof shall have actually arrived or not, and the creation of any equitable interest in any share shall be subject to the condition that the Company shall not be bound to recognize such interest except if so ordered by a competent court or if so required by any law in force in the Colony. And such lien shall extend to all dividends from time to time declared in respect of such shares. Unless otherwise agreed, the registration of a transfer of shares shall operate as a waiver of the Company's lien (if any) on such shares.

For the purpose of enforcing such lien, the directors may sell the shares subject thereto in such manner as they think fit; but no sale shall be made until notice in writing of the intention to sell shall have been served on such member, or on his executors or administrators, and default shall have been made by him or them in the payment, fulfilment or discharge of such debts, liabilities or engagements for seven days after the service of such notice.

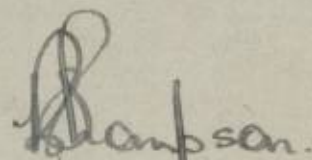
TRANSFER AND TRANSMISSION OF SHARES.

(Directors may refuse to register a transfer.)

(a) The directors may decline to register any transfer of shares upon which the Company has a lien; and in the case of shares not being fully paid shares may refuse to register a transfer to a transferee of whom they do not approve.

(b) In any case in which the directors shall refuse to register any transfer of shares they shall within two months of the date upon which such transfer was lodged send to the transferee notice of the refusal.

Passed the Legislative Council of Hong Kong, this 5th day of December, 1951.



Deputy Clerk of Councils.

HONG KONG

No. 42 OF 1951.

I assent.



McChambers
Governor.

6th December, 1951.

An Ordinance to amend the Interpretation Ordinance, (Cap. 1).

[7th December, 1951.]

BE it 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 Interpretation Short title. (Amendment) Ordinance, 1951.

2. Section 14 of the principal Ordinance is amended by the repeal and replacement of paragraph (h) thereof by the following paragraph—

“reference to enactment to include regulations thereunder.

(h) a reference in an enactment to an enactment, including any imperial enactment and including also the enactment of which the enactment containing the reference forms part, shall be deemed to include reference to regulations made or to be made under the enactment to which the reference applies.”

Replace-
ment of
paragraph
(h) of
section 14
of Cap. 1.

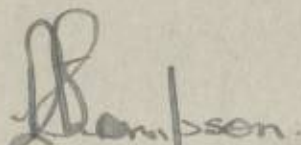
Replace-
ment of
section 16
of Cap. 1.

3. Section 16 of the principal Ordinance is repealed and replaced by the following section—

"Extent
of power
to make
public
instruments
and
perform
acts of a
similar
nature.

16. Where by or under any enactment power is given to the Governor or to the Governor in Council or to any public officer or body to make, issue or approve any order, proclamation, instrument, declaration, direction, instruction, notification, register or list, it shall include the power of amending or suspending such order, proclamation, instrument, declaration, direction, instruction, notification, register or list, or withdrawing approval thereof and of declaring the date of its coming into force and the period of its operation and also of substituting another therefor: Provided that where any Ordinance is to come into operation on a day to be fixed by proclamation, the power to issue such proclamation shall not in the absence of express provision include (except in the case of and for the purpose of correcting any mistake therein) the power of amending or suspending the same."

Passed the Legislative Council of Hong Kong, this 5th day of December, 1951.

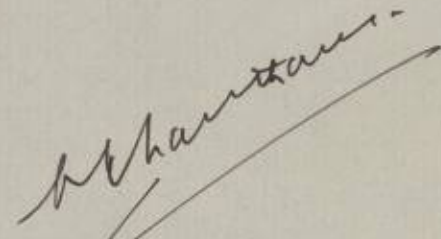

Deputy Clerk of Councils.

HONG KONG

No. 43 OF 1951.



I assent.


Governor.

20th December, 1951.

An Ordinance to amend the Public Order Ordinance, Chapter 245.

[21st December, 1951.]

BE it 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 Order Short title. (Amendment) (No. 2) Ordinance, 1951.

2. Sections 9, 10, 11 and 12 of the principal Ordinance are hereby amended by—

Amendment
of sections
9 to 12
inclusive
of Cap.
245.

- (a) the deletion of the symbols and figure "(1)" where they appear in the first line of each section;
- (b) the deletion of subsection (2) of each section.

3. Section 13 of the principal Ordinance is hereby amended by the insertion immediately after the figure "3" in the third line thereof of the words "or any condition contained in any permit or permission issued under Part II".

Amendment
of section
13 of Cap.
245.

Addition
of new
section as
section 14
to Cap.
245.

4. The principal Ordinance is hereby amended by the addition of the following new section as section 14 immediately after section 13 thereof—

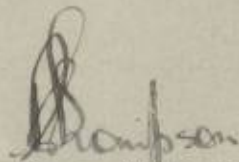
“Powers.

14. (1) Any police officer and any member of His Majesty's forces shall have power to enforce compliance with any Order made under Part II and with the conditions of any permit or permission issued thereunder and section 25 of the Interpretation Ordinance shall in any such case apply and be deemed to include power to effect the arrest of any person failing to comply with any such Order or condition.

(Cap. 1.)

(2) Any police officer and any member of His Majesty's forces and any person posted to guard a closed area by or under the authority of the Commander British Forces is hereby authorized to effect the arrest of any person whom he finds in a closed area, or attempting to enter such area without proper authority or whom he finds committing an offence within such area or reasonably suspects of having committed an offence within such area: Provided that any person arrested under the provisions of this section shall be handed over to a member of the police force as soon as conveniently may be and that section (Cap. 232.) 47 of the Police Force Ordinance shall apply to any such person.”

Passed the Legislative Council of Hong Kong, this 19th day of December, 1951.



Deputy Clerk of Councils.

D. 1 S. No 8/18

PUBLIC RECORDS OFFICE
OF HONG KONG

H.K.R.S. No. 30

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