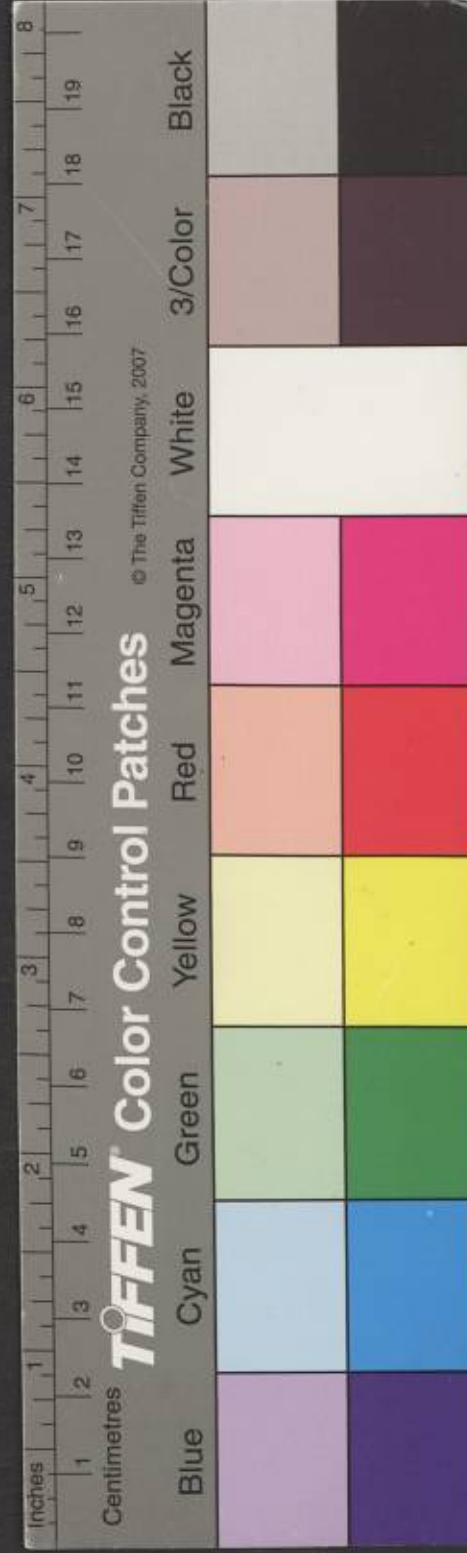


D.4S.Nº 8/38

ORDS.
OF
H. K.

1971



HONG KONG

No. 1 OF 1971.



I assent.

Hauch.

Governor.

21st January, 1971.

An Ordinance to amend the law relating to the distribution of
intestates' estates.

[]

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 Intestates' Estates
Ordinance 1971 and shall come into operation on a day to be
appointed by the Governor by notice in the *Gazette*.

Short title and
commencement.

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

Interpretation.

"court" means the Supreme Court;

"estate" means real and personal estate;

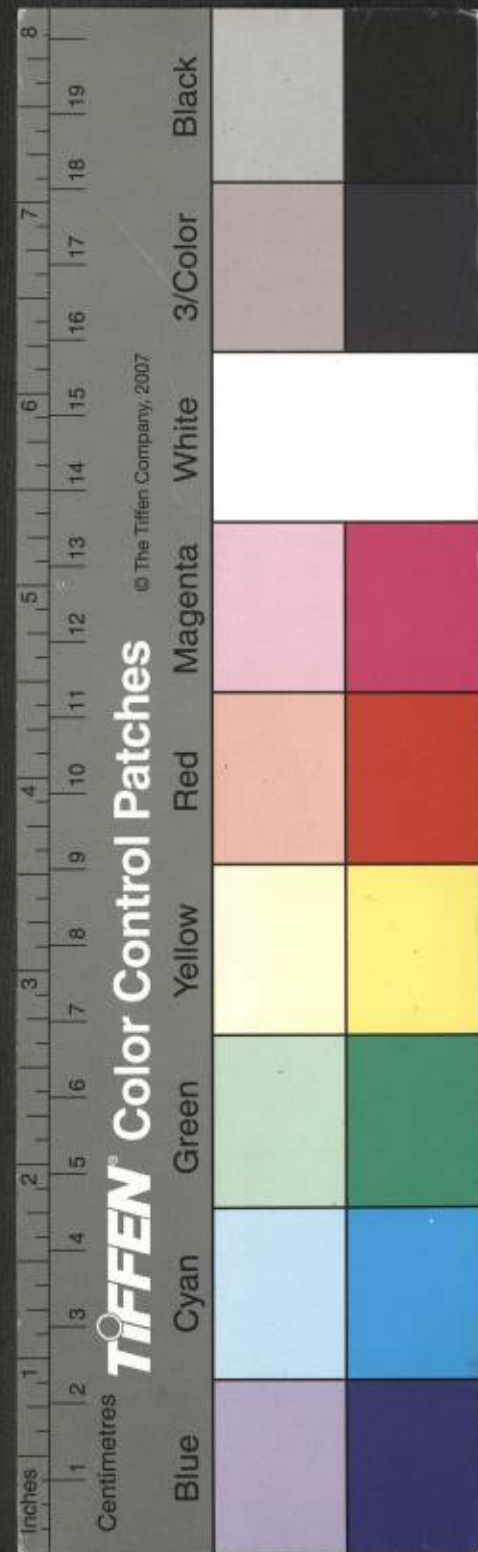
"husband" and "wife", in relation to a person, mean a husband
or wife of that person by a valid marriage;

"intestate" includes a person who leaves a will but dies intestate
as to some beneficial interest in his estate;

1925, c. 23, s. 55(1).

"personal chattels" means motor cars and accessories, garden
effects, horses, domestic animals, plate, plated articles, linen,

1925, c. 23, s. 55(1).



china, glass, books, pictures, prints, furniture, jewellery, antiques, curios, articles of household or personal use or ornament, musical and scientific instruments and apparatus, wines, liquors and consumable stores; but does not include any chattels used exclusively or principally at the death of the intestate for business or professional purposes nor money or securities for money;

"residuary estate" means every beneficial interest in an estate as to which a person dies intestate, after payment of all such funeral and administration expenses, debts and other liabilities as are properly payable thereout, which (otherwise than in right of a power of appointment) he could, if of full age and capacity, have disposed of by his will.

(2) References in this Ordinance to a child or issue of any person shall mean—

- (a) a child of a valid marriage to which that person was a party;
- (b) if that person is a female, a child of a valid marriage to which her husband and another female were parties; and
- (c) a child adopted by that person—
 - (i) in pursuance of an adoption order made under the Adoption Ordinance; or
 - (ii) by an adoption to which section 17 of the Adoption Ordinance applies.

(Cap. 290.)

1925, c. 23, s. 55(2).

(3) References in this Ordinance to a child or issue living at the death of any person include a child or issue *en ventre sa mère* at the death.

(4) References in this Ordinance to a brother or sister of a person mean a brother or sister who is a child of the same father as that person.

Valid marriage.

3. (1) For the purposes of this Ordinance, "valid marriage" means—

- (a) a marriage celebrated or contracted in accordance with the provisions of the Marriage Ordinance;
- (b) a modern marriage validated by the Marriage Reform Ordinance 1970;
- (c) a customary marriage declared to be valid by the Marriage Reform Ordinance 1970;
- (d) a marriage celebrated or contracted outside Hong Kong in accordance with the law in force at the time and in the place where the marriage was performed.

(Cap. 181.)

(68 of 1970.)

4. (1) The residuary estate of an intestate shall be distributed in the manner or be held on the trusts mentioned in this section.

Succession to estate on intestacy.
1925, c. 23, s. 46.

(2) If the intestate leaves a husband or wife and leaves—

- (a) no issue; and
- (b) no parent, or brother or sister, or issue of a brother or sister,

the residuary estate shall be held in trust for the surviving husband or wife absolutely.

(3) If the intestate leaves a husband or wife and issue, whether or not persons mentioned in paragraph (b) of subsection (2) also survive, the residuary estate of the intestate shall stand charged with the payment of a net sum of twenty-five thousand dollars, free of death duties and costs, to the surviving husband or wife with interest thereon from the date of the death at the rate of five dollars *per centum per annum* until paid or appropriated, and, subject to providing for that sum and the interest thereon, the residuary estate shall be held—

- (a) as to one half, in trust for the surviving husband or wife absolutely; and
- (b) as to the other half, on the statutory trusts for the issue of the intestate.

(4) If the intestate leaves no issue but does leave a husband or wife and one or more of the following, that is to say, a parent, a brother or sister, or issue of a brother or sister, the residuary estate of the intestate shall stand charged with the payment of a net sum of one hundred thousand dollars, free of death duties and costs, to the surviving husband or wife with interest thereon from the date of the death at the rate of five dollars *per centum per annum* until paid or appropriated, and, subject to providing for that sum and the interest thereon, the residuary estate shall be held—

- (a) as to one half, in trust for the surviving husband or wife absolutely; and
- (b) as to the other half—

(i) where the intestate leaves one parent or both parents (whether or not brothers or sisters of the intestate or their issue also survive) in trust for the parent absolutely or, as the case may be, for the two parents in equal shares absolutely; or

(ii) where the intestate leaves no parent, on the statutory trusts for the brothers and sisters of the intestate.

(5) If the intestate leaves issue but no husband or wife the residuary estate of the intestate shall be held on the statutory trusts for the issue of the intestate.

(6) If the intestate leaves no husband or wife and no issue but both parents, then the residuary estate of the intestate shall be held in trust for the father and mother in equal shares absolutely.

(7) If the intestate leaves no husband or wife and no issue but one parent, then the residuary estate of the intestate shall be held in trust for the surviving father or mother absolutely.

(8) If the intestate leaves no husband or wife and no issue and no parent, then the residuary estate of the intestate shall be held in trust for the following persons living at the death of the intestate, and in the following order and manner, namely—

firstly, on the statutory trusts for the brothers and sisters of the intestate; but if no person takes an absolutely vested interest under such trusts; then

secondly, for the grandparents of the intestate and, if more than one survive the intestate, in equal shares; but if there is no member of this class; then

thirdly, on the statutory trusts for the uncles and aunts of the intestate, who are brothers or sisters of a parent of the intestate.

(9) In default of any person taking an absolute interest under the foregoing provisions, the residuary estate of the intestate shall belong to the Crown as *bona vacantia* and the Crown may (without prejudice to any other powers), out of the whole or any part of the property devolving on it, provide for dependants, whether kindred or not, of the intestate, and other persons for whom the intestate might reasonably have been expected to make provision.

(10) A husband and wife shall for all purposes of distribution or division under the foregoing provisions of this section be treated as two persons.

(11) Where the intestate and the intestate's husband or wife have died in circumstances rendering it uncertain which of them survived the other this section shall have effect as respects the intestate as if the husband or wife had not survived the intestate.

(12) The interest payable on the net sum of twenty-five thousand dollars or such lesser sum, as the case may be, payable to the surviving husband or wife under subsection (3) and the interest payable on the net sum of one hundred thousand dollars or such lesser sum, as the case may be, payable to the surviving husband or wife under subsection (4) shall be primarily payable out of income.

(13) The Legislative Council may, from time to time, by resolution vary either or both of the net sums charged by subsections (3) and (4), and any reference in this Ordinance, or in any other Ordinance, to either of such net sums shall have effect as a reference to the corresponding net sum as varied under this subsection.

(14) Any resolution under subsection (13) varying the amount of either of such net sums shall have effect in relation to the estate of any person dying after the coming into force of the resolution.

5. (1) Where under this Ordinance the residuary estate of an intestate, or any part thereof, is directed to be held on the statutory trusts for the issue of the intestate, the same shall be held upon the following trusts, namely—

- (a) in trust, in equal shares if more than one, for all or any of the children or child of the intestate, living at the death of the intestate, who attain the age of twenty-one years or marry under that age, and for all or any of the issue living at the death of the intestate who attain the age of twenty-one years or marry under that age of any child of the intestate who predeceases the intestate, such issue to take through all degrees, according to their stocks, in equal shares if more than one, the share which their parent would have taken if living at the death of the intestate, but no issue shall take whose parent is living at the death of the intestate and is so capable of taking;
- (b) the statutory power of advancement, and the statutory provisions which relate to maintenance and accumulation of surplus income, shall apply, but when an infant marries such infant shall be entitled to give valid receipts for the income of the infant's share or interest;
- (c) where the property held on the statutory trusts for the issue is divisible into shares, then any money or property which, by way of advancement or on the marriage of a child of the intestate, has been paid to such child by the intestate or settled by the intestate for the benefit of such child (including any life or lesser interest and including property covenanted to be paid or settled) shall, subject to any contrary intention expressed or appearing from the circumstances of the case, be taken as being so paid or settled in or towards satisfaction of the share of such child or the share which each child would have taken if living at the death of the intestate, and shall be brought into account, at a valuation (the value to be reckoned as

Statutory trusts in favour of issue and other classes of relatives of intestate.
1925, c. 23, s. 47.

at the death of the intestate), in accordance with the requirements of the personal representatives;

- (d) the personal representatives may permit any infant contingently interested to have the use and enjoyment of any personal chattels in such manner and subject to such conditions, if any, as the personal representatives may consider reasonable, and without being liable to account for any consequential loss.

(2) If the trusts in favour of the issue of the intestate fail by reason of no child or other issue attaining an absolutely vested interest—

- (a) the residuary estate of the intestate and the income thereof and all statutory accumulations, if any, of the income thereof, or so much thereof as may not have been paid or applied under any power affecting the same, shall go, devolve and be held under the provisions of this Ordinance as if the intestate had died without leaving issue living at the death of the intestate;
- (b) references in this Ordinance to the intestate "leaving no issue" shall be construed as "leaving no issue who attain an absolutely vested interest";
- (c) references in this Ordinance to the intestate "leaving issue" or "leaving a child or other issue" shall be construed as "leaving issue who attain an absolutely vested interest".

(3) Where under this Ordinance the residuary estate of an intestate or any part thereof is directed to be held on the statutory trusts for any class of relatives of the intestate, other than issue of the intestate, the same shall be held on trusts corresponding to the statutory trusts for the issue of the intestate (other than the provision for bringing any money or property into account) as if such trusts (other than as aforesaid) were repeated with the substitution of references to the members or member of that class for references to the children or child of the intestate.

(4) References in subsection (2), (3) or (4) of section 4 to the intestate leaving, or not leaving, a member of the class consisting of brothers or sisters of the intestate and issue of brothers or sisters of the intestate shall be construed as references to the intestate leaving, or not leaving, a member of that class who attains an absolutely vested interest.

(5) Where the trusts in favour of any class of relatives of the intestate, other than issue of the intestate, fail by reason of no member of that class attaining an absolutely vested interest, the

residuary estate of the intestate and the income thereof and all statutory accumulations, if any, of the income thereof, or so much thereof as may not have been paid or applied under any power affecting the same, shall, by virtue of subsections (2) and (3) of this section, go, devolve and be held under the provisions of this Ordinance as if the intestate had died without leaving any member of that class, or issue of any member of that class, living at the death of the intestate.

6. The personal representatives may raise the net sum of twenty-five thousand dollars or one hundred thousand dollars, as the case may be, or any part thereof and the interest thereon payable to the surviving husband or wife of the intestate on the security of the whole or any part of the residuary estate of the intestate, so far as that estate may be sufficient for the purpose or the said sum and interest thereon may not have been satisfied by an appropriation under the statutory power available in that behalf under section 7.

Powers of personal representatives in respect of sums payable to surviving husband or wife.
1925, c. 23, s. 48(2).

7. (1) Where the residuary estate of an intestate stands charged with the payment of the net sum of twenty-five thousand dollars or one hundred thousand dollars, as the case may be, or the said sum as diminished in accordance with section 8, to the surviving husband or wife, the surviving husband or wife may in writing require the personal representatives to appropriate any personal chattel in or towards the satisfaction of all or part of the said net sum of twenty-five thousand dollars or one hundred thousand dollars, as the case may be, or the said sum so diminished, and the interest thereon.

Right of surviving spouse to require chattels to be appropriated.

(2) A right conferred by this section shall not be exercisable after the expiration of six months from the first grant of administration to the estate of the intestate.

(3) For the purposes of such appropriation, the personal representatives may ascertain and fix the values of the respective personal chattels to be appropriated and may for that purpose employ a duly qualified valuer in any case where such employment may be necessary and may make any transfer of the personal chattels appropriated which may be requisite for giving effect to the appropriation.

(4) An appropriation shall not be made under this section unless notice of the intended appropriation has been served on all parties entitled to a share in the residuary estate (other than persons who may come into existence after the time of the appropriation or who cannot after reasonable inquiry be found or ascertained at that time) anyone of which parties may within six weeks

from the service of such notice on him apply to the court to prohibit the appropriation.

(5) Unless the court on an application made to it under subsection (4) otherwise directs, and appropriation made pursuant to this section shall bind all persons interested in the residuary estate of the intestate under this Ordinance.

(6) Where the surviving husband or wife is a personal representative the powers conferred by this section may be exercised in his or her own favour.

(7) An appropriation made under this section shall be satisfaction, to the amount of the value of the personal chattels appropriated, of the net sum of twenty-five thousand dollars or one hundred thousand dollars, as the case may be, payable to the surviving husband or wife or that sum diminished in accordance with section 8, and interest on that sum.

(8) If the surviving husband or wife is a person of unsound mind the right under this section may be exercised on behalf of such husband or wife by the guardian or committee of such husband or wife.

(9) The exercise of the right under this section by a surviving husband or wife who is an infant shall be as valid and binding as it would be if the surviving husband or wife were of age.

8. (1) Where any person dies leaving a will effectively disposing of part of his property or any interest therein, this Ordinance shall have effect as respects the part of his property, not so disposed of subject to the provisions contained in the will and subject further to the following modifications—

(a) where the deceased leaves a husband or wife who acquires any beneficial interests under the will of the deceased (other than personal chattels specifically bequeathed) the references in this Ordinance to the net sum of twenty-five thousand dollars or one hundred thousand dollars, as the case may be, payable to a surviving husband or wife, and to interest on that sum, shall be taken as references to the said sum diminished by the value at the date of death of the said beneficial interests, and to interest on that sum as so diminished and, accordingly, where the said value exceeds the said sum, this Ordinance shall have effect as if references to the said sum, and interest thereon, were omitted;

(b) the requirements of section 5 as to bringing property into account shall apply to any beneficial interests acquired

Application to cases of partial intestacy.
1925, c. 23, s. 49.

by any issue of the deceased under the will of the deceased, but not to beneficial interests so acquired by any other person.

(2) References in subsection (1) to beneficial interests acquired under a will shall be construed as including a reference to a beneficial interest acquired by virtue of the exercise by the will of a general power of appointment, but not of a special power of appointment.

(3) For the purposes of subsection (1) the personal representatives shall employ a duly qualified valuer in any case where such employment may be necessary.

9. Subject to his rights and powers for the purposes of administration the personal representative of any person dying intestate shall be a trustee for the persons beneficially entitled under this Ordinance in respect of the residuary estate of the deceased unless it appears from the will, if any, of the deceased that he is to take the residuary estate beneficially.

Personal representative trustee of residuary estate.
1830, c. 40, s. 1.

10. (1) References to any Statutes of Distribution in an instrument *inter vivos* made, or in a will coming into operation, after the commencement of this Ordinance shall, unless the context otherwise requires, be construed as references to this Ordinance; and references in such an instrument or will to statutory next-of-kin shall, unless the context otherwise requires, be construed as referring to the persons who take beneficially on an intestacy under this Ordinance.

Construction of documents.
1925, c. 23, s. 50.

(2) Trusts declared by reference to any Statutes of Distribution in an instrument *inter vivos* made, or in a will coming into operation, before the commencement of this Ordinance shall, unless the contrary thereby appears, be construed as referring to the law relating to the distribution of effects of intestates which was in force immediately before the commencement of this Ordinance.

11. (1) Nothing in this Ordinance shall be taken to affect the application of the provisions of Part II of the New Territories Ordinance to land to which Part II of that Ordinance applies and which has not been exempted by the Governor under subsection (2) or (3) of section 7 of that Ordinance from the provisions of Part II of that Ordinance and the said provisions shall continue to apply to such land to the same extent and with the same effect as if this Ordinance had not been enacted.

Land to which Part II of the New Territories Ordinance applies.
(Cap. 97.)

(2) Land to which this section applies shall continue to devolve upon intestacy in like manner as it would have devolved if this Ordinance had not been passed.

(3) In this section "land" has the meaning attaching to it under section 2 of the New Territories Ordinance.

Amendments.

12. (1) The Schedule to the Application of English Law Ordinance is amended—

- (a) by deleting "3, 4," in the fourth column of item 15;
- (b) by deleting ", 11 and 24" in the fourth column of item 16 and substituting the following—
"and 11"; and
- (c) by deleting "Sections 6 and 7" in the fourth column of item 19 and substituting the following—
"Section 6".

(Cap. 351.)

(2) The Schedule to the Imperial Enactments Extension Ordinance is amended by deleting all references therein to the Act entitled "An Act for the uniform administration of Intestates' Estates" (19 & 20 Vict. c. 94).

(3) Nothing in this section shall be taken to affect the distribution of the estate of any person who dies prior to the commencement of this Ordinance.

Application of Ordinance.

13. This Ordinance shall have effect as regards any person dying intestate after the commencement of this Ordinance.

Transitional provisions for concubinage. Schedule. (68 of 1970.)

14. (1) The provisions of the Schedule shall have effect with regard to a union of concubinage entered before the appointed day under the Marriage Reform Ordinance 1970.

(2) In this section and in the Schedule, "union of concubinage" means a union of concubinage, entered by a male partner and a female partner before the appointed day under the Marriage Reform Ordinance 1970, under which union the female partner has, during the lifetime of the male partner, been accepted by his wife as his concubine and recognized as such by his family generally.

SCHEDULE.

[s. 14.]

Interpretation.

1. In this Schedule—

- "child" means the child of a union of concubinage;
- "party to a union of concubinage" means a *tsip* or a male partner of such a union;
- "*tsip*" means the female partner of a union of concubinage.

Application of Ordinance to child of union of concubinage.

2. The Ordinance shall apply to a child, as defined in paragraph 1, as it applies to a child as defined in section 2 and all references in the Ordinance (other than in this Schedule) shall be construed accordingly.

3. The Ordinance shall apply to a party to a union of concubinage to the extent set out in paragraph 4 and section 4 shall be modified accordingly.

Application of Ordinance to party to union of concubinage.

4. (1) Where the intestate is at the time of his death a party to one union of concubinage and the residuary estate is held on trust for the surviving wife absolutely in accordance with subsection (2) of section 4, one third of the residuary estate shall be held on trust for the *tsip* of that union of concubinage absolutely.

Benefits of *tsip* or male partner.

(2) Where the intestate is at the time of his death a party to more than one union of concubinage and the residuary estate is held on trust for the surviving wife absolutely in accordance with subsection (2) of section 4, one third of the residuary estate shall be held on trust for such of his *tsips* who survive him, in equal shares absolutely.

(3) Where the intestate is at the time of his death a party to one union of concubinage and the residuary estate is held as to one half on trust for the surviving wife absolutely in accordance with subsection (3) of section 4, one third of the said half shall be held on trust to pay the income therefrom to the *tsip* of that union of concubinage during her lifetime.

(4) Where the intestate is at the time of his death a party to more than one union of concubinage and the residuary estate is held as to one half on trust for the surviving wife absolutely in accordance with subsection (3) of section 4, one third of the said half shall be held on trust to pay the income therefrom to such of his *tsips* who survive him, and to the survivors of them, in equal shares.

(5) Where the intestate is at the time of his death a party to one union of concubinage and the residuary estate is held as to one half on trust in accordance with paragraph (b) of subsection (4) of section 4, one third of the said half shall be held on trust for the *tsip* of the union of concubinage absolutely.

(6) Where the intestate is at the time of his death a party to more than one union of concubinage and the residuary estate is held as to one half on trust in accordance with paragraph (b) of subsection (4) of section 4, one third of the said half share shall be held on trust for such of his *tsips* who survive him in equal shares absolutely.

(7) Where the intestate is at the time of death a party to one union of concubinage and the residuary estate is held on the statutory trusts for the intestate's issue in accordance with subsection (5) of section 4, one third of the residuary estate shall be held on trust to pay the income therefrom to the surviving party to that union of concubinage during his or her lifetime.

(8) Where the intestate is at the time of death a party to more than one union of concubinage and the residuary estate is held on the statutory trusts for his issue in accordance with subsection (5) of section 4, one third of the residuary estate shall be held on trust to pay the income therefrom to such of his *tsips* who survive him, and to the survivors of them, in equal shares.

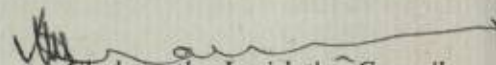
(9) Where the intestate is at the time of death a party to one union of concubinage and the residuary estate is held on trust in accordance with subsection (6), (7), (8) or (9) of section 4, one third of the residuary estate shall be held on trust for the surviving party of the union of concubinage absolutely.

(10) Where the intestate is at the time of his death a party to more than one union of concubinage and the residuary estate is held on trust in accordance with subsection (6), (7), (8) or (9) of section 4, one third of the residuary estate shall be held on trust for such of his *tsips* who survive him in equal shares absolutely.

(11) Reference to a husband or wife in subsections (10) and (11) of section 4 shall be deemed to include references to a party to a union of concubinage.

(12) The entitlement under sub-paragraphs (3), (4), (7) and (8) of a *tsip* to the income from a share in an intestate's estate shall thereupon cease if she marries or commits an act of sexual intercourse.

Passed by the Hong Kong Legislative Council this 20th day of January, 1971.

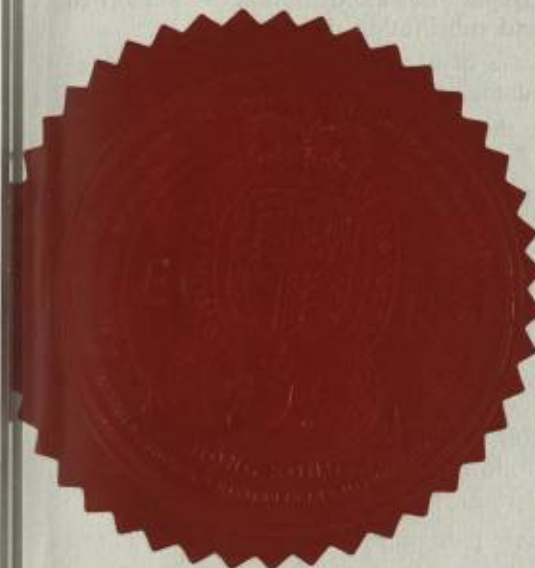

Clerk to the Legislative Council.

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

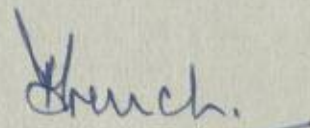

Clerk to the Legislative Council.

HONG KONG

No. 2 OF 1971.



I assent.


Governor.

21st January, 1971.

An Ordinance to amend the Inland Revenue Ordinance.

[22nd January, 1971.]

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

1. (1) This Ordinance may be cited as the Inland Revenue (Amendment) Ordinance 1971.

Short title and commencement.

(2) Sections 4 to 6, 8 to 30, 37, 47 and 48 shall come into operation on the 1st April 1971 and shall apply to assessments for the year of assessment commencing on the 1st April 1971 and to subsequent years of assessment.

(3) Section 32 shall be deemed to have come into operation on 1st April 1970.

(4) Section 35 shall come into operation on the 1st April 1972.

Amendment of
section 2.
(Cap. 112.)

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

- (a) by deleting paragraph (c) of the definition of "authorized representative" and substituting the following—
 "(c) in the case of a corporation, a director, officer or liquidator of the corporation;";
- (b) by inserting, in the definition of "corporation", after "elsewhere" the following—
 "but does not include a co-operative society or a trade union";
- (c) by deleting "company" in the definition of "person" and substituting the following—
 "corporation".

Amendment of
section 4.

3. Section 4 of the principal Ordinance is amended in subsection (4)—

- (a) by deleting the full stop at the end of paragraph (b) and substituting the following—
 ", or"; and
- (b) by inserting after paragraph (b) the following new paragraph—
 "(c) to the Attorney General, or any public officer authorized by him, for the purpose of reporting under subsection (5) of section 68 an appeal to the Board of Review."

Amendment of
section 5.

4. Section 5 of the principal Ordinance is amended—

- (a) in subsection (3), by inserting after "subsection (1)" the following—
 "and subject to subsection (3A)"; and
- (b) by inserting after subsection (3) the following new subsection—
 "(3A) Notwithstanding subsection (3), in the case of an owner who concurrently occupies more than one building or part thereof exclusively for residential purposes, the exemption provided for by subsection (3) shall extend only to property tax in respect of such one building or part thereof as the owner may nominate by notice in writing to the Commissioner:

Provided that where an owner concurrently occupies more than one part of one building exclusively for residential purposes the Commissioner may extend such exemption to additional parts of the

building if he is satisfied that they are reasonably required exclusively for residential purposes of the owner and *bona fide* members of his household living with him."

5. Section 8 of the principal Ordinance is amended—

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

"(1A) For the purposes of this Part, income arising in or derived from the Colony from any employment—

- (a) includes, without in any way limiting the meaning of the expression and subject to paragraph (b), all income derived from services rendered in the Colony including leave pay attributable to such services; and
- (b) excludes income derived from services rendered by a person who—
 - (i) is not employed by the Government or as master or member of the crew of a ship or as commander or member of the crew of an aircraft; and
 - (ii) renders outside the Colony all the services in connexion with his employment.

(1B) In determining whether or not all services are rendered outside the Colony for the purposes of subsection (1A) no account shall be taken of services rendered in the Colony during visits not exceeding a total of sixty days in the basis period for the year of assessment."; and

- (b) in subsection (2)—

(i) by deleting paragraph (c) and substituting the following—

- "(c) any sum received by way of commutation of pension under an approved retirement scheme or the Pensions Ordinance;
- (ca) in the case of a pension attributable to services rendered in any office or employment, other than employment by the Government, so much of the pension as is not attributable to services rendered in the Colony;
- (cb) any sum, other than a pension, withdrawn from an approved retirement scheme, but, if the approved retirement scheme is set up by an

Amendment of
section 8.

employer not chargeable to tax under Part IV, the sum excluded by this paragraph shall not exceed, in the case of that part of the sum withdrawn which represents the employer's contributions, an amount equal to fifteen *per cent* of the employee's income from his office or employment for the year preceding the date of withdrawal multiplied by the number of completed years of his service with that employer;"

(ii) in paragraph (i), by deleting the full stop and substituting a semicolon; and

(iii) by inserting after paragraph (i) the following new paragraph—

"(f) income derived from services rendered as master or member of the crew of a ship or as commander or member of the crew of an aircraft by a person who was present in the Colony on not more than—

(i) a total of sixty days in the basis period for that year of assessment; and

(ii) a total of one hundred and twenty days falling partly within each of the basis periods for two consecutive years of assessment, one of which is that year of assessment."

Amendment of
section 9.

6. Section 9 of the principal Ordinance is amended—

(a) in subsection (1)—

(i) by deleting "for high cost of living" in paragraph (a);

(ii) by inserting after paragraph (a) the following new paragraph—

"(aa) so much of any amount (other than a pension falling under paragraph (b) of subsection (1) of section 8) received by an employee before or after his employment ceases, whether by way of commutation or otherwise, from a pension or provident fund, scheme or society, other than an approved retirement scheme, as represents his employer's contributions to that fund, scheme or society;"

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

(iv) by inserting after paragraph (c) the following new paragraph—

"(d) any gain realized by the exercise of, or by the assignment or release of, a right to acquire shares or stock in a corporation obtained by a person as the holder of an office in or an employee of that or any other corporation."; and

(b) by deleting subsection (4) and substituting the following—

"(4) For the purposes of subsection (1)—

(a) the gain realized by the exercise at any time of such a right as is referred to in paragraph (d) of that subsection shall be taken to be the difference between the amount which a person might reasonably expect to obtain from a sale in the open market at that time of the shares or stock acquired and the amount or value of the consideration given whether for them or for the grant of the right or for both; and

(b) the gain realized by the assignment or release of such a right as is referred to in paragraph (d) of that subsection shall be taken to be the difference between the amount or value of the consideration for the assignment or release and the amount or value of the consideration given for the grant of the right,

(a just apportionment being made of any entire consideration given for the grant of the right to acquire the said shares or stock and other shares or stock or otherwise for the grant of the right to acquire those shares or stock and for something beside):

Provided that neither the consideration given for the grant of the right nor any such entire consideration shall be taken to include the performance of any duties in or in connexion with the office or employment by reason of which the right was granted, and no part of the amount or value of the consideration given for the grant shall be deducted more than once under this subsection.

(5) Where salaries tax may by virtue of paragraph (d) of subsection (1) become chargeable

in respect of any gain which may be realized by the exercise of a right, salaries tax shall not be chargeable under any other provision of this Ordinance in respect of the receipt of the right."

Amendment of section 10.

7. Section 10 of the principal Ordinance is amended—

- (a) by deleting the colon and substituting a full stop; and
- (b) by deleting the proviso.

Repeal of sections 13A and 13B.

8. Sections 13A and 13B of the principal Ordinance are repealed.

Repeal and replacement of sections 14 and 15.

9. Sections 14 and 15 of the principal Ordinance are repealed and replaced by the following—

"Charge of profits tax.

14. Subject to the provisions of this Ordinance, profits tax shall be charged for each year of assessment at the standard rate on every person carrying on a trade, profession or business in the Colony in respect of his assessable profits arising in or derived from the Colony for that year from such trade, profession or business (excluding profits arising from the sale of capital assets) as ascertained in accordance with this Part.

Certain amounts deemed trading receipts.

15. (1) For the purposes of this Ordinance, the sums described in the following paragraphs shall be deemed to be receipts arising in or derived from the Colony from a trade, profession or business carried on in the Colony—

- (a) sums, not otherwise chargeable to tax under this Part, received by or accrued to a person from the exhibition or use in the Colony of cinematograph or television film or tape, any sound recording, or any advertising material connected with such film, tape or recording;
- (b) sums, not otherwise chargeable to tax under this Part, received by or accrued to a person for the use or right to use in the Colony a patent, design, trademark, copyright material or secret process or formula or other property of a similar nature, or for imparting or undertaking to impart knowledge directly or indirectly connected with the use in the Colony of any such patent, design, trademark, copyright, secret process or formula or other property;

- (c) sums received by or accrued to a person by way of grant, subsidy or similar financial assistance in connexion with the carrying on of a trade, profession or business in the Colony, other than sums in connexion with capital expenditure made or to be made by the person;
- (d) sums received by or accrued to a person by way of hire, rental or similar charges for the use of movable property in the Colony or the right to use movable property in the Colony;
- (e) the amount of a balancing charge directed to be made on a person under Part VI;
- (f) sums received by or accrued to a corporation carrying on a trade, profession or business in the Colony by way of interest derived from the Colony;
- (g) sums received by or accrued to a person, other than a corporation, carrying on a trade, profession or business in the Colony by way of interest derived from the Colony which interest is in respect of the funds of the trade, profession or business and is exempt from interest tax under Part V;
- (h) sums received by or accrued to a person by way of refund to that person of a contribution made by him as employer to an approved retirement scheme, but to the extent only that such sums were allowed as deductions in ascertaining the assessable profits of that person under this Part.

(2) Where, in ascertaining for the purposes of this Part the profits of a trade, profession or business carried on in the Colony, a deduction has been allowed for any debt incurred for the purposes of the trade, profession or business, then, if the whole or any part of that debt is thereafter released, the amount released shall be deemed to be a receipt of the trade, profession or business arising in or derived from the Colony at the time when the release was effected."

Amendment of
section 15A.

10. Section 15A of the principal Ordinance is amended in subsection (1) by deleting "chargeable to business profits tax" and substituting the following—

" , other than a corporation."

Amendment of
section 16.

11. Section 16 of the principal Ordinance is amended in subsection (1) by deleting paragraphs (a) and (b) and substituting the following—

"(a) sums payable by such person by way of interest upon any money borrowed by him for the purpose of producing such profits, and sums payable by such person by way of legal fees, procuration fees, stamp duties and other expenses in connexion with such borrowing;

(b) rent paid by any tenant of land or buildings occupied by him for the purpose of producing such profits, but not exceeding, in the case of rent paid by a partnership to one or more of the partners thereof, an amount equal to the rateable value of the land or buildings as determined under the Rating Ordinance;

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Provided that where no valuation has been made under the Rating Ordinance in respect of any land or buildings, whether by reason of exemption from rates under that Ordinance or otherwise, the Commissioner of Rating and Valuation shall, if required by the Commissioner of Inland Revenue, cause a rateable value to be placed thereon in the same manner as if such land or buildings were subject to rates under the Rating Ordinance;"

Amendment of
section 17.

12. Section 17 of the principal Ordinance is amended in subsection (1) by deleting "such payment exceeds fifteen *per cent* of the total emoluments of each employee concerned" in paragraph (h) and substituting the following—

"the aggregate of such payments in respect of an employee under an approved retirement scheme or schemes exceeds fifteen *per cent* of the total emoluments of that employee".

Repeal of
sections 18A
and 18B.

13. Sections 18A and 18B of the principal Ordinance are repealed.

14. The principal Ordinance is amended by adding after section 21 the following new section—

"Computa-
tion of
profits from
cinemato-
graph films,
patents,
trademarks,
etc.

21A. The profits of a person arising in or derived from the Colony in respect of a sum deemed by paragraph (a) or paragraph (b) of subsection (1) of section 15 to be a receipt arising in or derived from the Colony from a trade, profession or business carried on in the Colony shall, for the purposes of this Ordinance and notwithstanding any other provisions of this Part, be taken to be ten *per cent* of such sum."

Addition of
new section
21A.

15. Section 23B of the principal Ordinance is amended—

Amendment of
section 23B.

(a) in subsection (2)—

(i) by inserting before the definition of "charter hire" the following new definition—

" "business as an owner of ships" does not include dealing in ships or agency business in connexion with shipping;" ; and

(ii) in the definition of "charter hire", by inserting after "charter party" the following—

"which is either a bare boat, voyage or time charter and under which there is a demise of the ship"; and

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

"(3) For the purposes of this section, a sum receivable by a ship-owner under a charter party other than a bare boat, voyage or time charter under which there is a demise of the ship, shall be taken to be receivable from the carriage of passengers, mails, livestock and goods or in respect of towage."

16. Section 23C of the principal Ordinance is amended—

Amendment of
section 23C.

(a) in subsection (5)—

(i) by inserting before the definition of "charter hire" the following new definition—

" "business as an owner of ships" does not include dealing in ships or agency business in connexion with shipping;" ; and

(ii) in the definition of "charter hire", by inserting after "charter party" the following—

"which is either a bare boat, voyage or time charter and under which there is a demise of the ship"; and

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

“(6) For the purposes of this section, a sum receivable by a ship-owner under a charter party other than a bare boat, voyage or time charter under which there is a demise of the ship, shall be taken to be receivable from the carriage of passengers, mails, livestock and goods or in respect of towage.”.

Amendment of section 24.

17. Section 24 of the principal Ordinance is amended in subsection (2) by deleting “entrance fees and” in the first place where it occurs.

Amendment of section 26.

18. Section 26 of the principal Ordinance is amended—

- (a) in paragraph (a), by deleting “, and” and substituting a semicolon;
(b) in paragraph (b) by deleting the full stop and substituting the following—

“; and”; and

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

“(c) interest in respect of which interest tax has been paid under Part V shall not be included in ascertaining the profits of a person, other than a corporation, chargeable to tax under this Part.”.

Repeal of section 27.

19. Section 27 of the principal Ordinance is repealed.

Amendment of section 28.

20. Section 28 of the principal Ordinance is amended—

- (a) by being renumbered as subsection (1) thereof;
(b) in subsection (1) (as so renumbered)—
(i) by inserting after “year of assessment” the following—

“at the standard rate”; and

- (ii) by inserting after “Banking Ordinance” in paragraph (a) of the proviso the following—

“or a public utility company specified in the Third Schedule”; and

- (c) by inserting the following new subsection—

“(2) The Governor in Council may, by notice in the *Gazette*, amend the Third Schedule.”.

21. Section 28A of the principal Ordinance is repealed.

Repeal of section 28A.

22. Section 29 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 29.

“Deduction and payment of interest tax.

29. (1) Where a person in the Colony pays or credits to any other person a sum being interest chargeable with interest tax under section 28, he shall, at the time he makes the payment or credit and notwithstanding any agreement to the contrary whether made before or after the passing of this Ordinance, make a deduction from such sum of interest tax as determined in accordance with section 28.

(2) A person who makes a deduction of interest tax under subsection (1) shall pay the amount of the deduction to the Government within thirty days—

- (a) and, except in the case where paragraph (b) applies, issue to the recipient of the interest within forty-two days of making the deduction a certificate in the specified form containing an acknowledgment by the Commissioner of the receipt by the Government of the amount of the deduction and specifying—

- (i) the gross amount of the interest;
(ii) the net amount paid or credited;
(iii) the period of accrual of the interest;
(iv) the date of the payment or credit;
and

- (b) in the case of a bank licensed under the Banking Ordinance or any other corporation specified by the Commissioner by notice in the *Gazette* for the purposes of this paragraph, issue to the recipient of the interest, if he so requests, a certificate in the specified form specifying—

- (i) the gross amount of the interest;
(ii) the net amount paid or credited;
(iii) the period of accrual of the interest;
(iv) the date of the payment or credit.

(3) A person to whom a certificate under subsection (2) has been issued may, if he is aggrieved by a deduction of interest tax suffered by him, notify the Commissioner within ninety days of receiving the

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certificate that he is so aggrieved and the Commissioner shall, for the purpose of enabling that person to object in accordance with Part XI, cause him under section 59 to be assessed to interest tax and cause notice of that assessment to be served on him under section 62.

(4) A recipient of a sum paid or credited to him being interest chargeable with interest tax under section 28 who does not receive within the prescribed period a certificate to which he is entitled under subsection (2) shall within fourteen days after the expiry of the prescribed period inform the Commissioner in writing of this fact and supply the following particulars—

- (a) the name and address of the payer of the interest;
- (b) the gross amount of the interest;
- (c) the net amount paid or credited to him; and
- (d) the date of the payment or crediting of the interest.”.

Amendment of section 29A.

23. Section 29A of the principal Ordinance is amended by deleting “and shall not be deemed to have made”.

Repeal and replacement of section 30.

24. Section 30 of the principal Ordinance is repealed and replaced by the following—

“Failure to deduct interest tax.

30. Where a person who is under an obligation to do so fails to make a deduction of interest tax or fails to pay the amount of the deduction to the Government in accordance with section 29, the amount in respect of which default is made shall constitute a debt due by that person to the Government and shall be recoverable forthwith as such or may be assessed and charged upon such person in addition to any tax otherwise payable by him under this Ordinance.”.

Repeal and replacement of section 32.

25. Section 32 of the principal Ordinance is repealed and replaced by the following—

“Reimbursement by recipient of gross interest.

32. Where an amount is recovered under section 30 from a person who has failed to make a deduction which he was under an obligation to make the person from whom the amount is recovered may recover that amount from the recipient of the interest.”.

26. Section 33 of the principal Ordinance is amended by inserting after “his agent” the following—

Amendment of section 33.

“, but no such assessment shall be made upon a recipient who has, in accordance with subsection (4) of section 29, informed the Commissioner that he has not received a certificate”.

27. The principal Ordinance is amended by adding after section 35 the following new sections—

Addition of new sections 35A and 35B.

“Special provisions on termination of leasehold interest.

35A. Where, on the termination of a leasehold interest—

- (a) a lessee of any building or structure remains in possession thereof with the consent of the lessor without a new lease being granted to him, the leasehold interest shall be deemed for the purposes of this Part to continue so long as he so remains in possession;
- (b) a new lease is granted to the lessee either by way of regrant or in pursuance of an option available to him under the terms of the first lease, this Part shall have effect as if the second lease were a continuation of the first lease.

Buildings and structures bought unused.

35B. Where capital expenditure is incurred on the construction of a building or structure and, before that building or structure is used, the relevant interest therein is sold—

- (a) the expenditure actually incurred on the construction thereof shall be left out of account for the purposes of this Part and any initial allowance made under section 34 shall be disallowed and such additional assessments as may be necessary consequent thereon shall be made; but
- (b) the person who buys that interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, capital expenditure on the construction thereof equal to the expenditure actually incurred on the construction of the building or to the net price paid by him for such interest whichever is the less;

Provided that, where the relevant interest in the building or structure is sold more than once

before the building or structure is used, paragraph (b) of this section shall have effect only in relation to the last of those sales.”.

Amendment of
section 37.

28. Section 37 of the principal Ordinance is amended by inserting after subsection (3) the following new subsections—

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

- (a) was carried on by another person; and
- (b) made use of machinery or plant for the purpose of producing profits chargeable to tax under Part IV,

and, immediately after the succession, such machinery or plant, without being sold to the successor, is in use in that trade, profession or business for the same purpose, the reduced value of such machinery or plant shall, for the purpose of computing annual allowances under subsection (2), be taken to be the reduced value thereof still unallowed to that other person as at the time of the succession.

(5) Notwithstanding subsection (4), no initial allowance shall be made under this Part by virtue of subsection (4).”.

Amendment of
section 38.

29. Section 38 of the principal Ordinance is amended in subsection (2) by inserting after “this subsection” the following—

“and in a case where an annual allowance has been computed in accordance with subsection (4) of section 37, the reduced value used for the purpose of that subsection shall be deemed to be the capital expenditure for the purposes of this subsection”.

Amendment of
section 40.

30. Section 40 of the principal Ordinance is amended in the definition of “capital expenditure” in subsection (1) by inserting after “assistance” the following—

“and in relation to the person incurring the expenditure does not include any expenditure which is allowed to be deducted in ascertaining for the purpose of Part IV the profits of a trade or business carried on by that person”.

Amendment of
section 41.

31. Section 41 of the principal Ordinance is amended in subsection (3) by deleting “on the last day of the third year following the year of assessment in respect of which the election is made” and substituting the following—

“two years after the end of the year of assessment in respect of which the election is made or one month after an assessment of income or profits forming part of the individual’s total income for such year of assessment

becomes final and conclusive under section 70, whichever is the later”.

32. Section 42B of the principal Ordinance is amended in subsection (1)—

Amendment of
section 42B.

- (a) in the proviso to paragraph (d), by deleting “before deducting the allowances specified in paragraphs (b), (c), (d) and (e)” and substituting the following—

“as reduced by the allowance specified in paragraph (a)”;

- (b) in paragraph (e), by inserting after “individual” where it first occurs the following—

“or his wife, not being a wife living apart from her husband.”.

33. Section 51 of the principal Ordinance is amended by inserting after subsection (7) the following new subsection—

Amendment of
section 51.

“(8) Any person chargeable to tax under Part III, IV or VII who changes his address shall within one month inform the Commissioner in writing of the particulars of the change.”.

34. Section 52 of the principal Ordinance is amended in subsection (7) by inserting after “gave the notice” the following—

Amendment of
section 52.

“; and compliance with this subsection shall constitute a defence in any proceedings against an employer in respect of his failure to make any payment to or for the benefit of the individual during the said period”.

35. Section 57 of the principal Ordinance is repealed and replaced by the following—

Repeal and
replacement of
section 57.

“Principal
officer to
act on behalf
of a corpora-
tion or body
of persons.

57. (1) The secretary, manager, any director or the liquidator of a corporation and the principal officer of a body of persons shall be answerable for doing all such acts, matters, or things as are required to be done under the provisions of this Ordinance by such corporation or body of persons.

(2) If no secretary, manager, director or liquidator of a corporation or no principal officer of a body of persons is ordinarily resident in the Colony, the corporation or body of persons, as the case may be, shall inform the Commissioner, and keep him so informed at all times, of the name and address of an individual ordinarily resident in the Colony who shall be answerable for doing all such acts, matters, or things as are required to be done under the provisions of this Ordinance by such corporation or body of persons.”.

Amendment of
section 58.

36. Section 58 of the principal Ordinance is amended by inserting after subsection (5) the following new subsection—

“(6) If a notice given under this Part requires something to be done within a time stated in the notice, the Commissioner or, in the case of a notice given by an assessor, an assessor may by notice in writing extend the time for complying with the notice.”.

Amendment of
section 59.

37. Section 59 of the principal Ordinance is amended—

(a) by inserting after subsection (1A) the following new subsections—

“(1B) Notwithstanding subsection (1), where an assessor is satisfied that—

- (a) an individual or his wife, not being a wife living apart from her husband, carries on (not jointly with another person) a trade, profession or business in the Colony and the individual is eligible to elect under section 41 for personal assessment on his total income; and
- (b) the assessable profits of that individual in respect of his trade, profession or business in the Colony for any year of assessment do not exceed ten thousand six hundred dollars; and
- (c) the individual, and his wife, not being a wife living apart from her husband, has no income, property, or profits chargeable to tax under this Ordinance for that year of assessment, other than in respect of such trade, profession or business,

the assessor shall not be obliged to proceed to make an assessment of profits tax in respect of such assessable profits.

(1C) Notwithstanding subsection (1), where an assessor is satisfied that—

- (a) an individual or his wife, not being a wife living apart from her husband, carries on a trade, profession or business in the Colony, either solely or jointly with another person, and the individual is eligible to elect under section 41 for personal assessment on his total income; and

- (b) the individual, and his wife, not being a wife living apart from her husband, has no income, property or profits chargeable to tax under this Ordinance for any year of assessment, other than in respect of such trade, profession or business; and
- (c) the assessable profits of the individual in respect of such trade, profession or business for such year of assessment, or his share of those profits if he is a partner in the trade, profession or business, are such that if he elected for personal assessment under section 41 and after taking into account the allowances to which he would be entitled under section 42B, no tax would be charged on the individual,

the assessor shall not be obliged to proceed to make an assessment of profits tax in respect of such assessable profits and, if he has made such an assessment, he may notwithstanding section 70, annul the assessment or in case of assessment of a partnership may reduce it insofar as it relates to the share of profits of such individual.”;

(b) in subsection (2)—

(i) by deleting the colon and substituting the following—

“; or”;

(ii) by inserting after paragraph (b) the following new paragraph—

“(c) if he accepts the return as substantially correct but considers it necessary to make further inquiries on any matter, make immediately a provisional assessment in the amount of the return.”; and

(iii) by deleting the proviso.

38. The principal Ordinance is amended by adding after section 59 the following new section—

“Provisional
assessments.

59A. (1) A provisional assessment under paragraph (c) of subsection (2) of section 59 shall be a valid assessment for all purposes except that subsection (1) of section 64 shall not apply unless the provisional assessment is confirmed under subsection (2) of section 62.

Addition of
new section
59A.

(2) Where it appears to an assessor that a provisional assessment which has not been confirmed under subsection (2) of section 62 should be increased or reduced for any year of assessment, the assessor may, in place of such provisional assessment, within the year of assessment or within six years after the expiration thereof, assess the person assessed at the amount at which according to his judgment such person ought to have been assessed:

Provided that where the under-assessment of any person in a provisional assessment for any year of assessment is due to fraud or wilful evasion, the assessment under this subsection may be made at any time within ten years after the expiration of that year of assessment."

Amendment of
section 60.

39. Section 60 of the principal Ordinance is amended—

- (a) by being renumbered as subsection (1) thereof;
- (b) in subsection (1) (as so renumbered), by deleting—
 - (i) "a provisional assessment made under subsection (2) of section 59 should be increased or that"; and
 - (ii) paragraph (a) of the proviso;
- (c) by inserting the following new subsections—

"(2) Where it appears to an assessor that the whole or part of any tax repaid to a person (otherwise than in consequence of an assessment having been determined on objection or appeal) has been repaid by mistake, whether of fact or law, the assessor may, within the year of assessment to which the repayment relates or within six years after the expiration thereof, assess such person in the amount of tax so repaid by mistake, and the provisions of this Ordinance as to notice of assessment, objection, appeal and other proceedings shall apply to such assessment and to the tax charged thereunder.

(3) No assessment shall be made under subsection (2) if the repayment was in fact made on the basis of, or in accordance with, the practice generally prevailing at the time when the repayment was made."

40. Section 62 of the principal Ordinance is amended in subsection (1) by deleting "and the amount of tax charged" and substituting the following—

Amendment of
section 62.

"the amount of tax charged, and such due date for payment thereof as may be fixed by the Commissioner".

41. Section 64 of the principal Ordinance is amended in subsection (1)—

Amendment of
section 64.

- (a) by deleting "or amending";
- (b) by deleting paragraph (c) of the proviso and substituting the following—

"(c) where the assessment is a reassessment of the tax due from a person having the effect of either increasing or reducing that person's liability to tax, the person so reassessed shall have no further right of objection than he would have had if the reassessment had not been made except to the extent to which, by reason of the reassessment, a fresh liability in respect of any particular is imposed on him or an existing liability in respect of any particular is increased or reduced."

42. Section 66 of the principal Ordinance is amended by deleting subsection (1) and substituting the following—

Amendment of
section 66.

"(1) Any person (hereinafter referred to as the appellant) who has validly objected to an assessment but with whom the Commissioner in considering the objection has failed to agree may within—

- (a) one month after the transmission to him under subsection (4) of section 64 of the Commissioner's written determination together with the reasons therefor and the statement of facts; or
- (b) such further period as the Board may allow under subsection (1A),

either himself or by his authorized representative give notice of appeal to the Board; but no such notice shall be entertained unless it is given in writing to the clerk to the Board and is accompanied by a copy of the Commissioner's written determination together with a copy of the reasons therefor and of the statement of facts and a statement of the grounds of appeal.

(1A) If the Board is satisfied that an appellant was prevented by illness or absence from the Colony or other reasonable cause from giving notice of appeal in accordance with paragraph (a) of subsection (1), the Board may extend for such period as it thinks fit the time within which notice of appeal may be given under subsection (1). This subsection shall apply to an appeal relating to any assessment in respect of which notice of assessment is given on or after 1st April 1971."

Amendment of section 68.

43. Section 68 of the principal Ordinance is amended by deleting subsection (5) and substituting the following—

"(5) All appeals shall be heard *in camera*, but any appeal may be reported in such publications as may be approved by the Attorney General in such a manner that the identity of the appellant is not disclosed."

Addition of new section 75A.

44. The principal Ordinance is amended by adding after section 75 the following new section—

"Recovery of tax from wife.

75A. Where section 10 or section 42A has applied to an individual and his wife for a year of assessment, such part of the total amount of tax charged on the individual as bears the same proportion to such total amount as the amount of the income of the wife bears to the income of the individual (including income of his wife deemed to be his) may, if due and not paid, be collected from the wife, or if she is dead from her executor, notwithstanding that no assessment has been made upon her, and the provisions of this Ordinance as to the collection and recovery of tax shall apply accordingly."

Amendment of section 77.

45. Section 77 of the principal Ordinance is amended in subsection (3) by deleting ", deputy commissioner, or an assistant commissioner".

Amendment of section 80.

46. Section 80 of the principal Ordinance is amended in subsection (1) by deleting "section 30, subsection (2), (6) or (7) of section 51" in paragraph (c) and substituting the following—

"paragraph (a) or (b) of subsection (2) of section 29, subsection (2), (6), (7) or (8) of section 51".

47. The principal Ordinance is amended by adding after section 80 the following new section—

"Penalty for failure to make deduction of interest tax etc.

80A. (1) Any person who, being a person who is required by section 29 to make a deduction of interest tax from a payment or credit being interest chargeable with interest tax under section 28,—

- (a) without reasonable excuse fails wholly or in part to make the deduction; or
- (b) knowingly applies or permits to be applied the amount of any interest tax or any part thereof for a purpose other than payment to the Government,

shall be guilty of an offence: Penalty a fine of two thousand dollars.

(2) For the purposes of paragraph (b) of subsection (1), a deduction of interest tax shall be deemed to have been made if a sum is paid or credited to any person being interest chargeable with interest tax under section 28 and the amount of any interest tax or any part thereof shall be deemed to have been applied for a purpose other than payment to the Government if that amount is not paid to the Government within the period prescribed in subsection (2) of section 29.

(3) Notwithstanding subsection (2), a person shall not be convicted of an offence under paragraph (b) of subsection (1) if he satisfies the court that the amount of the interest tax has been paid to the Government and that his failure to pay it within the prescribed period was due to accident, illness or other cause beyond his control."

48. The principal Ordinance is amended by adding after the Second Schedule the following—

Addition of new section 80A.

Addition of Third Schedule.

"THIRD SCHEDULE.

[s. 28.]

The Hong Kong Electric Company, Limited.

China Light and Power Company, Limited.

The Hong Kong and China Gas Company, Limited."

Passed by the Hong Kong Legislative Council this 20th day of January, 1971.

Clerk to the Legislative Council.

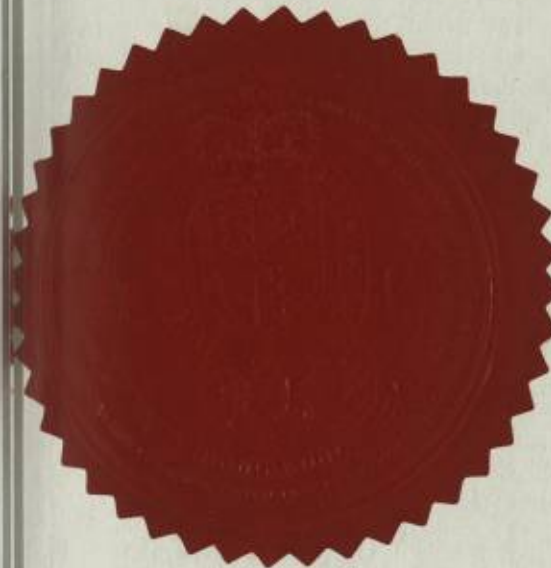
*This printed impression has been carefully compared
by me with the bill, and is found by me to be a true and
correctly printed copy of the said bill.*

A handwritten signature in dark ink, appearing to be "W. A. ...", written over a horizontal line.

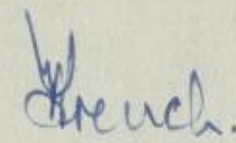
Clerk to the Legislative Council.

HONG KONG

No. 3 OF 1971.



I assent.


Governor.

11th February, 1971.

An Ordinance to amend the Jury Ordinance.

[12th February, 1971.]

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 Jury (Amendment) Ordinance 1971. | Short title. |
| 2. Section 5 of the principal Ordinance is amended by inserting after paragraph (a) the following new paragraph—
“(aa) ordinary members of the Urban Council;”. | Amendment of section 5.
(Cap. 3.) |
| 3. Section 7 of the principal Ordinance is amended by deleting paragraph (a) of subsection (3) and substituting the following—
“(a) the name of every person whose name appeared on the last preceding list of common jurors other than the name of a person who the Commissioner has reason to believe to have died or left the Colony permanently; and”. | Amendment of section 7. |

Amendment of
section 9.

4. Section 9 of the principal Ordinance is amended by deleting subsection (3A) and substituting the following new subsection—

“(3A) In settling any list under this section the Registrar may, without any application under subsection (2) in that behalf, remove from the list the name of any person who he has reason to believe to have died or left the Colony permanently.”.

Amendment of
section 15.

5. Section 15 of the principal Ordinance is amended by inserting the following in subsection (1) after “list”—

“or within such further period as the court or a judge may allow”.

Repeal and
replacement of
section 29.

6. Section 29 of the principal Ordinance is repealed and replaced by the following—

“Challenge
of jurors
by accused. 29. A person arraigned on an indictment for any offence may challenge not more than five jurors without cause and any juror or jurors for cause.”.

Repeal and
replacement of
section 31.

7. Section 31 of the principal Ordinance is repealed and replaced by the following—

“Payment
of jurors.
(Cap. 14.) 31. (1) A person who serves as a juror in any case, criminal or civil, or in any inquiry under the Coroners Ordinance, shall be paid an allowance, at such rate as the Governor may prescribe by order published in the *Gazette*.

(2) In addition to the allowance paid to him under subsection (1), a person who serves as a juror may be paid an additional allowance under this subsection if—

- (a) in the case of proceedings in the Supreme Court, the Chief Justice or the trial judge; or
- (b) in the case of an inquiry under the Coroners Ordinance, the Chief Justice,

so orders.

(3) The allowance paid to a person under subsection (2) shall be of such amount as the Chief Justice or the judge may direct, but shall not exceed such rate as the Governor may prescribe by order published in the *Gazette*.”.

8. The principal Ordinance is amended by adding after section 32 the following new section—

Addition of
new section
32A.

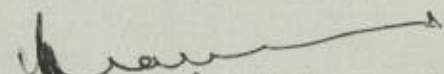
“Punishment
of employer
discriminat-
ing against
employee by
reason of
jury service.

32A. (1) No employer shall terminate, or threaten to terminate, the employment of, or in anyway discriminate against, any person employed by him by reason of the fact that such person—

- (a) has served, or is serving, as a juror in any proceedings in the Supreme Court or in any inquiry under the Coroners Ordinance;
- (b) has been summoned under section 17 to appear as a juror at the Supreme Court; or
- (c) has been summoned under section 10 of the Coroners Ordinance to appear as a juror at an inquiry under that Ordinance.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of three thousand dollars.”.

Passed by the Hong Kong Legislative Council this 10th day of February, 1971.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

HONG KONG

No. 4 OF 1971.



I assent.

Heuch.

Governor.

11th February, 1971.

An Ordinance to repeal and replace the Tung Wah Hospital Ordinance.

[12th February, 1971.]

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 Tung Wah Group of Hospitals Ordinance 1971.

Short title.

2. In this Ordinance, unless the context otherwise requires—
“advisory board” means the board continuing to exist by virtue of paragraph 19 of the First Schedule;

Interpretation.

“annual general meeting” means the annual general meeting of the corporation;

First Schedule.

“board” means the board of directors established by paragraph 5 of the First Schedule;

“chairman” means the chairman of the board;

“Chinese” means persons of the Chinese race;

“corporation” means the corporation continuing to exist by virtue of section 3;

“director” means a director of the corporation;

"medical committee" means the committee established by paragraph 18 of the First Schedule;

"ordinary general meeting" means an ordinary general meeting of the corporation;

"ordinary member" means an ordinary member of the corporation;

(Cap. 1051.)

"repealed Ordinance" means the Tung Wah Hospital Ordinance repealed by section 11;

"secretary" means the secretary of the corporation;

"voting member" means a voting member of the corporation;

"year" means the period commencing on the 1st day of April in any year and ending on the 31st day of March in the following year.

Incorporation
of the Tung
Wah Group of
Hospitals.

3. (1) The corporation existing by virtue of the repealed Ordinance shall continue to exist.

(2) The corporation—

(a) shall be known as the Tung Wah Group of Hospitals and in that name may sue and be sued;

(b) shall continue to have perpetual succession; and

(c) may do and suffer all such other acts and things as bodies corporate may lawfully do and suffer.

Matters
relating to the
corporation.
First Schedule.

4. The provisions of the First Schedule shall have effect with respect to—

(a) the objects and powers of the corporation;

(b) the membership of the corporation;

(c) the board;

(d) the medical committee;

(e) the advisory board;

(f) meetings and procedure,

and otherwise in relation to the corporation.

Vesting of
property.

5. (1) All the immovable property vested in the corporation at the commencement of this Ordinance shall continue to be vested in the corporation for the residue of the term of years created by the respective Crown leases, subject to the covenants, conditions, stipulations, exceptions, reservations, provisos and powers contained in and reserved by the said Crown leases.

(2) Any other property, right and privilege vested in the corporation at the commencement of this Ordinance shall continue to be vested in the corporation on the terms and conditions, if any, on which the same was vested at that date, and the corporation shall continue to be subject to the obligations and liabilities to which it was subject at the commencement of this Ordinance.

6. The board may exercise any of the powers of the corporation which are not required by this Ordinance to be exercised by the corporation in general meeting.

Board may
exercise powers
of corporation.

7. (1) The board shall cause to be kept proper books of account of all transactions of the corporation.

Accounts.

(2) Such books of account shall be open at all reasonable times to the inspection of any director and of any person appointed by the Governor in that behalf.

(3) A chairman shall within six months after the expiration of his term of office send to the Colonial Secretary a statement of the accounts of the corporation which shall—

(a) be signed by two persons who were directors during the year to which the statement relates;

(b) be audited in accordance with subsection (4); and

(c) contain the following particulars—

(i) an account of the assets and liabilities of the corporation at the end of the previous year;

(ii) an account of the receipts and disbursements of the corporation during the previous year; and

(iii) a report on the administration of the corporation during the previous year.

(4) The accounts of the corporation and the signed statement of the accounts shall be audited by an auditor appointed by the corporation, being a person whose name is included in Parts I and II of the list of authorized auditors kept pursuant to subsection (3) of section 131 of the Companies Ordinance, and the auditor shall certify the statement of the accounts subject to such report, if any, as he thinks fit.

(Cap. 32.)

(5) A copy of the signed and audited statement of the accounts and the auditor's report, if any, shall within six months after the end of the year be sent to each—

(a) director;

(b) person who was a director during that year;

(c) member of the advisory board; and

(d) voting member.

8. Every director shall be indemnified by the corporation against liability for any acts of the corporation.

Directors to be
indemnified.

9. (1) The First Schedule may be amended by resolution of the board with the prior approval of the advisory board.

Amendments
and alterations.
First Schedule.

(2) Any such resolution shall be published in the *Gazette* and shall, unless otherwise provided, come into operation on the day of such publication.

Saving.

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

Repeal.
(Cap. 1051.)

11. The Tung Wah Hospital Ordinance is repealed.

Consequential
amendments.
Second Schedule.

12. The Ordinances specified in the first column of the Second Schedule are amended to the extent and in the manner set out in the second column of that Schedule.

FIRST SCHEDULE.

[ss. 2, 4 & 9.]

Objects.

1. The objects of the corporation shall be—

- (a) to provide the inhabitants of Hong Kong with free medical services in the following institutions—
 - (i) the Tung Wah Hospital;
 - (ii) the Kwong Wah Hospital;
 - (iii) Tung Wah Eastern Hospital;
 - (iv) the Wong Tai Sing Infirmary;
 - (v) Tung Wah Sandy Bay Convalescent Hospital; and
 - (vi) such other hospitals, clinics and infirmaries as may be managed by the corporation;

Provided that the board may make such charges for medical services as it shall from time to time determine;

- (b) to manage the Tung Wah Yee Chong (義庄) and the Wing Pit Ting farewell pavilion;
- (c) to manage the Man Mo Temple Fund in accordance with the provisions of the Man Mo Temple Ordinance;
- (d) to maintain and manage schools and other educational institutions in Hong Kong;
- (e) to pay passages for Chinese destitutes and patients;
- (f) to pay for the burial and reburial of Chinese;
- (g) to provide funeral services for Chinese;
- (h) to collect and administer funds for the relief of any special distress among Chinese in Hong Kong;
- (i) to undertake other charitable work among Chinese outside Hong Kong with the approval of the Secretary for Home Affairs;
- (j) to maintain and manage homes for the aged;
- (k) to maintain and manage convalescent and other similar institutions and to pay for the transfer of patients to and maintenance of patients in such institutions;
- (l) to establish and support, and to aid in the establishment and support of, any other charitable organizations formed for all or any of the objects of the corporation;
- (m) to provide all kinds of social services for the Hong Kong community.

(Cap. 154.)

2. (1) Without prejudice to any other Ordinance, the corporation shall have the following powers—

- (a) to raise and collect funds, acquire, take on lease, purchase, hold and enjoy any property and invest moneys upon mortgage of any immovable property or upon the mortgages, debentures, stocks, funds, shares or securities of any corporation or company;
- (b) with the approval in writing of the Governor, to grant, sell, convey, assign, surrender, exchange, partition, yield up, mortgage, transfer or otherwise dispose of, or let for any period exceeding three years, any immovable property;
- (c) to let for any period not exceeding three years any immovable property;
- (d) with the consent of the advisory board, to sell, convey, assign, surrender, exchange, partition, yield up, mortgage, demise, reassign, transfer or otherwise dispose of any debentures, stock, shares, securities, vessels or other goods or chattels;
- (e) with the approval in writing of the Governor, to apply or grant any sum of money for the development of any property belonging to the Man Mo Temple Fund;
- (f) to develop and turn to account any immovable property acquired by the corporation or in which the corporation is interested, in particular by laying out and preparing the same for building purposes, constructing, altering, pulling down, decorating, maintaining, furnishing, fitting up and improving buildings and by planting, laying drainage, letting on building leases or entering into building agreements;
- (g) to demolish, resite, rebuild, construct, develop and improve any property acquired or purchased by the corporation or in which the corporation is interested, and to apply to any tribunal or court or authority for any order, licence, permission and exemption required therefor, and to do such other things as the corporation may think fit in order to carry out its objects;
- (h) to accept any gift of property, whether subject to any special trust or not, for the benefit of the corporation;
- (i) to take such steps by personal or written appeals, public meetings or otherwise as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the corporation, in the form of donations, annual subscriptions, or otherwise;
- (j) to print and publish any newspapers, periodicals, books or leaflets that the corporation may think desirable for the promotion of its objects;
- (k) to borrow and raise money in such manner as the corporation may think fit and for that purpose to charge all or any part of the property of the corporation;
- (l) to invest any moneys of the corporation not immediately required for any of its objects in such manner as may from time to time be determined;

Powers.

- (m) to undertake and execute any trusts or any agency business which may seem directly or indirectly conducive to any of the objects of the corporation;
- (n) to subscribe to any local or other charities and to grant donations for any public purpose and to pay a gratuity, pension or allowance on retirement to any servant or the dependants of any servant of the corporation and to make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance;
- (o) to purchase or otherwise acquire and undertake all or any part of the property, liabilities and engagements of any company, institution, society or association having objects altogether or in part similar to those of the corporation;
- (p) to appoint a secretary and such other officers and servants, subject to such conditions as the corporation thinks fit;
- (q) to do all such other lawful things as are incidental or conducive to the attainment of the above objects;
- (r) subject to the provisions of paragraph 1(i) and sub-paragraphs (b), (d) and (e) of this paragraph with regard to approval or consent, to enter into any contract with the Government or any other person.
- (2) In any transaction for which the consent or approval of the Governor is required, the signature of the Governor endorsed on the document by means of which the transaction is effected shall be sufficient evidence that such consent or approval was obtained.
- Common seal.
3. (1) The corporation shall have and may use a common seal, the affixing of which shall be authenticated by the signature of the chairman and a director of the corporation.
- (2) Any instrument purporting to be an instrument duly executed under the seal of the corporation shall be received in evidence and shall, unless the contrary is proved, be deemed to be an instrument so executed.
- Membership.
4. (1) Membership of the corporation shall consist of ordinary members and voting members.
- (2) The following persons and societies shall be ordinary members of the corporation—
- (a) any persons or societies who at the commencement of this Ordinance were or were deemed to be members of the corporation during their life time or during the existence of the society, by virtue of section 3 of the repealed Ordinance;
- (b) any person or society who subscribes to the funds of the corporation such sum as may be specified by the board from time to time and approved by the Secretary for Home Affairs, and whose name is entered with the consent of the board in the register of members to be kept by the corporation.
- (3) The following persons or societies shall be voting members of the corporation—
- (a) any person who has been chairman of the board of the corporation;

- (b) members of the board shall *ex officio* be voting members for so long as they shall continue to be directors;
- (c) members of the advisory board shall be voting members for so long as they shall continue to be members thereof;
- (d) in addition to the persons hereinbefore mentioned the advisory board shall from time to time select not more than one hundred voting members from amongst the ordinary members of the corporation, and such voting members shall hold office for a period of three years from the date of their selection:
- Provided that any person so selected shall cease to be a voting member if he shall be convicted of an offence punishable with imprisonment for a period exceeding twelve months or shall be adjudged bankrupt or make a composition or arrangement with his creditors or become of unsound mind.
- (4) Voting members shall have the right to receive notice of all general meetings and to attend the same to vote thereat as hereinafter provided.
- (5) Any member may at any time resign from the corporation by giving to the corporation not less than one month's notice in writing.
5. (1) There shall be a board of the corporation consisting of not less than eleven nor more than twenty directors. Establishment of board.
- (2) The persons who are directors of the corporation at the commencement of this Ordinance shall constitute the board until 1st April 1971.
6. (1) The directors shall be elected by secret ballot at the annual general meeting. Election of directors.
- (2) Every candidate for the post of director shall be a person considered by the advisory board to be held in high esteem by Chinese in Hong Kong.
- (3) Prior to the annual general meeting, the chairman shall give not less than twenty-one days' prior notice in writing to all voting members inviting them to nominate persons to be directors and to submit the names of the proposed nominees for the consideration of the advisory board.
- (4) A nomination of any person to be a director shall be delivered to the secretary not less than fourteen days prior to the annual general meeting.
- (5) Persons so nominated, if approved by the advisory board, shall be candidates for the post of director if proposed and seconded as such at the annual general meeting.
7. (1) The directors shall subject to sub-paragraph (2) hold office for a period of one year commencing on 1st April or if they are elected after that date until 1st April next following their election. Term of office of directors.
- (2) If the election of directors for the ensuing year has not been completed on or before 31st March the directors in office on that day shall continue to hold office until the election of their immediate successors.
8. (1) If any director dies, resigns or becomes incapable of further acting, the remaining directors or a majority of them shall have power to elect any persons qualified under the provisions of paragraph 6 to fill the vacancy for the remainder of the term of office of such director. Casual vacancies in board.

(2) If it is found impracticable for the remaining directors so to do or if the remaining directors fail to exercise their power so to do the Governor may appoint a temporary director to act until the next annual general meeting.

Directors may be re-elected.

9. Directors shall be eligible for re-election.

Directors not re-elected.

10. If any director shall not be re-elected, such person shall during the next succeeding year be known as "Hip LF" (協理) and shall be entitled to attend all meetings of the board in such subsequent year and to take part in discussions but not to vote at such meetings.

Election of chairman.

11. As soon as possible after the election of the directors for any particular year, the directors shall elect a chairman from amongst them, and the person so elected shall be a director who has held office as vice-chairman for not less than one year immediately preceding that year unless no such director is available.

Election of vice-chairmen.

12. (1) Immediately after the election of the chairman, the directors shall elect from amongst themselves the first vice-chairman, the second vice-chairman and the third vice-chairman.

(2) No person who has not been a director in a previous year shall be eligible for election as a vice-chairman unless no past director is available for election.

Procedure at election of chairman and vice-chairmen.

13. (1) The retiring chairman, or the person entitled to preside in his absence at the annual general meeting, shall preside at the elections under paragraphs 11 and 12.

(2) In the event of two or more candidates for election as chairman or vice-chairman being returned with an equality of votes at any election, the chairman of the meeting shall have a casting vote.

Casual vacancy in office of chairman.

14. In the event of the death, resignation, incapacity or absence of the chairman at any time, the first vice-chairman shall be the chairman, and the second vice-chairman and third vice-chairman shall be the first vice-chairman and the second vice-chairman, respectively, until an election is held under paragraph 15.

Election to fill casual vacancy in office of chairman or vice-chairman.

15. (1) In the event of—

- (a) the death, resignation, incapacity or absence of the chairman or any vice-chairman; or
- (b) a vacancy otherwise arising in the office of chairman or any vice-chairman,

the board may elect a director to be the chairman or such vice-chairman, as the case may be, either temporarily or for the remainder of the term of office of the chairman or such vice-chairman.

(2) A member of the advisory board shall preside at any such election.

Board to manage corporation.

16. The board shall, subject to the provisions of this Ordinance, have full power and authority generally to govern the corporation and to direct and decide all matters whatsoever connected with the administration of the affairs of the corporation and the accomplishment of the objects thereof, and under such regulations as may from time to time be made by the board to supervise and manage the hospitals, infirmaries, schools and other institutions under the control of the corporation.

17. (1) At any meeting of the board, seven directors shall form a quorum.

Quorum and procedure at board meetings.

(2) Every question at any meeting of the board shall be decided by a majority of votes of the directors present, and in case of an equality of votes the chairman of the meeting shall have a casting vote.

18. (1) Subject to the agreement between the Government and the corporation, there shall be a medical committee comprising not more than fourteen members.

Medical committee.

(2) The Governor may, with the consent of the board, appoint the members of the medical committee.

(3) The members of the medical committee shall hold office for such period as may be agreed upon between the Governor and the board.

(4) The board may delegate to the medical committee all necessary powers and duties so as to enable such committee to act as the executive and administrative authority in all matters relating to the medical services provided by the corporation under paragraph 1(a).

19. (1) There shall continue to be an advisory board whose duty shall be to advise the directors on any matter affecting the corporation or its administration and to consider appeals which may be brought by any director in accordance with the agreement between the Government and the corporation.

Advisory board.

(2) The advisory board shall consist of not more than thirteen persons of whom the following shall be *ex officio* members—

- (a) the Secretary for Home Affairs, who shall be chairman;
- (b) an Unofficial Chinese Member of the Executive Council to be nominated by the Unofficial Chinese Members of the Executive Council;
- (c) an Unofficial Chinese Member of the Legislative Council to be nominated by the Unofficial Chinese Members of the Legislative Council;
- (d) the immediate past chairman of the board.

(3) The following persons shall also be members—

- (a) not more than eight persons appointed by the Governor, who shall hold office for a period of three years and shall be eligible for re-appointment;
- (b) one person elected by the board from the persons who in the year preceding the year in respect of which he is elected were directors, who shall hold office for a period of one year.

(4) The advice of the advisory board shall be given at a joint meeting of the board and the advisory board. Such joint meetings shall be called by the chairman—

- (a) when the chairman so requires;
- (b) when the board desires the advice of the advisory board;
- (c) whenever the advisory board gives the chairman notice in writing that it desires to discuss with the board any specified matter affecting the corporation or its administration.

(5) The chairman shall give the directors and the members of the advisory board at least four clear days' notice in writing of any such joint meeting.

(6) At a joint meeting of the board and the advisory board, seven members of the board shall form a quorum.

(7) The persons who are members of the advisory board at the commencement of this Ordinance shall continue to be members thereof until 1st April 1971.

Procedure at
meetings of
advisory board.

20. (1) At any meeting of the advisory board four of the members shall form a quorum.

(2) Every question at any meeting of the advisory board shall be decided by a majority of votes of the members present and in the case of an equality of votes the chairman of the meeting shall have a casting vote.

(3) In the absence of the Secretary for Home Affairs the members of the advisory board shall elect a chairman from amongst their number present at the meeting.

Annual general
meeting.

21. There shall be an annual general meeting of the voting members, to be held before 31st March in each year at such place as the board may decide, and fourteen days' notice of the meeting and of the time and place appointed for the same shall be given by the secretary to the voting members. Such notice shall be deemed to have been properly given to a voting member if sent by prepaid registered post to the last known address in Hong Kong of such member. Notification of the date and time of such meeting shall also be published in two editions of a Chinese newspaper circulating in Hong Kong.

Business at annual
general meeting.

22. (1) At the annual general meeting the board shall submit a report, and the signed and audited statement of the accounts, and a balance sheet made up to 31st March of the preceding year, which shall be considered and passed if thought fit.

(2) In addition to the election of directors in accordance with the provisions of paragraph 6, any matter of which not less than seven days' notice shall have been given to the board relating to the management of the corporation may be brought forward and discussed.

Chairman to
preside at annual
general meeting.

23. At the annual general meeting, the chairman shall take the chair. If he shall not be present the first vice-chairman, the second vice-chairman or the third vice-chairman in order of seniority shall preside. In the absence of the chairman and vice-chairmen, the voting members present may elect one of their number to preside.

Ordinary general
meetings.

24. (1) An ordinary general meeting of the voting members shall be convened at any time for such purposes as the board thinks fit.

(2) Notice of a meeting convened under sub-paragraph (1) shall be sent by the secretary by prepaid post to each voting member, at his last known address in Hong Kong, at least fourteen days before the date of the meeting, and every such notice shall specify the place, date and time of such meeting.

General provisions
with respect to
meetings.

25. (1) The accidental omission to give notice of any meeting whatsoever to, or the non-receipt of any notice of meeting by, any person entitled to receive notice thereof shall not invalidate the proceedings at that meeting.

(2) A certificate in writing signed by the secretary and stating that a notice was addressed to a person entitled to notice of a meeting at his last known address in Hong Kong and posted by prepaid registered post or prepaid post, as the case may be, shall be conclusive evidence of the facts contained therein.

26. (1) At any general meeting, twenty voting members shall form a quorum. If a quorum is not present within half an hour from the time appointed for any general meeting, the meeting shall stand adjourned to the same day in the following week at the same time and place. If at such adjourned meeting a quorum is not present the business may be transacted with such number of voting members as may be present.

Procedure at
general meetings.

(2) The chairman of any general meeting may, with the consent of the majority present at such meeting, adjourn the meeting from time to time and from place to place. No business shall be transacted at any adjourned meeting other than the business left at the meeting unfinished.

(3) At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, and every voting member shall have one vote.

(4) Subject to this Ordinance, the board may regulate the procedure at any general meeting subject to the approval of the advisory board, and (subject to such approval) may validate any decisions taken at any such meeting notwithstanding any accidental non-compliance with the provisions of this Ordinance.

27. (1) The vote of a society which is a voting member shall be by proxy.

Proxies.

(2) The instrument appointing any proxy shall be in writing under the hand of the person appointing the proxy or, in the case of a society, under the hand of an officer of the society or other authorized person.

(3) The instrument appointing a proxy shall be deposited with the board before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid.

28. (1) The board may make regulations in relation to or providing for the maintenance, management, operation, regulation or control of any of the institutions mentioned in paragraph 1.

Power to make
regulations.

(2) Notwithstanding anything contained in section 20 of the Interpretation and General Clauses Ordinance it shall not be necessary to publish any such regulations in the *Gazette*.

(Cap. 1.)

SECOND SCHEDULE.

[s. 12.]

Short title.

Amendments.

Man Mo Temple Ordinance. The long title is repealed and replaced by the following—

(Cap. 154.)

"To make provision for the Man Mo Temple Fund."

The preamble is repealed.

*Short title.**Amendments.*

Section 2 is amended by deleting the definition of "Tung Wah Hospital" and substituting the following—

"Tung Wah Group of Hospitals" means the corporation continued by the Tung Wah Group of Hospitals Ordinance 1971."

Sections 3, 4, 5, 6, 7 and 8 are repealed.

Sections 9 and 12 are amended by deleting "Tung Wah Hospital" wherever it occurs and substituting the following—

"Tung Wah Group of Hospitals".

Section 10 is amended by deleting "directors of the Tung Wah Hospital" and substituting the following—

"board of the Tung Wah Group of Hospitals".

Section 11 is amended—

(a) by deleting "directors of the Tung Wah Hospital" in the first place where it occurs and substituting the following—

"board of the Tung Wah Group of Hospitals"; and

(b) by deleting "directors of the Tung Wah Hospital" in the second place where it occurs and substituting the following—

"the Tung Wah Group of Hospitals".

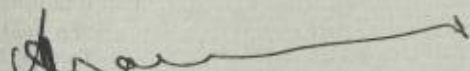
The Schedule is deleted.

The First Schedule is amended by deleting "., 1051 Tung Wah Hospital." and substituting the following—

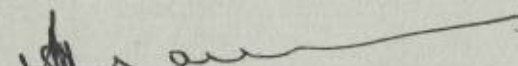
"Tung Wah Group of Hospitals 1971."

(Cap. 305.)
Charities (Land
Acquisition)
Ordinance.

Passed by the Hong Kong Legislative Council this 10th day of February, 1971.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

HONG KONG

No. 5 OF 1971.



I assent.

Heuch.
Governor.

25th February, 1971.

An Ordinance to amend the Criminal Procedure Ordinance and to make consequential amendments to certain other Ordinances.

[26th February, 1971.]

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 Criminal Procedure (Amendment) Ordinance 1971.

Short title.

2. Section 2 of the principal Ordinance is amended by inserting, before the definition of "bailiff", the following—

Amendment of
section 2.
(Cap. 221.)

"arrestable offence" means any offence, for which the sentence is fixed by law or for which a person may under or by virtue of any law be sentenced to imprisonment for a term exceeding twelve months, and any attempt to commit any such offence;"

3. The principal Ordinance is amended by adding, after section 13, the following new sections—

Addition of
new sections
13A and 13B.

"Special
conditions
of bail.
1967, c. 80,
s. 21.

13A. (1) The conditions on which any person is admitted to bail may include conditions appearing to the court to be likely to result in his appearance at the time and place required or to be necessary in the interests of justice or for the prevention of crime.

(2) A court which on admitting, or directing the admission of, any person to bail imposes a condition under subsection (1) shall not require him to find sureties in respect of that condition.

(3) In this section, "court" includes a District Court and a magistrate.

Arrest of
persons
granted bail.
1967, c. 80,
s. 23.

13B. (1) Any police officer may arrest without warrant any person who has been admitted to bail—

- (a) if the police officer has reasonable grounds for believing that such person is likely to break the condition that he will appear at the time and place required or any other condition on which he was admitted to bail, or has reasonable cause to suspect that such person is breaking or has broken any such other condition; or
- (b) on being notified in writing by any surety for that person that the surety believes that that person is likely to break the condition that he will appear at the time and place required and for that reason the surety wishes to be relieved of his obligations as surety.

(2) Any person arrested under subsection (1) shall be brought within twenty-four hours after his arrest or as soon as practicable thereafter before a magistrate, except where he was so arrested within the period of twenty-four hours immediately preceding an occasion on which he is required by virtue of a condition of his bail to appear before any court, in which case he shall be brought before that court.

(3) A court before which a person is brought under subsection (2) may, if of the opinion that that person has broken or is likely to break any condition on which he was admitted to bail, remand him in custody or alternatively release him on his original recognizance or on a new recognizance, with or without sureties, and if not of that opinion shall release him on his original recognizance.

(4) In this section, "court" includes a District Court and a magistrate."

4. The principal Ordinance is amended by adding, after section 24, the following new section—

Addition of
new section
24A.

"When
indictment
shall be
preferred.
1933, c. 36,
s. 2(2).

24A. (1) Subject to subsection (2) no indictment charging any person with an indictable offence shall be preferred unless—

- (a) the person charged has been committed for trial for the offence; or
- (b) the indictment is preferred by the direction or with the consent of a judge; or
- (c) the indictment is preferred pursuant to an order made under section 12 of the Perjury Ordinance.

(Crd. 214.)

(2) Where a person charged with an indictable offence has been committed for trial, the indictment against him may include, either in substitution for or in addition to counts charging the offence for which he was committed, any counts founded on facts or evidence disclosed in any depositions, being counts which may lawfully be joined in the same indictment."

5. Section 51 of the principal Ordinance is repealed and replaced by the following—

Repeal and
replacement of
section 51.

"Trial of
offences.
1967, c. 58,
s. 6.

51. (1) If a person is arraigned on an indictment—

- (a) he shall in all cases be entitled to make a plea of not guilty in addition to any special plea;
- (b) he may plead not guilty to the offence specifically charged in the indictment but guilty to another offence of which he might be found guilty on that indictment;
- (c) if he stands mute of malice, or will not answer directly to the indictment, or pleads guilty to a charge of a capital offence, the court may order a plea of not guilty to be entered on his behalf, and he shall then be treated as having pleaded not guilty.

(2) If on the trial of any information, charge or indictment for any offence other than treason it is proved that the accused is not guilty of that offence but the allegations in the information, charge or indictment amount to or include, whether expressly or by implication, an allegation of another offence falling

within the jurisdiction of the court of trial, he may be found guilty of that other offence or of an offence of which he could be found guilty on an information, charge or indictment specifically charging that other offence.

(3) For the purposes of subsection (2) any allegation of an offence shall be taken as including an allegation of attempting to commit that offence; and where a person is charged with attempting to commit an offence or with any assault or other act preliminary to an offence but not with the completed offence, then he may be convicted of the offence charged notwithstanding that he is shown to be guilty of the completed offence.

(4) Where a person arraigned on an indictment pleads not guilty of an offence charged in the indictment but guilty of some other offence of which he might be found guilty on that charge, and he is convicted on that plea of guilty without trial for the offence of which he has pleaded not guilty then, whether or not the two offences are separately charged in distinct counts, his conviction of the one offence shall be an acquittal of the other.

(5) Any power to bring proceedings for an offence by criminal information is abolished.

(6) Subsections (1) and (2) shall apply to an indictment containing more than one count as if each count were a separate indictment.

51A. Where an accused person arraigned on an indictment pleads not guilty and the prosecutor proposes to offer no evidence against him, the court before which the accused person is arraigned may, if it thinks fit, order that a verdict of not guilty shall be recorded without the accused person being given in charge to a jury, and the verdict shall have the same effect as if the accused person had been tried and acquitted."

Entry of
verdict of
not guilty
by order of
judge.
1967, c. 80,
s. 17.

Addition of
new sections
65A, 65B, 65C
and 65D.

6. The principal Ordinance is amended by adding, after section 65, the following new sections—

"Proof of
criminal
intent.
1967, c. 80,
s. 8.

65A. (1) A court or jury, in determining whether a person has committed an offence—

(a) shall not be bound in law to infer that he intended or foresaw a result of his acts or

omissions by reason only of its being a natural and probable consequence of those acts or omissions; but

(b) shall decide whether he did intend or foresee that result by reference to all the evidence, drawing such inferences from the evidence as appear proper in the circumstances.

(2) In this section, "court" includes a District Court and a magistrate.

65B. (1) In any criminal proceedings, other than committal proceedings, a written statement by any person shall, subject to the conditions contained in subsection (2), be admissible as evidence to the like extent as oral evidence to the like effect by that person.

(2) A statement may be tendered in evidence under subsection (1) if—

- (a) the statement purports to be signed by the person who made it;
- (b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief;
- (c) before the hearing at which the statement is tendered in evidence, a copy of the statement is served, by or on behalf of the party proposing to tender it, on each of the other parties to the proceedings; and
- (d) none of the other parties or their solicitors, within fourteen days from the service of the copy of the statement, serves a notice on the party so proposing objecting to the statement being tendered in evidence under this section:

Provided that paragraphs (c) and (d) shall not apply if the parties agree before or during the hearing that the statement shall be so tendered.

(3) If a statement tendered in evidence under subsection (1)—

- (a) is made by a person under the age of twenty-one, it shall give his age;
- (b) is made by a person who cannot read it, it shall be read to him before he signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read;

Proof by
written
statement.
1967, c. 80,
s. 9.

- (c) is made in a language other than English, it shall be accompanied by an English translation thereof, certified by the court translator;
 - (d) refers to any other document as an exhibit, the copy served on any other party to the proceedings under paragraph (c) of subsection (2) shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party on whom it is served to inspect that document or a copy thereof.
- (4) Notwithstanding that a written statement made by any person may be admissible as evidence by virtue of this section—
- (a) the party by whom or on whose behalf a copy of the statement was served may call the person making the statement to give evidence; and
 - (b) the court may, of its own motion or on the application of any party to the proceedings either before or during the hearing, require the person making the statement to attend before the court and give evidence.
- (5) So much of any statement as is admitted in evidence by virtue of this section shall, unless the court otherwise directs, be read aloud at the hearing and where the court so directs an account shall be given orally of so much of any statement as is not read aloud.
- (6) Any document or object referred to as an exhibit and identified in a written statement admitted in evidence under this section shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.
- (7) A document required by this section to be served on any person may be served—
- (a) by delivering it to him or to his solicitor; or
 - (b) in the case of a body corporate, by delivering it to the secretary or clerk of the body at its registered or principal office or by sending it by registered post addressed to the secretary or clerk of that body at that office.

Proof by
formal
admission.
1967, c. 80,
s. 10.

65C. (1) Subject to the provisions of this section, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purpose of those proceedings by or on behalf of the prosecutor or defendant and the admission by any party of any such fact under this section shall as against that party be conclusive evidence in those proceedings of the fact admitted.

(2) An admission under this section—

- (a) may be made before or during the proceedings;
- (b) if made otherwise than in court, shall be in writing;
- (c) if made in writing by an individual, shall purport to be signed by the person making it and, if so made by a body corporate, shall purport to be signed by a director or manager, or the secretary or clerk, or some other similar officer of the body corporate;
- (d) if made on behalf of a defendant who is an individual, shall be made by his counsel or solicitor;
- (e) if made at any stage before the trial by a defendant who is an individual, must be approved by his counsel or solicitor (whether at the time it was made or subsequently) before or during the proceedings in question.

(3) An admission under this section for the purpose of proceedings relating to any matter shall be treated as an admission for the purpose of any subsequent criminal proceedings relating to that matter (including any appeal or retrial).

(4) An admission under this section may with the leave of the court be withdrawn in the proceedings for the purpose of which it is made or any subsequent criminal proceedings relating to the same matter.

Notice of
alibi.
1967, c. 80,
s. 11.

65D. (1) On a trial on indictment the defendant shall not without the leave of the court adduce evidence in support of an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi.

(2) Without prejudice to subsection (1), on any such trial the defendant shall not without the leave of

the court call any other person to give evidence in support of an alibi unless—

- (a) the notice under subsection (1) includes the name and address of the witness or, if the name and address is not known to the defendant at the time he gives the notice, any information in his possession which might be of material assistance in finding the witness;
- (b) if the name or the address is not included in that notice, the court is satisfied that the defendant, before giving the notice, took and thereafter continued to take all reasonable steps to secure that the name or address would be ascertained;
- (c) if the name or the address is not included in that notice, but the defendant subsequently discovers the name or address or receives other information which might be of material assistance in finding the witness, he forthwith gives notice of the name, address or other information, as the case may be;
- (d) if the defendant is notified by or on behalf of the prosecutor that the witness has not been traced by the name or at the address given, he forthwith gives notice of any such information which is then in his possession or, on subsequently receiving any such information, forthwith gives notice of it.

(Cap. 227.)

(3) The court shall not refuse leave under this section if it appears to the court that the defendant was not informed in accordance with the provisions of section 82 of the Magistrates Ordinance of the requirements of this section.

(4) Any evidence tendered to disprove an alibi may, subject to any directions by the court as to the time it is to be given, be given before or after evidence is given in support of the alibi.

(5) Any notice purporting to be given under this section on behalf of the defendant by his solicitor shall, unless the contrary is proved, be deemed to be given with the authority of the defendant.

(6) A notice under subsection (1) shall either be given in court during, or at the end of, the committal proceedings or be given in writing to the prosecutor,

and a notice under paragraph (c) or (d) of subsection (2) shall be given in writing to the prosecutor.

(7) A notice required by this section to be given to the prosecutor may be given by delivering it to the Attorney General or by leaving it at the Attorney General's office, or by sending it by registered post addressed to the Attorney General at his office.

(8) In this section—

“evidence in support of an alibi” means evidence tending to show that by reason of the presence of the defendant at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission;

“the prescribed period” means the period expiring not less than ten days prior to the commencement of the trial.

(9) In computing the prescribed period there shall be disregarded any day which is a general holiday under the Holidays Ordinance.”

(Cap. 149.)

7. Part V of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of Part V.

“PART V.

PARTIES.

Aiders,
abettors and
accessories.
1861, c. 94,
s. 8,
1952, c. 55,
s. 35.

89. Any person who aids, abets, counsels or procures the commission by another person of any offence shall be guilty of the like offence.

Penalties
for assisting
offenders.
1967, c. 58,
s. 4.

90. (1) If a person has committed an arrestable offence, any other person who, knowing or believing him to be guilty of the offence or of some other arrestable offence, does, without lawful authority or reasonable excuse, any act with intent to impede his apprehension or prosecution shall be guilty of an offence.

(2) If on the trial of an indictment for an arrestable offence the jury are satisfied that the offence charged (or some other offence of which the accused might on that charge be found guilty) was committed, but find the accused not guilty of it, they may find

him guilty of any offence under subsection (1) of which they are satisfied that he is guilty in relation to the offence charged (or that other offence).

(3) A person guilty of an offence under subsection (1) shall be liable—

- (a) on conviction on indictment, to imprisonment for ten years; or
- (b) on summary conviction, to a fine of five thousand dollars and to imprisonment for two years.

(4) No proceedings shall be instituted for an offence under subsection (1) except with the consent of the Attorney General.

(5) Nothing in subsection (4) shall prevent the arrest, or the issue of a warrant for the arrest, of any person for an offence under subsection (1), or the remand in custody or on bail of a person charged with such an offence.

Penalties for
concealing
offences.
1967, c. 58,
s. 5.

91. (1) If a person has committed an arrestable offence, any other person who, knowing or believing that the offence or some other arrestable offence has been committed, and that he has information which might be of material assistance in securing the prosecution or conviction of an offender for it, accepts or agrees to accept for not disclosing that information any consideration shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for two years.

(2) If a person causes any wasteful employment of the police by knowingly making to any person a false report tending to show that an offence has been committed, or to give rise to apprehension for the safety of any person or property, or tending to show that he has information material to any police inquiry he shall be guilty of an offence and shall be liable on conviction to a fine of two thousand dollars and to imprisonment for six months.

(3) No prosecution shall be instituted for an offence under subsection (1) except with the consent of the Attorney General.

(4) The compounding of an offence other than treason shall not be an offence otherwise than under this section.

(5) The offence of misprision of felony is hereby abolished.”.

8. The principal Ordinance is amended in Part VI by adding, before the subheading “*Ownership of property*,” the following new section—

Addition of
new section
94A.

“*Negative averments.*”

Negative
averments.

94A. (1) It shall not be necessary in an indictment, charge, complaint or information alleging an offence to negative any exception or exemption from or qualification to the operation of the law creating the offence.

(2) For the avoidance of doubt it is hereby declared that in criminal proceedings—

- (a) it is not necessary for the prosecution to negative by evidence any matter to which this subsection applies; and
- (b) the burden of proving the same lies on the person seeking to avail himself thereof.

(3) This section applies to criminal proceedings in the District Court or a magistrate's court.

(4) The matters to which subsection (2) applies are any licence, permit, certificate, authorization, permission, lawful or reasonable authority, purpose, cause or excuse, exception, exemption, qualification or other similar matter.”.

9. Section 101 of the principal Ordinance is amended by deleting subsection (1).

Amendment of
section 101.

10. The principal Ordinance is amended by adding, after section 101, the following new section—

Addition of
new section
101A.

“Use of force
in making
arrest etc.
1967, c. 58,
s. 3.

101A. (1) A person may use such force as is reasonable in the circumstances in the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

(2) Subsection (1) shall replace the rules of the common law on the question when force used for a purpose mentioned in the subsection is justified by that purpose.”.

Amendment of
section 109A.

10A. Section 109A of the principal Ordinance is amended by inserting after subsection (1) the following new subsection—

“(1A) This section shall not apply to a person who has been convicted of any offence which is declared to be an excepted offence by the Third Schedule.”.

Addition of
new sections
109B, 109C,
109D, 109E,
109F, 109G
and 109H.

11. The principal Ordinance is amended by adding, after section 109A, the following new sections—

“Suspended sentences.

Suspended
sentences
of imprison-
ment.
1967, c. 80,
s. 39.

109B. (1) A court which passes a sentence of imprisonment for a term of not more than two years for an offence, other than an excepted offence, may order that the sentence shall not take effect unless, during a period specified in the order, being not less than one year nor more than three years from the date of the order, the offender commits in the Colony another offence punishable with imprisonment and thereafter a court having power to do so orders under section 109C that the original sentence shall take effect.

(2) A court which passes a suspended sentence on any person for an offence shall not make a probation order in his case in respect of another offence of which he is convicted by or before the court or for which he is dealt with by the court.

(3) On passing a suspended sentence the court—

- (a) may impose such conditions as it thinks fit;
- (b) shall explain to the offender in ordinary language his liability under section 109C if during the operational period he commits an offence punishable with imprisonment or breaks any condition imposed under paragraph (a).

(4) If a court has passed a suspended sentence on any person, and that person is subsequently sentenced to detention in a training centre, he shall cease to be liable to be dealt with in respect of the suspended sentence unless the subsequent sentence or any conviction or finding on which it was passed is quashed on appeal.

(5) Subject to any provision to the contrary contained in this or any other Ordinance—

- (a) a suspended sentence which has not taken effect under section 109C shall be treated

as a sentence of imprisonment for the purposes of all Ordinances except any Ordinance which provides for disqualification for or loss of office, or forfeiture of pensions, of persons sentenced to imprisonment; and

- (b) where a suspended sentence has taken effect under section 109C, the offender shall be treated for the purposes of the said excepted Ordinances as having been convicted on the ordinary date on which the period allowed for making an appeal against an order under section 109C expires or, if such an appeal is made, the date on which it is finally disposed of or abandoned or fails for non-prosecution.

Power of
court on
conviction
of further
offence to
deal with
suspended
sentence.
1967, c. 80,
s. 40.

109C. (1) If an offender is convicted of an offence punishable with imprisonment committed during the operational period of a suspended sentence or if, during such period, he breaks a condition imposed under paragraph (a) of subsection (3) of section 109B and either he is so convicted by or before a court having power under section 109D to deal with him in respect of the suspended sentence or he subsequently appears or is brought before such a court, then, unless the sentence has already taken effect, that court shall consider his case and deal with him by one of the following methods—

- (a) the court may order that the suspended sentence shall take effect with the original term unaltered;
- (b) it may order that the sentence shall take effect with the substitution of a greater or lesser term for the original term;
- (c) it may by order vary the original order under subsection (1) of section 109B by substituting for the period specified therein a period expiring not later than three years from the date of the variation; or
- (d) it may make no order with respect to the suspended sentence,

and a court shall make an order under paragraph (a) of this subsection unless the court is of opinion that it would be unjust to do so in view of all the circumstances which have arisen since the suspended

sentence was passed, including the facts of the subsequent offence, and where it is of that opinion the court shall state its reasons.

(2) Where a court orders that a suspended sentence shall take effect, with or without any variation of the original term, the term of such sentence shall commence on the expiration of another term of imprisonment passed on the offender by that or another court, unless the court is of opinion that, by reason of special circumstances, the sentence should take effect immediately.

(3) In proceedings for dealing with an offender in respect of a suspended sentence which take place before the Supreme Court any question whether the offender has been convicted of an offence punishable with imprisonment committed during the operational period of the suspended sentence shall be determined by the court and not by the verdict of a jury.

(4) Where a court deals with an offender under this section in respect of a suspended sentence the clerk of the court shall notify the clerk of the court which passed the sentence of the method adopted.

(5) Where on consideration of the case of an offender a court makes no order with respect to a suspended sentence, the clerk of the court shall record that fact.

(6) For the purposes of any Ordinance conferring rights of appeal in criminal cases any such order made by a court shall be treated as a sentence passed on the offender by that court for the offence for which the suspended sentence was passed.

109D. (1) An offender may be dealt with in respect of a suspended sentence by any court before which he appears or is brought.

(2) Where an offender is convicted by a magistrate of an offence punishable with imprisonment and the magistrate is satisfied that the offence was committed during the operational period of a suspended sentence passed by the Supreme Court or the District Court—

(a) the magistrate may, if he thinks fit, commit him in custody or on bail to the court having power to deal with him in respect of the suspended sentence; and

Court by which suspended sentence is to be dealt with.
1967, c. 80, s. 41.

(b) if he does not, shall give written notice of the conviction to the clerk of the court by which the suspended sentence was passed.

(3) The court to which a magistrate commits an offender under subsection (2) shall be the court by which the suspended sentence was passed, except that the magistrate may commit him to some other court if, having regard to the time when and the place where he is likely to be dealt with in respect of the suspended sentence by the court by which that sentence was passed, it would be more convenient that he should be dealt with by that other court.

(4) For the purpose of this section and section 109E a suspended sentence passed on an offender on appeal shall be treated as having been passed by the court by which he was originally sentenced.

Discovery of further offences.
1967, c. 80, s. 42.

109E. (1) If it appears to a judge, a District Judge or a magistrate that an offender has been convicted in the Colony of an offence punishable with imprisonment committed during the operational period of a suspended sentence and that he has not been dealt with in respect of the suspended sentence, the judge, District Judge or magistrate may issue a summons requiring the offender to appear at the place and time specified therein, or may, subject to the following provisions of this section, issue a warrant for his arrest.

(2) A magistrate shall not issue a summons under this section except on information and shall not issue a warrant under this section except on information in writing and on oath.

(3) A summons or warrant issued under this section shall direct the offender to appear or to be brought before the court by which the suspended sentence was passed, but if a warrant is so issued requiring him to be brought before the Supreme Court or the District Court and he cannot forthwith be brought before that court because that court is not being held, the warrant shall have effect as if it directed him to be brought before a magistrate and the magistrate shall commit him in custody or on bail to the Supreme Court or District Court.

Breach of condition.

109F. If, during the operational period of a suspended sentence, an offender is guilty of the breach

of any condition imposed on him by a court under paragraph (a) of subsection (3) of section 109B, he shall be liable to be dealt with as if, during such period, he had been convicted of an offence punishable with imprisonment.

Interpretation.

109G. In sections 109B, 109C, 109D, 109E and 109F—

“court” includes a District Court and a magistrate;

Third Schedule.

“excepted offence” means an offence declared to be an excepted offence by the Third Schedule;

“operational period”, in relation to a suspended sentence, means the period specified in an order made under subsection (1) of section 109B.

Duration.

109H. Sections 109B, 109C, 109D, 109E, 109F, 109G and this section shall expire on the 31st day of December 1973 or on such other later date as the Legislative Council may, by resolution, appoint.”

Repeal of sections 43, 60, 61, 62 and 65.

12. Sections 43, 60, 61, 62 and 65 of the principal Ordinance are repealed.

Addition of new section 124.

12A. The principal Ordinance is amended by adding, after section 123, the following new section—

“Amendment of Third Schedule. **124.** The Legislative Council may, by resolution, from time to time amend the Third Schedule.”

Addition of new Third Schedule.

12B. The principal Ordinance is amended by adding, after the Second Schedule, the following new Schedule—

“THIRD SCHEDULE. [ss. 109A, 109G & 124.]

EXCEPTED OFFENCES.

The following offences are declared to be excepted offences—

1. Manslaughter.
2. Rape or attempted rape.
3. Affray.
4. Any offence against section 4, 5, or 6 of the Dangerous Drugs Ordinance.
5. Any offence contrary to section 10, 11, 12, 13, 14, 17, 19, 20, 21, 22, 23, 28, 29, 30, 36 or 42 of the Offences against the Person Ordinance.
6. Any offence or attempted offence against section 7 of the Protection of Women and Juveniles Ordinance.
7. Any offence against section 4 of the Arms and Ammunition Ordinance.
8. Any offence against section 10 or 12 of the Theft Ordinance.”

(Cap. 134.)

(Cap. 212.)

(Cap. 213.)

(Cap. 238.)

(21 of 1970.)

13. The Ordinances specified in the second column of the Schedule are amended to the extent and in the manner set out in the third column of the Schedule.

Consequential amendments. Schedule.

14. On an information, charge or indictment signed before the commencement of this Ordinance, a person may be found guilty of any offence of which he could have been found guilty on that information, charge or indictment if this Ordinance had not been enacted, but not of any other offence.

Transitional. 1967, c. 58, s. 12(3).

SCHEDULE.

[s. 13.]

CONSEQUENTIAL AMENDMENTS.

Short title or citation.

Amendment.

- | | | |
|---|--|-----------------------|
| 1. Importation and Exportation (Registration of Imports and Exports) Regulations. | Regulations 4(6), 5(6), 8(2) and (3), 10(5) and 11(4) and (5) are amended by deleting “(burden of proof whereof shall be upon him)” in each case where that phrase occurs. | (Cap. 50, sub. leg.) |
| 2. Preservatives in Food Regulations. | Regulation 7 is revoked. | (Cap. 132, sub. leg.) |
| 3. Dangerous Drugs Ordinance. | Section 49 is repealed. | (Cap. 134.) |
| 4. Registration of Persons Regulations. | Regulation 25 is amended by deleting paragraph (i) of the proviso. | (Cap. 177, sub. leg.) |
| 5. Offences against the Person Ordinance. | Add, after section 8, the following— | (Cap. 212.) |

“Alternative verdicts. [cf. 1967, c. 58, s. 6.]

8A. On an indictment for murder a person found not guilty of murder may be found guilty of—

- (a) any offence of which he may be found guilty under any Ordinance specifically so providing, or under subsection (2) of section 51 or subsection (2) of section 90 of the Criminal Procedure Ordinance; or
- (b) an attempt to commit murder, or of an attempt to commit any other offence of which he may be found guilty.”

(Cap. 221.)

*Short title or citation.**Amendment.*

(Cap. 214.)

6. Perjury Ordinance.

Add, after section 4, the following—

"False written
statements
tendered in
evidence.
1967, c. 80,
s. 89.
(Cap. 221.)

4A. If any person in a written statement tendered in evidence in criminal proceedings under section 65B of the Criminal Procedure Ordinance wilfully makes a statement material in those proceedings which he knows to be false or does not believe to be true, he shall be guilty of an offence and shall be liable on conviction to imprisonment for two years and to a fine of five thousand dollars."

(Cap. 221, sub. leg.)

7. Indictment Rules.

Rule 2 is amended by deleting paragraph (2).

(Cap. 227.)

8. Magistrates Ordinance.

(i) Section 33 is amended by deleting paragraph (b).

(ii) Section 43 is repealed.

(Cap. 228.)

9. Summary Offences Ordinance.

Section 35 is amended by deleting "but in every case the proof of such lawful authority shall lie on the person alleging the same".

(Cap. 245.)

10. Public Order Ordinance.

Section 48 is repealed.

(Cap. 281.)

11. Merchant Shipping Ordinance.

Section 111 is repealed.

(Cap. 5.)

12. District Court Ordinance.

(i) Section 39 is repealed and replaced by the following

"Aiders and
abettors.
(Cap. 221.)

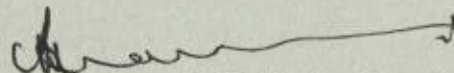
39. Sections 89, 90 and 91 of the Criminal Procedure Ordinance shall apply to proceedings in the Court with such verbal alterations and modifications not affecting the substance thereof as may be necessary to render the same conveniently applicable."

(ii) The Second Schedule is amended—

(a) in Part I, by deleting "51,";

(b) in Part II, by deleting sub-paragraph (3) of paragraph 1.

Passed by the Hong Kong Legislative Council this 24th day of February, 1971.

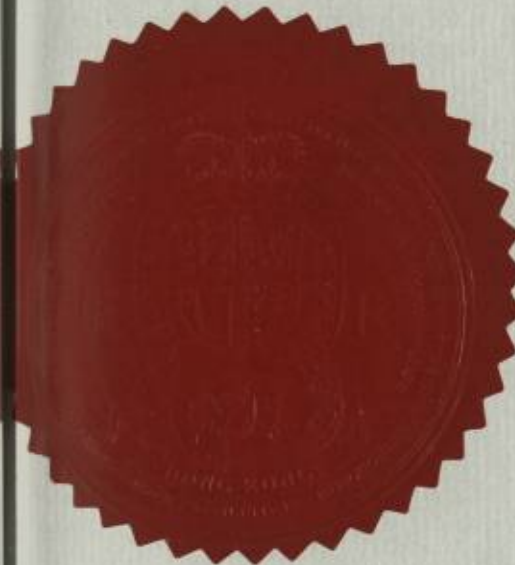

Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

HONG KONG

No. 6 OF 1971.



I assent.

French
Governor.

25th February, 1971.

An Ordinance to amend the Magistrates Ordinance and to amend consequentially the Defamation Ordinance.

[26th February, 1971.]

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

1. This Ordinance may be cited as the Magistrates (Amendment) Ordinance 1971.

Short title.

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

Addition of
new section
19A.
(Cap. 227.)

"Plea by a
corporation
before a
magistrate.
1967, c. 80,
s. 29.

19A. (1) On the hearing by a magistrate of any complaint or information against a corporation, a representative may on behalf of the corporation enter a plea of guilty or not guilty.

(2) Where a representative enters a plea of not guilty under subsection (1), he may exercise the rights under subsection (1) of section 16 as if he were an

individual defendant against whom the complaint is made or the information laid.

(Cap. 221.)

(3) Subsection (4) of section 49 of the Criminal Procedure Ordinance shall apply *mutatis mutandis* to a representative for the purposes of subsection (1) as it applies to a representative for the purposes of that section.

(4) A letter under subsection (5) of section 18 may be addressed to the magistrate on behalf of a corporation by a director or the secretary of the corporation and that subsection shall apply in relation to a letter purporting to be so addressed as it applies to a letter purporting to be addressed by an individual defendant."

Amendment of
section 82.

3. Section 82 of the principal Ordinance is amended by adding, after subsection (3), the following new subsections—

"S.I. 1968/
1920 r. 4(9) &
(13).

(4) After subsection (3) has been complied with, the magistrate shall then say to the accused—

"I must warn you that if this court should commit you for trial you may not be permitted at that trial to give evidence of an alibi or to call witnesses in support of an alibi unless you have earlier given particulars of the alibi and of the witnesses. You may give those particulars now to this court or to the prosecutor not less than ten days prior to the commencement of your trial."

or words to that effect and, if it appears to the magistrate that the accused may not understand the meaning of the term "alibi", he shall explain it to him.

(Cap. 221.)

(5) Where the magistrate has given to the accused the warning required by subsection (4) the clerk of the court shall give to him written notice of the provisions of section 65D of the Criminal Procedure Ordinance."

Amendment of
section 86.

4. Section 86 of the principal Ordinance is amended in subsection (1) by inserting, after "the recognizances of bail (if any)", the following—

"where the magistrate has made an order under subsection (2) of section 87A, a statement to that effect."

5. Part III of the principal Ordinance is amended by adding, after section 87, the following new sections—

Addition of
new sections
87A and 87B.

"Restrictions
on reports
of committal
proceedings.
1967, c. 80,
ss. 3 & 36.
S.I. 1968/
1920, r. 2.

87A. (1) No person shall publish in the Colony a written report, or broadcast in the Colony a report, of any committal proceedings in the Colony containing any matter other than that permitted by subsection (7).

(2) Notwithstanding subsection (1), a magistrate shall, on an application for the purpose made with reference to any committal proceedings by the accused or one of the accused, as the case may be, order that subsection (1) shall not apply to reports of those proceedings, and any such order shall be entered in the Magistrate's Case Register.

(3) If the accused is not represented at any committal proceedings by counsel or by a solicitor, the magistrate shall, immediately before taking depositions of witnesses, explain to the accused the restrictions on reports of committal proceedings imposed by subsection (1) and inform him of his right to apply to the court for an order removing those restrictions.

(4) Where a magistrate has made an order under subsection (2) removing the restrictions on reports of committal proceedings and has adjourned those proceedings to another day, he shall, at the beginning of the adjourned hearing of the proceedings, state that the order has been made.

(5) Notwithstanding subsection (1) a report of committal proceedings containing matter other than that permitted by subsection (7) may be published or broadcast—

- (a) where the magistrate determines not to commit the accused for trial, after he has so determined;
- (b) where the magistrate commits the accused or any of the accused for trial, after the conclusion of his trial or, as the case may be, the trial of the last to be tried.

(6) Notwithstanding subsection (1), where at any time during committal proceedings the magistrate assumes power to deal with the offence summarily under section 91 or 92, a report of so much of the committal proceedings containing any such matter as

takes place before the magistrate assumes such power may be published or broadcast, after the magistrate has assumed power, as part of a report of the summary trial.

(7) A report of committal proceedings published or broadcast without any order under subsection (2) and before the time specified in subsections (5) and (6) may contain—

- (a) the identity of the court and the name of the magistrate;
- (b) the names, addresses, occupations and ages of the parties and witnesses;
- (c) the offence, or a summary thereof, with which the accused is charged;
- (d) the names of counsel and solicitors engaged in the proceedings;
- (e) any decision of the magistrate to commit the accused for trial, and any decision of the magistrate on the disposal of the case of any defendants not committed;
- (f) where the magistrate commits the accused for trial, the charge, or a summary thereof, on which he is committed and the court to which he is committed;
- (g) where the committal proceedings are adjourned, the date and places to which they are adjourned;
- (h) any arrangements as to bail on committal or adjournment;
- (i) whether legal aid was granted to the accused.

(8) If a report is published or broadcast in contravention of this section, the following persons—

- (a) in the case of publication of a written report as part of a newspaper or periodical publication, any proprietor, editor, publisher or distributor thereof;
- (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical publication, the person who publishes or distributes it;

- (c) in the case of a broadcast of a report, any person who transmits or provides the programme in which the report is broadcast and any person having functions in relation to the programme corresponding to those of the editor of a newspaper or periodical publication,

shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand dollars and to imprisonment for six months.

(9) Proceedings for an offence under this section shall not be instituted otherwise than by or with the consent of the Attorney General.

(10) Subsection (1) shall be in addition to, and not in derogation from, the provisions of any other Ordinance with respect to the publication of reports and proceedings of magistrates' and other courts.

(11) In this section—

"broadcast" means sounds or visual images broadcast by wireless telegraphy or by means of a high frequency distribution system over wires, or other paths provided by a material substance and intended for general reception;

"publish", in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public.

87B. If a magistrate commits any person for trial or determines to discharge him, the magistrates' clerk shall, on the day on which the committal proceedings are concluded or the next day, cause to be displayed in a part of the court house to which the public have access a notice in English and in Chinese—

- (a) in either case giving that person's name, address and age (if known);
- (b) in a case where the magistrate commits him, stating the charge on which he is committed and the court to which he is committed;
- (c) in a case where the magistrate determines to discharge him, describing the offence charged and stating that the magistrate has so determined."

Notice of
result of
committal
proceedings.
1967, c. 80,
s. 4.

Consequential
amendments
to Defamation
Ordinance.
(Cap. 21.)

6. Section 13 of the Defamation Ordinance is amended by—

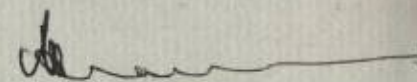
- (a) being renumbered as subsection (1) thereof; and
- (b) inserting the following new subsection—

"1967, c. 80,
s. 5.

(Cap. 227.)

(2) Any report in a newspaper, and any broadcast report, of committal proceedings in a case where publication is permitted by virtue only of subsections (5) and (6) of section 87A of the Magistrates Ordinance, published as soon as practicable after it is so permitted, shall be treated for the purposes of subsection (1) as having been published or broadcast contemporaneously with the committal proceedings."

Passed by the Hong Kong Legislative Council this 24th day of February, 1971.

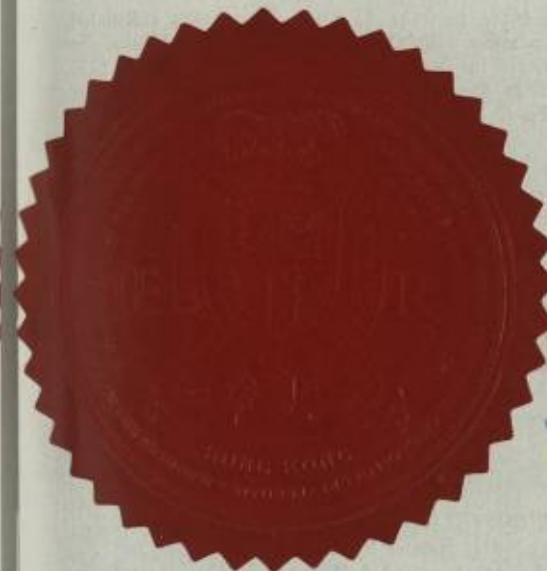

Clerk to the Legislative Council.

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

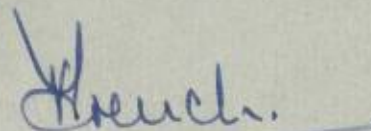

Clerk to the Legislative Council.

HONG KONG

No. 7 OF 1971.



I assent.


Governor.

25th February, 1971.

An Ordinance to amend the Widows and Orphans Pension Ordinance.

[1st July, 1959.]

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

1. This Ordinance may be cited as the Widows and Orphans Pension (Amendment) Ordinance 1971, and shall be deemed to have had effect as from the 1st day of July 1959.

Short title and
commencement.

2. The Schedule to the principal Ordinance is amended in Part II by adding, after Note 4, the following new notes—

Amendment of
Schedule.
(Cap. 94.)

"Note 5.—Notwithstanding Note 2, 3 or 4, where the amount of the part of a pension, if any, (including all variations consequent upon the rise or fall in the amount of any contribution or upon re-marriage) purchased by contributions falling due on or before the 30th day of November 1967, when calculated on and in accordance with the Tables and Instructions set forth in this Schedule, is less than the amount of any such part calculated on and in accordance with the pension tables and

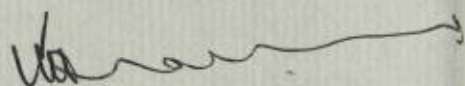
rules for calculating pensions in force on the 30th day of June 1959, the difference between the two amounts shall be added to the registered pension, if any, as at the 30th day of November 1967, calculated on and in accordance with the Tables and Instructions set forth in this Schedule.

Note 6.—Notwithstanding Note 2, 3 or 4, where a pension calculated on and in accordance with the pension tables and rules for calculating pensions in force on the 30th day of June 1959 and payable before the 1st day of December 1967 is greater than it would be if it were calculated on and in accordance with the Tables and Instructions set forth in this Schedule, that pension shall continue to be calculated on and in accordance with the pension tables and rules for calculating pensions in force on the 30th day of June 1959."

Passed by the Hong Kong Legislative Council this 24th day of February, 1971.

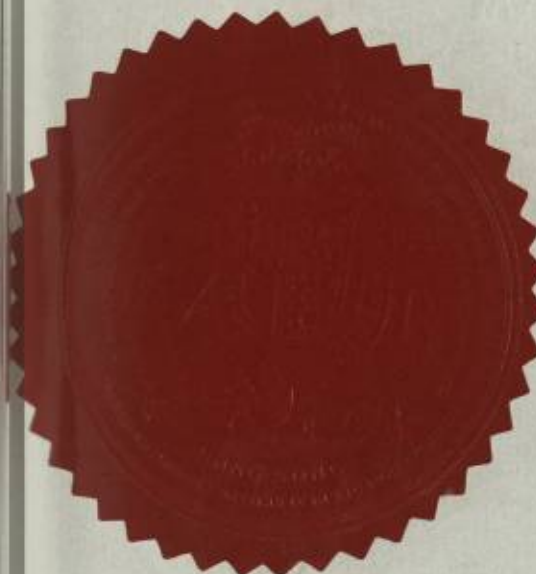

Clerk to the Legislative Council.

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

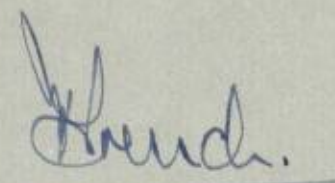

Clerk to the Legislative Council.

HONG KONG

No. 8 OF 1971.



I assent.


Governor.

11th March, 1971.

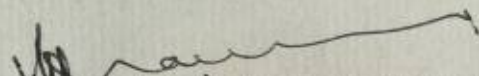
An Ordinance to amend the Law of Property Amendment Ordinance.

[12th March, 1971.]

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

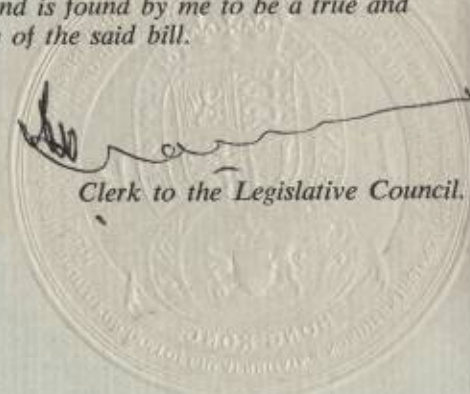
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|--|------------------------------------|
| 1. This Ordinance may be cited as the Law of Property Amendment (Amendment) Ordinance 1971. | Short title. |
| 2. Section 7 of the principal Ordinance is amended— | Amendment of section 7. (Cap. 24.) |
| (a) by inserting after "not have power" the following—
"under this Ordinance"; and | |
| (b) by inserting after "grant any relief" the following—
"under this Ordinance". | |
| 3. This Ordinance shall not apply in respect of any breach of covenant or condition occurring before the commencement of this Ordinance. | Application. |

Passed by the Hong Kong Legislative Council this 10th day of March, 1971.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

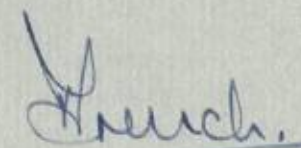


HONG KONG

No. 9 OF 1971.



I assent.



Governor.

11th March, 1971.

An Ordinance to amend the Dangerous Goods Ordinance.

[]

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

1. This Ordinance may be cited as the Dangerous Goods (Amendment) Ordinance 1971 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Short title and commencement.

2. The principal Ordinance is amended by inserting before section 1 the following new heading—

Insertion of new heading "Part I." (Cap. 295.)

"PART I.

PRELIMINARY."

3. Section 2 of the principal Ordinance is amended by inserting after the definition of "dangerous goods" the following new definition—

Amendment of section 2.

"depot" means any place or vessel designated as a Government Explosives Depot under section 13A;"

Amendment of section 3.

4. Section 3 of the principal Ordinance is amended, in paragraph (b) of the proviso, by inserting before "to" the following—
"subject to Part III."

Addition of new section 4.

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

"Power of Governor to give directions.

4. (1) The Governor may give such directions as he thinks fit (either generally or in any particular case) with respect to the exercise or performance by any public officer (other than a judge, a District Judge or a magistrate) of any powers, functions and duties under this Ordinance.

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

Insertion of new heading "Part II."

6. The principal Ordinance is amended by inserting after section 5 the following new heading—

"PART II.

CONTROL OF DANGEROUS GOODS."

Addition of new Part III.

7. The principal Ordinance is amended by adding after section 13 the following new Part—

"PART III.

GOVERNMENT EXPLOSIVES DEPOTS.

Governor may designate places and vessels as Government Explosives Depots.

13A. The Governor may, by notice published in the *Gazette*, designate any place or vessel as a Government Explosives Depot for the storage of explosives.

Commissioner of Mines to be in charge of depots.

13B. The Commissioner of Mines shall, subject to section 13C, have the control and management of every depot.

Powers of Director of Marine.

13C. (1) The Director of Marine may give directions as to the surveying, movement, siting and mooring of any vessel designated as a depot.

(2) The Director of Marine may, if it appears to him that a vessel designated as a depot is in any respect unsuitable for the storage of explosives—

- (a) prohibit the use of the vessel for the storage of explosives; or
- (b) permit the use of the vessel for the storage of explosives, either unconditionally or subject to such conditions as he may think fit to impose.

Appointment of managers and deputy managers.

13D. The Governor may, by notice published in the *Gazette*, appoint a manager and one or more deputy managers of a depot.

Regulations for management of depots.

13E. (1) The Governor in Council may by regulation provide for—

- (a) the control and management of depots;
- (b) safety precautions to be taken in depots;
- (c) the empowering of any public officer to give such directions as he thinks fit for the purposes of the proper control and management and the safety of depots;
- (d) the fees chargeable for the storage of explosives in depots and for deliveries of explosives by the Government to or from depots;
- (e) the destruction of explosives stored in depots;
- (f) the sale of explosives stored in depots in respect of which the prescribed fees have not been paid and the deduction of such fees and the expenses of sale from the proceeds of sale; and
- (g) the better carrying out of the provisions of this Part.

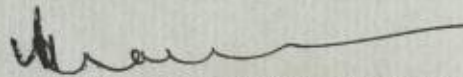
(2) Regulations made under this section may provide that contravention of specified provisions of such regulations shall be an offence and may provide penalties therefor, but no penalty so provided shall exceed a fine of eight thousand dollars and imprisonment for six months."

8. The principal Ordinance is amended by inserting after section 13E the following new heading—

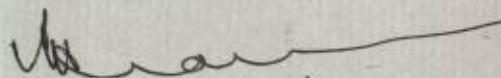
"PART IV. GENERAL."

Insertion of new heading "Part IV."

Passed by the Hong Kong Legislative Council this 10th day of March, 1971.


Clerk to the Legislative Council.

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

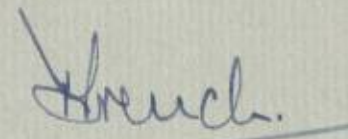

Clerk to the Legislative Council.

HONG KONG

No. 10 OF 1971.



I assent.


Governor.

11th March, 1971.

An Ordinance to amend the Merchant Shipping Ordinance.

[]

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

1. (1) This Ordinance may be cited as the Merchant Shipping (Amendment) Ordinance 1971.

Short title
and com-
mencement.

(2) This Ordinance shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*, and notices under this subsection may appoint different dates for different provisions of this Ordinance.

2. Section 2 of the principal Ordinance is amended—

(a) by inserting after the definition of "accepted Safety Convention certificate" the following new definition—

Amendment of
section 2.
(Cap. 281.)

"dangerous goods" means any of the goods or substances to which the Dangerous Goods Ordinance applies;"

(Cap. 295.)

- (b) by inserting after the definition of "Director" the following new definitions—

"explosive" includes any substance used or manufactured with a view to producing a practical effect by explosion or a pyrotechnic effect;

"Government Explosives Depot" means any place or vessel designated as a Government Explosive Depot under section 13A of the Dangerous Goods Ordinance;"

(Cap. 295.)

Amendment of
section 69.

3. Section 69 of the principal Ordinance is amended, in subsection (3)—

- (a) by deleting "signal "S T"" and substituting the following—

"International Code signal "C B 3"";

- (b) by deleting "signal "N Q"" and substituting the following—

"International Code signal "C B 6"";

- (c) by deleting "and "R X"—"Want assistance—mutiny";".

Amendment of
section 78.

4. Section 78 of the principal Ordinance is amended, in subsection (4), by deleting "customary flag" and substituting the following—

"International Code flag "L"".

Repeal of
section 83A.

5. Section 83A of the principal Ordinance is repealed.

Repeal and
replacement of
section 84.

6. Section 84 of the principal Ordinance is repealed and replaced by the following new section—

"Prohibition against anchoring near Government Explosives Depots. 84. No master of a vessel shall cause or permit the vessel to be anchored within five hundred yards of a Government Explosives Depot without the permission of the Director."

Amendment of
section 86.

7. Section 86 of the principal Ordinance is amended, in subsection (1), by deleting "the dangerous goods anchorage or into such other anchorage as the Director may deem expedient" and substituting the following—

"such anchorage as the Director may direct".

Amendment of
section 87.

8. Section 87 of the principal Ordinance is amended—

- (a) in subsection (1), by deleting ", and the sums chargeable for the storage of gunpowder, safety cartridges or other explosives";

- (b) by deleting subsection (2).

9. Section 88 of the principal Ordinance is repealed and replaced by the following new section—

Repeal and
replacement of
section 88.

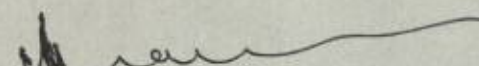
"Penalty for
contra-
vening
section 84
or 86.

88. Any person who contravenes section 84 or subsection (1) or (2) of section 86, shall be guilty of an offence and shall be liable on conviction to a fine of two thousand dollars and to imprisonment for six months."

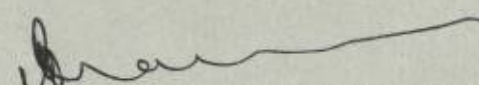
10. Section 90 of the principal Ordinance is amended, in subsection (1), by deleting "as defined by the Dangerous Goods Ordinance,".

Amendment of
section 90.

Passed by the Hong Kong Legislative Council this 10th day of March, 1971.


Clerk to the Legislative Council.

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


Clerk to the Legislative Council.

HONG KONG

No. 11 OF 1971.



I assent.

Heath

Governor.

25th March, 1971.

An Ordinance to apply a sum not exceeding two thousand eight hundred and sixty-one million, nine hundred and forty-eight thousand, and twenty dollars to the Public Service of the financial year ending the 31st day of March 1972.

[1st April, 1971.]

WHEREAS the expenditure required for the service of this Colony for the financial year ending on the 31st day of March 1972, has been estimated at the sum of two thousand eight hundred and sixty-one million, nine hundred and forty-eight thousand, and twenty dollars:

Preamble.

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

1. This Ordinance may be cited as the Appropriation Ordinance 1971.

Short title.