

**CHAPTER 1.**  
**INTERPRETATION ORDINANCE.**

ARRANGEMENT OF SECTIONS.

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## SCHEDULES.

FIRST SCHEDULE.—Boundaries of City of Victoria.

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CHAPTER 1.  
INTERPRETATION.

*Handwritten notes:* K... 31/10/50

To amend and consolidate the law relating to the construction and interpretation of the law and to make better provision for the interpretation of the terminology employed therein and for matters incidental thereto.

2 of 1950.  
9 of 1950.  
22 of 1950.  
28 of 1950.  
37 of 1950.

[1st September, 1950.]

1. This Ordinance may be cited as the Interpretation Ordinance. Short title.

2. (1) Save where the contrary intention appears either from this Ordinance or from the context of any enactment or instrument, the provisions of this Ordinance shall apply and shall apply only to this Ordinance and to all enactments now or hereafter in force made by competent authority in the Colony and to any instrument made or issued under or by virtue of any such enactment. Application.  
28 of 1950,  
Schedule.

(2) This Ordinance shall be binding on the Crown.

PART I.

GENERAL PROVISIONS OF INTERPRETATION.

3. (1) "act" used with reference to an offence or civil wrong, includes a series of acts, and words which refer to acts done extend to illegal omissions;  
"Act" or "Statute" means an Act or Statute of the Imperial Parliament;  
"Admiralty" or "the Admiralty" means the Lord High Admiral of the United Kingdom for the time being or the Commissioners for the time being executing the office of Lord High Admiral of the United Kingdom;  
"amend" includes repeal, add to or vary and the doing of all or two or more of such things simultaneously or by the same instrument;  
"any enactment" or "any Ordinance" includes any enactment or any Ordinance, as the case may be, which is in force in the Colony at the time when the enactment in which the expression occurs is enforced or applied; Interpretation of certain words and expressions, 52 & 53 Vict. c. 63, s. 12(4).  
28 of 1950, Schedule.

- [s. 3 cont.] "Board of Trade" means the Committee for the time being of the Privy Council appointed for the consideration of matters relating to trade and foreign plantations;
- 52 & 53 Vict. c. 63, s. 12(8). "British possession" means any part of His Majesty's dominions exclusive of the United Kingdom; and where parts of such dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession;
- "Christian name" means any name prefixed to a surname, whether received in Christian baptism or otherwise;
- "City of Victoria" or "Victoria" means the area within the boundaries specified in the First Schedule;
- First Schedule. "Clerk of Councils" means the person appointed by the Governor to be Clerk to the Executive Council and the Legislative Council and includes any person appointed by the Governor to be Deputy Clerk of Councils;
- 9 of 1950, Schedule. "Colony" or "Hong Kong" means the whole area of land and the whole area of Deep Bay and Mirs Bay lying within the boundaries specified in the Second Schedule, together with the territorial waters appertaining thereto;
- Second. Schedule. "Colonial Secretary" includes Deputy Colonial Secretary;
- 52 & 53 Vict. c. 63, s. 36(1). "commencement", when used with reference to any enactment, shall mean the day on which the enactment comes into operation;
- "Commissioner of Prisons" means the person appointed to that office under any enactment relating to prisons;
- 52 & 53 Vict. c. 63, s. 27. "committed for trial" means, when used in relation to any person, committed to prison with the view to his being tried before a judge and jury, or otherwise as the law directs; and includes a person who is admitted to bail upon recognizances to appear and take his trial before a judge and jury, or otherwise;
- 28 of 1950, Schedule. "Commonwealth" means collectively the United Kingdom, any British possession, the Republic of India, any state or territory under His Majesty's protection and any mandated or trust territory;
- 52 & 53 Vict. c. 63, s. 12(20). "consul" and "consular officer" include consul-general, consul, vice-consul, consular agent and any person for the time being authorized to discharge the duties of consul-general, consul or vice-consul;

- “contravene” in relation to any requirement or condition prescribed in any enactment or in any permit, licence or authority granted under any enactment includes a failure to comply with that requirement or condition;
- “Court” or “court” means the Supreme Court as well as any other court holden in the Colony; but in the absence of any words indicating a contrary intention the jurisdiction created by or referred to in any enactment shall be exercised only by the Supreme Court;
- “Crown Agents” means the person or persons for the time being acting as Crown Agents for the Colonies in England, or any one of them;
- “daily penalty” means a penalty for each day on which an offence is continued after conviction therefor;
- “definition” means the interpretation given by an enactment to words or expressions;
- “enactment” means any provision made by competent authority in the Colony having the force of law and any part of such provision;
- “Financial Secretary” includes Deputy Financial Secretary;
- “financial year” means the twelve months ending on the 31st day of March in any year;
- “Gazette” means the Hong Kong Government Gazette and any Supplement thereto, and includes the Hong Kong (British Military Administration) Gazette published on or between the 12th day of October, 1945 and the 1st day of May, 1946;
- “Government” means the Government of Hong Kong;
- “Government Chemist” includes any chemist appointed by the Governor under the Adulterated Food and Drugs Ordinance;
- “Government Printer” means the Government Printer of the Colony, and includes any printer purporting to be the printer authorized by Government to print enactments;
- “Governor” means the Governor of Hong Kong and includes the officer for the time being administering the Government and also includes the Governor’s Deputy exercising any power which he is duly appointed to exercise under the Royal Letters Patent constituting the office of Governor and Commander-in-Chief of the Colony of Hong Kong and its Dependencies, but

28 of 1950,  
Schedule.

(Cap. 132.)

[s. 3 cont.]

where the Governor of Hong Kong is not intended, "Governor" means, in respect of any Dominion, the Governor General and includes any person who for the time being has the power of the Governor General, and as respects any other British possession, territory under the protection of His Majesty or any mandated or trust territory, means the Governor or Administrator of that possession or territory and includes the officer for the time being administering the Government of that possession or territory;

"Governor in Council" or "Governor in Executive Council" or "Governor with the advice of the Executive Council" means the Governor acting with the advice of the Executive Council, but not necessarily in accordance with such advice nor necessarily in such Council assembled;

28 of 1950,  
Schedule.

"Harbour" means the harbour of Victoria and includes the waters of the Colony within the boundaries specified in the Third Schedule;

Third  
Schedule.

"Health Officer" includes the Deputy Director of Health Services, any medical officer appointed as a health officer by the Governor, any veterinary officer and any officer for the time being performing the duties of a health officer or veterinary officer under any enactment;

"imperial enactment" means any enactment made by competent authority in the United Kingdom and includes an Order in Council;

"Imperial Parliament" and "Parliament" mean the Parliament of the United Kingdom;

28 of 1950,  
Schedule.

"imprisonment" shall import imprisonment with hard labour save in respect of imprisonment under any enactment for not providing sureties: Provided that save where a court or magistrate otherwise orders, a term of imprisonment for less than two years shall import imprisonment without hard labour;

"judge" means any judge of the Supreme Court, and where any civil jurisdiction is required to be exercised by a judge, such jurisdiction, if it is not otherwise expressed, shall be exercisable by a judge sitting in chambers;

"justice" or "justice of the peace" means a person appointed by the Governor to be a justice of the peace for the Colony;

- “Kowloon” means that portion of the peninsula of Kowloon which was ceded to Great Britain by the Emperor of China on the 24th day of October, 1860;
- “magistrate” includes marine magistrates and two justices of the peace sitting together, to whom subsection (2) of section 7 of the Magistrates Ordinance, applies; (Cap. 227.)
- “mandated territory” means a territory administered by the government of any part of His Majesty’s dominions in accordance with a mandate from the League of Nations; 11 & 12,  
Geo. 6,  
c. 56, s. 32.
- “medical practitioner”, or any words importing a person recognized at law as a practitioner in medicine or surgery or as a member of any branch of the medical profession, means a medical practitioner duly registered or deemed to be a medical practitioner under the Medical Registration Ordinance; (Cap. 161.)
- “month” means calendar month; [cf. 52 & 53  
Vict. c. 63,  
s. 3.]
- “New Kowloon” means that portion of the New Territories which is delineated in red and shown upon a plan marked “*New Kowloon*” dated the 8th day of December, 1937, signed by the Director of Public Works, countersigned by the Governor and deposited in the Land Office;
- “New Territories” means the additional territories leased to Great Britain by the Emperor of China under the Convention dated the 9th day of June, 1898;
- “oath” or “affidavit” includes, in the cases of persons allowed or required by law to affirm instead of swearing, affirmation; and “swear”, in the like cases, includes affirm; [cf. 52 & 53  
Vict. c. 63,  
s. 3.]
- “occupy” includes use, inhabit, be in possession of or enjoy the premises in respect whereof the word is used, otherwise than as a mere servant and for the mere purpose of the care, custody and charge thereof;
- “offence” means any crime, misdemeanor, contravention or other breach of the law for which a penalty is provided;
- “officer administering the Government” means the officer who succeeds to or is appointed to the administration of the Government of the Colony;
- “or”, “other” and “otherwise” shall be construed disjunctively and not as implying similarity, unless the word “similar” or some other word of like meaning is added;

- [s. 3 cont.] "Order in Council" means an Order made by His Majesty in His Privy Council;
- "per cent", when used in relation to a rate of interest payable in any circumstances, means the rate of interest specified payable in respect of a year, unless it is expressly provided that it is payable in respect of any other period;
- [cf. 52 & 53  
Vict. c. 63,  
ss. 2 & 19.] "person" includes any body of persons corporate or unincorporate and this interpretation shall apply notwithstanding that the word "person" occurs in a provision creating or relating to an offence or for the recovery of any fine or any compensation;
- "personal name" means the names other than a surname which a person most commonly adopts in conjunction with his surname or, in the case of a person having no surname, the names which he commonly adopts;
- "pier" includes every pier, wharf or jetty of whatever description and any vessel, hulk, pontoon or other structure, fixed or floating, connected to and having direct access to the shore, and used or intended to be used for the purposes of a pier or wharf;
- "police officer" and terms or expressions referring to ranks in the Police Force shall bear the meanings respectively assigned to them by the Police Force Ordinance;
- (Cap. 232.) "power" includes privilege, authority and discretion;
- "prescribed" or "provided" when used in reference to any enactment means prescribed or provided by or under such enactment;
- [cf. Cap. 234,  
s. 2.] "prison" includes any place or building or portion of a building set apart or hereafter to be set apart for the purpose of a prison under any Ordinance relating to prisons;
- [cf. 52 & 53  
Vict. c. 63,  
s. 12(5).] "Privy Council" means the Lords and others for the time being of His Majesty's Most Honourable Privy Council;
- "property" includes money, goods, choses in action, land and every description of property, whether real or personal; also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined;



“public body” means any executive, legislative, municipal or urban council, any Government department or undertaking, any local or public authority or undertaking, any board, commission, committee or other body, whether paid or unpaid, which is invested with or is performing, whether permanently or temporarily, duties of a public nature: [cf. Cap. 215, s. 2.]

“public office” means any office or employment the holding or discharging of which by a person would constitute him a public officer;

“public officer” or “public servant” means any person holding any appointment or discharging the duties whether permanently or temporarily of any office the emoluments of which are wholly or in part derived from the revenues of the Colony and any employee or member of a public body, whether temporary or permanent and whether paid or unpaid and any justice of the peace; [cf. Cap. 215, s. 2.]

“public place” includes every public highway, street, road, square, court, alley, lane, bridleway, footway, parade, wharf, jetty, quay, bridge, public garden or open space, and every theatre, place of public entertainment of any kind, or other place of general resort, admission to which is obtained by payment, or to which the public have access;

“public seal” means the public seal of the Colony;

“registered”, used with reference to a document, means registered under the provisions of the enactment applicable to the registration of such document;

“regulations” includes rules, rules of court and by-laws;

“repeal” includes rescind, revoke, cancel or replace;

“rules of court” means, when used in relation to any court, rules made by the authority having for the time being power to make rules and orders regulating the practice and procedure of such court; 28 of 1950,  
Schedule.

“Secretary of State” means His Majesty’s Principal Secretary of State for the Colonies unless another Secretary of State is indicated; [cf. 52 & 53  
Vict. c. 63,  
s. 14.]

“sell” includes exchange and barter;

“sign” includes in the case of a person unable to write the making of a mark or the affixing of a chop;

“solicitor” means a person admitted to practise as a solicitor before the Supreme Court;

[s. 3 cont.] "standard time" means the mean time of the 120th meridian east of Greenwich;

"statutory declaration" if made—

(a) in the Colony means a declaration under the Statutory Declarations Ordinance;

(b) in any part of the Commonwealth except the Colony means a declaration made before a justice of the peace, notary public, or other person having authority therein under any legal provision for the time being in force in such part to take or receive a declaration;

(c) in any other place, means a declaration before a British Consul or person having authority under any Act for the time being in force to take or receive a declaration;

"street" or "road" includes any highway, street, road, bridge, thoroughfare, parade, square, court, alley, lane, bridleway, footway, passage, or open place whether situate on land leased from the Crown or not, used or frequented by the public, or to which the public have or are permitted to have access;

"summary conviction" means summary conviction by a magistrate in accordance with the procedure prescribed by the Magistrates Ordinance;

"Supreme Court" means the Supreme Court of Hong Kong;

"surname" includes a clan or family name;

"treaty" means a treaty, convention or agreement made with a foreign state, together with protocols or declarations attached thereto, or independent thereof but referring thereto;

11 & 12 Geo. 6  
c. 56, s. 32. "trust territory" means a territory administered by the government of any part of His Majesty's dominions under the trusteeship system of the United Nations;

"United Kingdom" means the United Kingdom of Great Britain and Northern Ireland;

9 of 1950,  
Schedule. "waters of the Colony" or "Colonial waters" means all waters whether navigable or not included within the Colony and includes territorial waters;

"will" includes any testamentary instrument;

[cf. 52 & 53  
Vict. c. 63,  
s. 20.] "writing" or "printing" shall include writing, printing, lithography, photography, typewriting and every other

mode of representing words or figures in a visible form; but in the case of a book "printing" shall not include writing or typing. Nothing in this definition shall be taken to apply to signatures;

"year" means a year according to the Gregorian calendar; "years of age" or words of a like meaning, when used in reference to the age of any person, means years according to English reckoning.

(2) In any such enactment as is mentioned in section 2 coming into operation after the commencement of this Ordinance or contained in the revised edition of Ordinances or the revised edition of subsidiary legislation prepared under the authority of the Revised Edition of the Laws Ordinance, 1948, and in any instrument issued thereunder—"British Colony" or "Colony" shall not include a self-governing member of the Commonwealth;

Interpretation of "British Colony", "India", and "Pakistan" in future enactments and revised edition.

28 of 1950, Schedule.

(20 of 1948.)

"India" and "Pakistan" shall mean respectively India and Pakistan as constituted upon the commencement of this Ordinance, and shall include any state from time to time incorporated in India and Pakistan respectively.

28 of 1950, Schedule.

(3) Whenever a definition has been given by this or any other enactment to words or expressions the grammatical variations and cognate expressions of such definition shall also apply to such enactment and such definition and its grammatical variations and cognate expressions shall also apply to any enactment or instrument made or issued under or by virtue thereof.

Definition to apply to grammatical variations and cognate expressions.

(4) Whenever any reference is made to property and the expressions used in relation thereto imply that such property is owned by or belongs to the Government or convey a similar meaning such reference shall be deemed to refer to such of the property of the Crown of the description mentioned as has by or with the consent of His Majesty express or implied been appropriated to the use of the Government.

Reference to Government property.

(5) (a) Words importing the masculine gender include females.

Provisions for gender and number. [cf. 52 & 53 Vict. c. 63, s. 1.]

(b) Words in the singular include the plural and *vice versa*.

(6) Where any enactment authorizes or requires any document to be served by post, whether the expression

Meaning of service by post.

[s. 3 cont.]  
[cf. 52 & 53  
Vict. c. 63,  
s. 26.]

“serve” or “give” or “send” or any other expression used the service shall be deemed to be effected by properly addressing, preparing and posting a letter containing the document, and unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Provision  
for Chinese  
terms.

(7) Chinese words or terms whether in Chinese characters or not and whether in apposition or not to English words shall be deemed to form part of any enactment in which they appear and shall be construed according to Chinese language and custom.

Reference  
to time.

(8) (a) Whenever any expression of time occurs in any enactment or instrument, the time referred to shall be held to be standard time.

a.m. and p.m.  
28 of 1950,  
Schedule.

(b) The expression “a.m.” indicates the period between midnight and the following noon; and the expression “p.m.” indicates the period between noon and the following midnight and where two such expressions occur conjunctively in relation to any specified hours, or in conjunction with the words “sunset” or “sunrise”, they shall be construed as relating to a consecutive period of time.

The Sovereign.  
[cf. 52 & 53  
Vict. c. 63,  
s. 30.]

(9) Reference to the Sovereign or to the Crown shall be construed as reference to the Sovereign for the time being.

Reference to  
an officer  
and change  
of title.

(10) A public officer or department may be referred to by the term designating such office or department as appearing in any enactment or in any provision made by Legislative Council for the payment of the emoluments of such office or the expenses of such department or by any style authorized by the Governor under the proviso hereinafter contained and any reference to a public officer includes the person for the time being executing the duties of such office and a person appointed to perform any portion of such duties: Provided that if the Governor considers it expedient that there should be a change in the style of any public office or department he may by notice in the *Gazette* declare that such change of style shall take effect from a date specified in such notice, and provided further that whenever a change in the style of an office or department occurs whether by virtue of such notice or in any other lawful manner any reference to such former style shall be

read and construed as a reference to that office or department, as the case may be, by such new style.

(11) Any word or expression denoting distance shall denote distance measured in a straight line on a horizontal plane.

Expressions denoting distance. [cf. 52 & 53 Vict. c. 63, s. 34.]

(12) In computing a period of days from the happening of an event for the doing of any act or thing there shall be excluded the day on which the event happens or the act or thing is done and, if the period is less than six days, any general holiday within such period.

Computation of days. 9 of 1950, Schedule.

(13) A prescribed act or thing shall, if no time is prescribed, be done with all convenient speed and as often as the prescribed occasion arises.

Provision where no time prescribed.

(14) No enactment shall be binding on the Crown unless it appears expressly or by necessary implication that the Crown shall be bound thereby.

Enactments, when binding on the Crown.

PART II.

ENACTMENTS.

(Character—Citation—Reference—Commencement.)

4. Every Ordinance shall be a public Ordinance, and shall be judicially noticed as such ~~together~~ . . . . .

Ordinances. [cf. 52 & 53 Vict. c. 63, s. 9.]

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5. Every section of an Ordinance shall have effect as a substantive enactment without introductory words.

Sections. *ibid.* s. 8.

6. Every Schedule to or Table in any Ordinance shall, together with any notes thereto, be construed and have effect as part of the Ordinance.

Schedules, etc. to be part of Ordinances.

7. (1) When any enactment is referred to it shall be sufficient for all purposes to cite such enactment by the short title thereof: Provided that in the case of an Ordinance it shall be sufficient either to cite the same by the year in which it was made and its number among the Ordinances of that year or, in the case of a revised edition of Ordinances issued under the Revised Edition of the Laws Ordinance, 1948, by its short title or chapter number; and the reference may in all cases be made according to the copies of enactments printed by the Government Printer.

Citation of and in enactments and references thereto. [cf. 52 & 53 Vict. c. 63, s. 35.]

(20 of 1948).

(2) A reference in an enactment to another includes a reference to such last-mentioned enactment as the same may

Amendments. [cf. 52 & 53 Vict. c. 63, s. 38(1).]

[s. 7 cont.] from time to time be amended and to any enactment substituted therefor.

Reference to the number of a line.

(3) A reference in any enactment to the number of a line of any section or other part of an enactment means such line in the latest official copy printed by the Government Printer of such enactment at the time of the passing, making or issue of the enactment containing the reference.

Construction of citation of a portion of an enactment. [cf. *ibid.* s. 35]

28 of 1950, Schedule.

(4) In any enactment a description or citation of a portion of an enactment, including any imperial enactment applicable to Hong Kong, shall be construed as including the word, section or other part, mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Construction in an Ordinance of references to sections, etc.

(5) (a) Where in any Ordinance there is a reference to a section, Part, Chapter or Schedule by number or letter only and not in conjunction with the title or serial number of an Ordinance, such reference shall be construed as a reference to the section, Part, Chapter or Schedule of that number or letter contained in the Ordinance in which such reference occurs.

Construction in a section of reference to subsections and paragraphs.

(b) Where in any section of any Ordinance there is a reference to a subsection or paragraph by number or letter only and not in conjunction with the number of any section of that or of any other Ordinance, such reference shall be construed as a reference to the subsection or paragraph of that number or letter contained in the section in which such reference occurs.

Construction to apply to other enactments.

(c) The provisions of this subsection shall apply *mutatis mutandis* to other enactments and to instruments issued under or by virtue thereof.

Coming into operation of enactments, etc. [cf. 52 & 53 Vict. c. 63, s. 36.]

8. (1) Any enactment, or instrument issued under or by virtue of any enactment, which is expressed to come into operation on a particular day shall come into operation on the expiration of the previous day.

(2) Any enactment or instrument published in the *Gazette* shall come into operation on its publication in the *Gazette*.

PART III.

REPEAL, AMENDMENT AND DISALLOWANCE.

9. (1) Where any enactment repeals any former enactment and substitutes other provisions therefor, the repealed enactment shall remain in force until the substituted provisions come into operation.

Repeal and substitution, effect thereof. [cf. 52 & 53 Vict. c. 63, s. 11(2).]

(2) Where any enactment is declared to be made by way of replacement of or substitution for another or re-enacts another, with or without modification, the enactments and instruments made or prescribed by or under the earlier enactment shall remain in force so far as they are not inconsistent with such later enactment and be deemed for all purposes (including penalties) to have been made or prescribed thereby and to be liable to amendment thereby or thereunder.

*such former enactment*

*inserted as well as the effect of the commencement of the enactment so repealing or re-enacting*

*since the date effect of the enactment*

*the enactment so repealing or re-enacting*

*20 of 1959 P.A.*

10. The repeal of any enactment shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed, or anything duly done or suffered under any enactment so repealed; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing enactment had not been passed.

Effect of repeal generally. [cf. 52 & 53 Vict. c. 63, s. 38(2).]

28 of 1950, Schedule.

11. When any enactment which repeals any earlier enactment is itself repealed, such last repeal shall not be construed as reviving the enactment previously repealed.

Repeal of Ordinances. [cf. 52 & 53 Vict. c. 63, s. 11(1).]

Enactment  
and amending  
enactment  
to be read  
as one, etc.

**12.** Any enactment which amends another enactment shall be read and construed as one with the amended enactment, and the amended enactment may in the amending enactment be referred to as the principal enactment, that is to say, may be referred to as the principal Ordinance, regulations or as the case may be.

Disallowance.

**13.** Whenever any enactment is disallowed by His Majesty such disallowance shall be notified by the Governor in the *Gazette*; from and after the date of such notification the enactment, and all instruments thereunder, shall cease to have effect: Provided always that the provisions of section 10 shall apply to such disallowance as if the words "disallowance" and "disallowed" were read therein in lieu of the words "repeal" and "repealed" respectively; with this exception only, that any enactment repealed, modified or amended by any enactment disallowed, together with all instruments made or issued under such previous enactment, shall revive and continue in force in their original form as from the date of the said notification.

#### PART IV.

##### REGULATIONS AND INSTRUMENTS.

Regulations:  
Powers  
included  
in authority  
to make  
regulations;

**14.** The following provisions shall apply to regulations—

- (a) authority to make regulations shall include—
- (i) authority to provide that a contravention thereof shall be punishable on summary conviction by such fine not exceeding one thousand dollars and with imprisonment for such term not exceeding six months as may be specified in the regulations;
  - (ii) authority to amend or suspend the regulations in the same manner as they were made;
  - (iii) authority to amend any forms prescribed by the enactment under which the regulations were made and to prescribe new forms for the purpose thereof and for the purposes of the regulations;
- (b) authority to provide for fees and charges shall include authority to provide for the reduction waiver or refund thereof either generally or in any

[cf. 52 & 53,  
Vic. c. 63,  
s. 32(3).]

to include  
reduction of  
fees, etc.

28 of 1950,  
Schedule.



particular event or case or class of case or in the discretion of any person;

- (c) regulations shall have the same force and effect and be as binding and shall be construed for all purposes as if they had been contained in the enactment under which they were made; to have force and effect of enactment;
- (d) all regulations shall be laid on the table of the Legislative Council at the first meeting thereof after the publication in the *Gazette* of the making of such regulations, and if a resolution be passed at the first meeting of the Legislative Council held after such regulations have been laid on the table of the said Council resolving that any such regulations shall be amended in any manner whatsoever, the said regulations shall, without prejudice to anything done thereunder, be deemed to be amended as from the date of publication in the *Gazette* of the passing of such resolution; may be amended by Legislative Council;
- (e) if an enactment provides that the regulations shall be subject to the approval of Legislative Council or any other authority or contains words to the like effect then—
  - (i) the regulations shall be submitted for the approval of such authority; and
  - (ii) such authority shall have power to amend or disapprove the whole or any part of the regulations and may if it disapproves of them either in whole or in part require further regulations to be submitted for approval;where regulations require approval;
- (f) where the authority to make regulations is authority to make regulations for any general purpose and also for any special purposes incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose; power to make regulations for special as well as general purposes;
- (g) a reference in the regulations to "the Ordinance" shall be read as meaning the Ordinance conferring the power to make such regulations; reference to "the Ordinance";
- (h) a reference in another enactment to the enactment, including any imperial enactment, under which the regulations were made shall be deemed to include reference to the regulations. reference to enactment to include regulations thereunder.

Construction  
of general  
penalties  
clause  
regarding  
regulations  
22 of 1950, s. 4.

15. (1) A provision in an Ordinance to the effect that any breach or contravention of regulations made or deemed to be made or taking effect by virtue of such Ordinance shall constitute an offence, or prescribing punishment for breach or contravention of such regulations, shall be deemed to include power to prescribe by such regulations that the contravention of any particular regulation shall or shall not constitute an offence and to include power to prescribe by such regulations punishment therefor not exceeding that so prescribed in the Ordinance for breach or contravention of the regulations: Provided that except insofar as the power deemed by this subsection to be included in such provision is exercised, such provision shall be construed and take effect as if no such power had been conferred.

- (2) Notwithstanding the provisions of section 2—
- (a) this section shall apply to any enactment coming into operation prior to the commencement of this Ordinance, notwithstanding any contrary expression in such enactment;
- (b) this section shall apply to any enactment coming into operation after the commencement of this Ordinance, unless the operation of this section is expressly excluded. [14A]

Extent of  
power to  
make public  
instruments  
28 of 1950,  
Schedule.

16. Where power is given to the Governor or to the Governor in Council to make, issue or approve any order, proclamation, notification, register or list, it shall include the power of amending or suspending such order, proclamation, notification, register or list or withdrawing approval thereof and of declaring the date of its coming into force and the period of its operation and also of substituting another therefor: Provided that where any Ordinance is to come into operation on a day to be fixed by proclamation, the power to issue such proclamation shall not in the absence of express provision include (except in the case of and for the purpose of correcting any mistake therein) the power of amending or suspending the same. [15]

Deviation  
in forms.

17. Whenever forms are prescribed in any enactment, slight deviations therefrom, not affecting the substance or calculated to mislead, shall not invalidate them. [16]

PART V.

PROVISION AS TO POWERS.

18. Where any enactment is not to come into operation immediately on the passing, making or issue thereof, and confers power to make any appointment, or to make or issue any regulations, or to do any other thing for the purposes of the enactment, such power may be exercised at any time after the enactment is passed, made or issued, so far as may be necessary or expedient for the purpose of bringing the enactment into operation at the date of the commencement thereof: Provided that such power shall be subject to the restriction that any appointment, regulation, or thing, made, issued, or done, under such power shall not, unless the appointment, regulation, or thing, is necessary for bringing the enactment into operation, have any effect until the enactment comes into operation. [17

Exercise of powers between passing and commencement of enactment.

28 of 1950, Schedule.

19. (1) Where any enactment confers a power or imposes a duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.

Exercise of powers, etc. [cf. 52 & 53 Vict. c. 63, s. 32(1).]

(2) Where any enactment confers a power or imposes a duty on the holder of an office, as such, the power may be exercised and the duty shall be performed by the holder for the time being of the office or by any person appointed to act in or perform the duties of the said office for the time being. [18

[*ibid.* s. 32(2).]

28 of 1950, Schedule.

20. Where by or under any enactment a power to make any appointment is conferred, the authority having power to make the appointment shall also have power to remove, suspend, re-appoint or re-instate any person appointed in exercise of the power. [19

Power to appoint includes power to suspend or remove.

21. Where by or under any enactment, any powers are conferred or any duties are imposed upon a public officer, the Governor may direct, if from any cause the office of such public officer is vacant or if during any period, owing to absence or inability to act from illness or any other cause, such public officer is unable to exercise the powers or perform the duties of his office, that such powers shall be had and may be exercised and such duties shall

Power to fill vacancy temporarily.

[s. 21 cont.] be performed by the person named by, or by the public officer holding the office designated by, the Governor; and thereupon such person or public officer, during any such period, shall have and may exercise such powers and shall perform such duties, subject to such conditions, exceptions and qualifications as the Governor may direct. [20]

Power to  
appoint  
chairman.

**22.** Where by or under any enactment, power is given to the Governor, or to the Governor in Council, or to any public officer or body, to appoint any board, tribunal, commission, committee, or similar body, then, in the absence of any provision to the contrary, it shall be lawful for the Governor, or the Governor in Council, or such public officer or body, as the case may be, to appoint a chairman of such board, tribunal, commission, committee, or similar body. [21]

Power to  
appoint by  
name or by  
official  
designation.

**23.** Where by or under any enactment, the Governor, or the Governor in Council, or any public officer or body, is empowered to appoint or name a person to be a member of any board, tribunal, commission, committee, or similar body, or to have and exercise any powers or perform any duties, the Governor, or the Governor in Council, or such public officer or body, as the case may be, may either appoint a person by name or direct the person for the time being holding the office designated by the Governor, or by the Governor in Council, or by such public officer or body, as the case may be, to be a member of such board, tribunal, commission, committee, or similar body, or to have and exercise such powers and perform such duties; and thereupon, or from the date specified by the Governor, or by the Governor in Council, or by such public officer or body, as the case may be, the person appointed by name or the person for the time being holding such office shall be a member of such board, tribunal, commission, committee, or similar body, or shall have and may exercise such powers and perform such duties accordingly. [22]

Effect of  
defining office  
to include  
deputy or  
assistant.

**24.** Whenever an office is defined as including a deputy or assistant then subject to any instructions of the Governor such deputy or assistant shall—

- (a) during the absence or inability to act of such officer unless and until the vacancy is filled whether tem-

porarily or otherwise exercise the powers and discretions vested in such officer and discharge the duties required to be discharged by him; and  
(b) notwithstanding that such officer is present and able to act, exercise such powers and discretions and discharge such duties as such officer may delegate. [23

25. Where in any enactment power is given to any person to do or enforce the doing of any act or thing, all such powers shall be understood to be also given as are reasonably necessary to enable the person to do or enforce the doing of the act or thing. [24

Constriction of enabling words.

26. When by any enactment the Governor is empowered to exercise any powers or perform any duties, he may depute any person by name or the person for the time being holding the office designated by him to exercise such powers or perform such duties on his behalf, subject to such conditions, exceptions and qualifications as the Governor may prescribe, and thereupon or from the date specified by the Governor the person so deputed shall have and exercise such powers and perform such duties subject as aforesaid: Provided that, without prejudice to the provisions of any Royal Letters Patent or Royal Instructions relating to the appointment of a Deputy to the Governor, nothing herein contained shall authorize the Governor to depute any person to make regulations, issue warrants or proclamations or to hear any appeal. [25

Power of Governor to delegate authority.

27. Where by any enactment the Governor or any public officer is empowered to deiegate the exercise of any of the powers or the performance of any of the duties vested in him under such enactment, no delegation made thereunder shall preclude the Governor or public officer, as the case may be, from exercising or performing in person at any time any of the powers or duties so delegated. [26

Delegation not to preclude exercise of powers by officer delegating same.

28. Whenever any act or thing is required by any enactment to be done by more than two persons, a majority of them may do it. [27

Power of majority.

Significa-  
tion of  
orders  
of the  
Governor  
and  
Governor in  
Council.

**29.** Where under any enactment the Governor or the Governor in Council is given power to make any regulations or appointment, give any directions, issue any order, authorize any thing or matter to be done, grant any exemption, remit any fee or penalty, or exercise any other power, it shall be sufficient if the exercise of such power be signified, in the case of the Governor, under the hand of the Colonial Secretary and, in the case of the Governor in Council, under the hand of the Clerk of Councils: Provided always that the foregoing provision shall not apply to the power of the Governor to issue any warrants or proclamations which shall be made or issued only under the hand of the Governor himself. [28

## PART VI.

PROVISION AS TO OFFENCES, PENALTIES, FINES,  
FEES AND FORFEITURES.

Attempt to  
commit an  
offence to  
be deemed  
an offence.

**30.** A provision which constitutes or results in the constitution of an offence shall be deemed to include a provision that an attempt to commit such offence shall itself constitute an offence which may be dealt with and punished in like manner as if the offence had been committed. [29

Provision as  
to offences  
under two  
or more laws.

**31.** Where any act or omission constitutes an offence under two or more enactments, or both under an enactment and under any other law, the offender shall be liable to be prosecuted and punished under either or any of such enactments or under such other law, but shall not be liable to be punished twice for the same offence. [30

Penalties  
prescribed to  
be maximum  
penalties.  
28 of 1950,  
Schedule.

**32.** Whenever in or by virtue of any enactment, a penalty, whether of fine or imprisonment is prescribed for an offence the same shall imply—

- (a) that such offence shall be punishable upon conviction by a penalty not exceeding the penalty prescribed; and
- (b) if the amount of the fine is unspecified, that such offence shall, without prejudice to any provision of law against excessive and unreasonable fines and assessments, be punishable by a fine of any amount. [31

**33.** Whenever any penalty appears at the end of an enactment or part thereof the same shall be deemed to prescribe that any contravention of such enactment or part shall constitute an offence punishable by a penalty not exceeding the penalty so appearing. **[32]**

Penalty at end of enactment or part, effect thereof.  
37 of 1950, Schedule.

**34.** A provision in an enactment which constitutes or results in the constitution of an offence shall, unless such offence is declared to be treason, felony or misdemeanor or the words "*upon indictment*" appear, be deemed to include a provision that such offence shall be punishable upon summary conviction. **[32A]**

Offences to be punishable upon summary conviction except in certain cases.  
37 of 1950, Schedule.

**35.** Whenever an offence is declared by any enactment to be a misdemeanor and no punishment is provided therefor and whenever no provision has been made by any enactment for the punishment of a common law misdemeanor the punishment for such misdemeanor shall be imprisonment for three years and a fine of five thousand dollars. **[33]**

Punishment of misdemeanor where punishment not otherwise specified.

**36.** Whenever in or by virtue of any enactment more than one penalty is prescribed for an offence the use of the word "*and*" shall signify that the penalties may be inflicted alternatively or cumulatively. **[34]**

Certain penalties may be cumulative.  
28 of 1950, Schedule.

**37.** Any fine or penalty imposed by or under the authority of any enactment shall be paid into the general revenue of the Colony: Provided that the Governor may direct the payment to any aggrieved person, or to any person whose information or evidence has led to the conviction of the offender or to the recovery of the fine or penalty, of such proportion of the fine or penalty as he may think fit. **[35]**

Disposal of fines and penalties.

**38.** (1) Where under any enactment any animal or thing is adjudged by any court or other authority to be forfeited, it shall be forfeited to the Crown, and the net proceeds thereof, if it is ordered by competent authority to be sold, shall be paid into the general revenue of the Colony.

Disposal of forfeits.

(2) Nothing in this section shall affect any provision in any enactment whereby any portion of any fine or forfeit

[s. 38 cont.] or of the proceeds of any forfeit is expressed to be recoverable by any person or may be granted by any authority to any person. [36]

Imposition of penalty not to bar civil action.

39. The imposition of a penalty or fine by any enactment shall not relieve any person from liability to answer for damages to a person injured. [37]

Reduction, variation, remission, and application of fees and charges.

40. Any fee or charge by or under any enactment made payable to the Crown or the Government or to any public body or public officer, not being a fee or charge which a judge has power to regulate by rule or order of court—

- (a) may be reduced or varied by order of the Governor in Council published in the *Gazette*: Provided that any variation thereof shall not exceed the original figure;
- (b) may be remitted or refunded in whole or in part in any particular case and on any special ground by the Governor in Council;
- (c) subject as aforesaid shall be paid into the general revenue of the Colony. [38]

Remission of penalties.

41. It shall be lawful for the Governor to remit, in whole or in part, any sum of money which, under any enactment now in force or hereafter to be passed, may be imposed as a penalty or forfeiture on a convicted offender, although such money may be in whole or in part payable to some party other than the Crown, and to order the discharge of any person who may be imprisoned for non-payment of any sum of money so imposed. [39]

## PART VII.

### PROVISIONS AS TO ADMINISTRATIVE APPEALS.

Administrative appeals.

28 of 1950, Schedule.

(Cap. 1, rules).

42. (1) Whenever in any enactment provision is made for an appeal other than by way of petition to the Governor in Council—

- (a) the rules entitled Administrative Appeals Rules shall apply to the extent that specific provision is not contained in such enactment;
- (b) nothing therein contained shall be deemed to prevent any person from applying to the Supreme Court for a *mandamus*, injunction, prohibition or any other order should he elect so to do, instead



of appealing to the Governor in Council, but no proceedings by way of *mandamus*, injunction, prohibition or other order shall be taken against the Governor in Council in respect of such provision or provisions;

(c) every order of the Governor in Council on any appeal under such provision shall be final and may be enforced by the Supreme Court as if it had been an order of that court.

(2) The Governor in Council may by order signified in the *Gazette* amend add to or revoke the said Rules. [39A

PART VIII.

IMPERIAL ENACTMENTS.

43. Whenever any Act is extended or applied to Hong Kong and whenever any Order in Council is made which applies to territories other than the Colony as well as to the Colony the same shall be read with such modifications as to names, localities, courts, officers, persons, moneys, penalties and otherwise as may be necessary to make it applicable to the circumstances and in particular any reference to a Probate Court, Bankruptcy Court or Admiralty Court or similar expression shall be construed as a reference to the Supreme Court exercising the appropriate jurisdiction. [40

Application of Act to the Colony to be read with such modifications as necessary to make it applicable. *under any such Act, and shall be*

No. 82/61

44. A reference in any enactment to any imperial enactment or to any provision, part or division thereof shall be construed as a reference to the same as the same may be amended from time to time and as a reference to any enactment, provision, part or division substituted therefor. [41

Construction of reference to imperial enactment or part thereof.

45. When any imperial statute is referred to it shall be sufficient for all purposes to cite such imperial enactment by the short title cited therein or by the short title given thereto by the Short Titles Act, 1896. [42

Citation of imperial statutes. (59 & 60 Vict. c. 14.)

FIRST SCHEDULE.

[s. 3(1).]

*Boundaries of the City of Victoria.*

On the north—The Harbour;

On the west—A line running north and south drawn through the north-west angle of Inland Lot No. 1299 and extending southwards a distance of 850 feet from the aforesaid angle;

First  
Schedule,  
cont.

On the south—A line running east from the southern extremity of the western boundary until it meets a contour of the hill-side 700 feet above principal *datum*, that is to say, a level 17.833 feet below the bench-mark known as "Rifleman's Bolt", or the highest point of a copper bolt set horizontally in the wall of a storehouse on the previous situation of Marine Lot No. 26, in and near the main entrance to the Royal Naval Dockyard, and thence following the said contour until it meets the eastern boundary;

On the east—A line following the western boundary of the Queen's Recreation Ground until it meets the old Shaukiwan Road, thence to the south-east angle of Inland Lot No. 1018, thence along the southern boundary of Inland Lot No. 1018, produced until it meets the road on the east side of Wongneichong Valley, and thence to the south-east angle of Inland Lot No. 1364, produced until it meets the southern boundary.

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### SECOND SCHEDULE.

[s. 3(1).]

#### *Boundaries of the Colony.*

On the south—The parallel of latitude  $22^{\circ} 9'$  north between the points where it is intersected by the meridians of longitude  $113^{\circ} 52'$  east and  $114^{\circ} 30'$  east of Greenwich;

On the north—A line drawn from the point where the meridian of longitude  $113^{\circ} 52'$  east of Greenwich intersects the parallel of latitude touching the extreme south-west point of the shore of Deep Bay to the said south-west point of the shore of Deep Bay; thence along the high water mark upon the shore of Deep Bay to the estuary of the Sham Chun River; thence by a line drawn as described in the agreement delimiting the northern frontier of the New Territories signed by James Haldane Stewart Lockhart and Wong Ts'un-shin at Hong Kong on the 19th day of March, 1899, and following the high water mark in Mirs Bay to the point where the meridian of longitude  $114^{\circ} 30'$  east of Greenwich intersects the mainland;

On the east—The meridian of longitude  $114^{\circ} 30'$  east of Greenwich between the points where it intersects the mainland and the parallel of latitude  $22^{\circ} 9'$  north;

On the west—The meridian of longitude  $113^{\circ} 52'$  east of Greenwich between the points where it intersects the parallel of latitude touching the extreme south-west point of the shore of Deep Bay and the parallel of latitude  $22^{\circ} 9'$  north: Provided that, between the points on the north and south coast of Lantao where the meridian of longitude  $113^{\circ} 52'$  east of Greenwich intersects the island, the boundary follows the western coast-line of Lantao and includes the waters appertaining thereto.

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### THIRD SCHEDULE.

[s. 3(1).]

#### *Boundaries of the Harbour.*

On the east—A straight line drawn from the westernmost extremity of Siu Chau Wan Point to the westernmost extremity of A Kung Ngam Point (sometimes known as Kung Am);

On the west—A straight line drawn from the westernmost point of the Island of Hong Kong to the westernmost point of Green Island, thence a straight line drawn from the westernmost point of Green Island to the westernmost point of Stonecutters Island, and thence a straight line drawn true north from the westernmost extremity of Stonecutters Island to the mainland.