

LEGISLATIVE COUNCIL.

Draft Bills.

No. S. 470.—The following bills are published for general information:—

[No. 28 :—8.12.33.—3.]

(C.S.O. 3/4299/32 II.)

A BILL

INTITULED

An Ordinance to amend the Companies Ordinance, 1932.

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

Short title.

1. This Ordinance may be cited as the Companies Amendment Ordinance, 1933.

Amendment of Ordinance No. 39 of 1932, s. 94 (11).

2. Section 94 (11) of the Companies Ordinance, 1932, is amended by the substitution of the word "be" for the word "he" before the word "restored" in the fifth line.

Amendment of Ordinance No. 39 of 1932, s. 134 (1).

3. Section 134 (1) of the Companies Ordinance, 1932, is amended by the substitution of the words "the court may direct" for the words "they direct" in the fourth line.

Repeal of Ordinance No. 39 of 1932, s. 144.

4. Section 144 of the Companies Ordinance, 1932, is repealed.

Amendment of Ordinance No. 39 of 1932, s. 251 (1).

5. Paragraphs (a), (b) and (c) of section 251 (1) of the Companies Ordinance, 1932, are repealed and the following paragraphs are substituted therefor:—

(a) all debts due from the Company to the Crown at the relevant date, and having become due and payable within twelve months next before that date;

(b) all wages and salary (including commission provided that the amount thereof is fixed or ascertainable at the relevant date) of any clerk or servant in respect of services rendered to the company during four months before the relevant date, not exceeding three hundred dollars;

(c) all wages of any labourer or workman not exceeding one hundred dollars, whether payable for time or for piece work, in respect of services rendered to the company during four months before the relevant date.

Amendment of Ordinance No. 39 of 1932, s. 263.

6. The following sub-section is added at the end of section 263 of the Companies Ordinance, 1932:—

(8) The Court may direct that the whole or part of any costs and expenses properly incurred by the liquidator in proceedings duly brought by him under this section shall be defrayed as expenses incurred by the liquidator under this Ordinance in relation to the winding up of Companies. Subject to any direction under this sub-section and to any mortgages or charges on the assets of the Company and any debts to which priority is given by section 251 of this Ordinance, all such costs and expenses as aforesaid shall be payable out of those assets in priority to all other liabilities payable thereout.

7. Section 319 of the Companies Ordinance, 1932, is repealed and the following section is substituted therefor :—

Substitution
for Ordinance No. 39
of 1932,
s. 319.

319.—(1) Companies incorporated outside the Colony which, after the commencement of this Ordinance, establish a place of business within the Colony, shall, within one month from the establishment of the place of business, deliver to the registrar of companies for registration—

Documents
&c. to be
delivered to
to registrar
by companies
carrying on
business in
the Colony.
19 & 20 Geo.
5, c. 23,
s. 344.

(a) a certified copy of the charter, statutes or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof;

(b) a list of the directors of the company, containing such particulars with respect to the directors as are by this Ordinance required to be contained with respect to directors in the register of the directors of a company;

(c) the names and addresses of some one or more persons resident in the Colony authorised to accept on behalf of the company service of process and any notices required to be served on the company.

(2) Companies to which this Part of this Ordinance applies, other than the companies mentioned in sub-section (1) of this section, shall (if at the commencement of this Ordinance they have not delivered to the registrar the documents and particulars specified in sub-section (1) of section two hundred and fifty-two of the Companies Ordinance, 1911) deliver the documents and particulars in accordance with sub-section (1) of this section within three months from the commencement of this Ordinance.

8. Section 352 of the Companies Ordinance, 1932, is amended :—

Amendment
of Ordinance No. 39
of 1932,
s. 352.

(a) in sub-section (3) by the substitution of the words “paid in advance by every China Company to the registrar of companies” for the words “paid in Hong Kong currency in advance by every China Company to the Colonial Treasurer of Hong Kong”;

(b) by the addition of the following sub-sections at the end thereof :—

(6) If the fee payable under sub-section (3) is paid to the registrar of companies in Hong Kong and the paid up capital of the company is not in Hong Kong currency the said capital shall be converted into Hong Kong currency at the Hong Kong and Shanghai Banking Corporation's opening selling rate on the day of payment and the fee shall be paid in Hong Kong currency on the sum so calculated.

(7) If the fee payable under sub-section (3) is paid to the registrar of companies in Shanghai and the paid up capital of the company is not in Shanghai currency the said capital shall be converted into Shanghai currency at the Hong Kong and Shanghai Banking Corporation's opening selling rate on the day of payment and the fee shall be paid in Shanghai currency on the sum so calculated.

Amendment
of Ordin-
ance No. 39
of 1932,
First
Schedule
Reg. 68.

9. Regulation 68 of Table A in the First Schedule to the Companies Ordinance, 1932, is amended by the substitution of the words "rotation of retirement" for the words "rotation or retirement".

Commence-
ment.

10. This Ordinance shall come into operation on the first day of January, 1934.

Objects and Reasons.

1. Section 2 of this Ordinance corrects a misprint in section 94 (11) of the principal Ordinance.

2. Section 3 makes a grammatical correction in section 134 (1) of the principal Ordinance.

3. Section 4 repeals section 144 of the principal Ordinance. The section was derived from section 145 of the Companies Act, 1929, an onerous section which is considered unnecessary in Hong Kong where there is but one Registry, at which any person may search the file of a company for the sum of \$1 and obtain all the information as to directors and other matters that he reasonably may require. The Hong Kong General Chamber of Commerce, which was consulted, supports the repeal.

4. Section 5 substitutes for paragraphs (a), (b) and (c) of section 251 (1) three new paragraphs so as to make the priorities of debts in the case of companies in liquidation coincide with those provided, by section 38 (1) of Ordinance No. 10 of 1931, for ordinary bankruptcies.

5. Section 6 adds a sub-section to section 263 of the principal Ordinance on the lines of section 277(8) of the Companies Act, 1929.

6. Section 7 repeals section 319 of the principal Ordinance and substitutes a section in which the first half of sub-section (1) and sub-section (2) are re-enacted. The second half of sub-section (1) and sub-sections (3), (4), (5), (6) and (7) are considered redundant as their provisions are sufficiently covered by those of sections 321 to 327 and the 9th Schedule of the principal Ordinance.

7. Section 8 amends section 352 of the principal Ordinance by providing for the payment of the annual fee to the registrars of companies at Hong Kong or Shanghai instead of to the Colonial Treasurer of Hong Kong and by providing a method of calculating the fee where the paid up capital of the Company is not in the local currency of the place of payment.

8. Section 9 corrects a typographic error in Regulation 68 of Table A in the First Schedule to the principal Ordinance which was copied from the corresponding regulation in the Companies Act, 1929, which contained the same error.

9. Section 10 brings the Ordinance into operation on the 1st January, 1934, as it is considered desirable to fix a date for the system of payment effected by section 8.

C. G. ALABASTER.
Attorney General.

December, 1933.

A BILL

INTITULED

An Ordinance to Provide for the Establishment of a Volunteer Naval Defence Force.

BE is 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 Naval Volunteer Ordinance, 1933, and shall come into operation on such date as the Governor by notice in the Gazette shall appoint.

Short title and commencement.

2. In this Ordinance unless the context otherwise requires—

Interpretation.

“The Force” means the Hong Kong Naval Volunteer Force raised under this Ordinance.

“Actual service” has the same meaning as in the Royal Naval Reserve Volunteer Act, 1859, as incorporated in the Naval Forces Act, 1903.

22 Vic. c. 40.
3 Ed. VII. c. 6.

3. It shall be lawful for the Governor to raise and maintain a force of volunteers for the Naval Defence of the Colony within its territorial waters to be called the Hong Kong Naval Volunteer Force.

Governor may raise a naval force.

4. The Force shall be raised and maintained at the expense of the Colony out of moneys provided by the Legislative Council.

Force to be maintained at the expense of the Colony.

5. Every member of the Force shall be entered for a term of three years, and shall during such term be subject to the provisions of this Ordinance, and at the expiration of every third year of the period of his service as a volunteer he shall be entitled to claim his discharge: Provided that if he is then in actual service his right to claim his discharge shall be suspended until the cessation of such service.

Period of Service.

6. The Force shall consist of such units as the Governor may from time to time by notification in the Gazette appoint.

Force to consist of units.

7. The Force shall consist of such numbers of officers and men as the Governor may from time to time decide. The officers of the Force shall receive either commissions or warrants from the Governor, and such commissions or warrants shall not be deemed to be vacated by the death or retirement from office of the Governor by whom the same were issued.

Constitution of Force.

8. The Governor may at any time dispense with the services of any member of the Force.

Governor may dispense with services.

Instruction.

9. The Governor may cause any member of the Force to be instructed trained and exercised on shore or on board any ship or vessel or partly on shore and partly on board any ship or vessel within the limits of the Colony including therein its territorial waters: Provided that no member of the force shall under this Ordinance be required to attend instruction training and exercise more than twenty eight days in any one year.

Organisation conditions of service, etc. to be prescribed by Regulations.

10. The government, organisation, administration and training of, and the qualifications for entry into and conditions of service in the Force shall be prescribed by regulations made by the Governor. Such regulations may in particular provide for all or any of the following matters or things—

(a) the numerical establishments of units of the Force, and the grades, ranks and ratings, therein;

(b) the training and inspection of the Force, the formation of training camps, the establishment of depots or stations of the Force, and the holding of exercises for the Force.

(c) the attendance at courses of instruction of members of the Force;

(d) the seniority of officers of the Force, and the appointment to, promotion to and tenure of commissioned or warrant rank in the Force;

(e) the advancement to or reversion from petty officer rating of men of the Force;

(f) the conditions as to physical fitness and efficiency on which members of the Force may continue to serve in the Force after completing their first term of service;

(g) the requisitioning of goods or accommodation in time of war or emergency;

(h) the calling into actual service of the members of the Force;

(i) the issue and care of arms, accoutrements, ammunition, supplies, clothing and equipment for members of the Force.

(j) returns, books, forms and correspondence relating to the force;

(k) the establishment and conduct of institutions for providing recreation and refreshment to members of the Force.

(l) generally for the better carrying out of the provisions of this Ordinance.

Obstructing the Force.

11. Any person who wilfully obstructs any portion of the Force or any member thereof in the performance of any service or duty under this Ordinance or Regulations made under Section 10 of this Ordinance shall be guilty of an offence.

Aiding or inducing member of Force to dereliction of duty.

12. Any person

(a) who agrees with, or induces or attempts to induce any member of the Force to neglect or to act in conflict with his duty as a member of the Force; or

(b) who is a party to, or aids or abets, or incites to the commission of, any act whereby any lawful order given to any member of the Force or any law or regulation with which it is the duty of any member of the Force to comply may be evaded or infringed; or

(c) who supplies or is a party to supplying any member of the Force with intoxicating liquor when such member is on duty and prohibited by regulations or instructions from receiving or taking intoxicating liquor,

shall be guilty of an offence.

13. Any member of the Force who fails without just cause (the proof whereof shall lie upon him) to attend at any time or place lawfully appointed by proper authority for instruction, training or exercise shall be guilty of an offence.

Failure to attend training in Force.

14. Any member of the Force who, without proper authority and permission, gives, sells, pledges, lends, or otherwise disposes of any arms, ammunition, accoutrements, clothing, supplies or any other article entrusted to or held by him for the service of the Force shall be guilty of an offence, and, in addition to any other penalty which may be imposed under this Ordinance he may be ordered by the court convicting him to make good the loss or deficiency, caused by such gift, sale, pledge, loan or other disposition.

Wrongful disposal of property.

15. Any person who on discharge from the Force fails or neglects to render up any arms, ammunition, accoutrement, clothing, supplies or other article supplied to him as a member of the Force on demand being made to him by the proper authority shall be guilty of an offence, and in addition to any other penalty which may be imposed under this Ordinance he may be ordered by the Court convicting him to make good the loss or deficiency caused by such failure or neglect.

Wrongful detention of property.

16.—(1) Any person who is guilty of an offence under this Ordinance for which no special penalty is provided shall be liable on conviction to a fine not exceeding \$500, and in default of payment to imprisonment for a term not exceeding three months.

Penalties.

(2) Any member of the Force who is convicted of an offence under section 13 of this Ordinance may, in addition to or in lieu of any other penalty, be committed to detention at any depot, training camp or station of the Force, for the purpose of undergoing instruction, training or exercise during such detention; and any member of the Force who, having been committed to detention under this sub-section escapes therefrom or fails to return thereto or fails properly to carry out the instruction, training or exercise given under such detention, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding one month: Provided that in the committal of an offender to detention under this sub-section the period of detention shall not necessarily be continuous, nor shall it exceed, in any one sentence of commitment, a total number of days' detention in excess of twice the total number of days on which such member has unlawfully failed to attend the instruction, training or exercise.

17. Without prejudice to any enactment authorising some other method of trial, all offences under this Ordinance may be dealt with summarily by a Magistrate under the Magistrates Ordinance, 1932.

Mode of trial.

Ordinance No. 41 of 1932.

Special provision as to the storage of dangerous goods.
Ordinance No. 1 of 1873, s. 19.

18. The provisions of any Ordinance relating to the storage of dangerous goods shall not apply to any dangerous goods belonging to the Force; but such dangerous goods shall be stored only in such places and under such conditions as may be authorised in regulations made under section 10 or as may be approved by the Governor.

Amendment of Ordinance No. 6 of 1887.

19.—(1) Section 4 (2) of the Jury Ordinance, 1887, as amended by section 2 (a) of Ordinance No. 8 of 1929 is amended by the addition of the words “or of the Hong Kong Naval Volunteer Force” after the words “or of the Hong Kong Police Reserve”.

Ordinance No. 1 of 1903.

(2) Section 8 (4) (j) of the Public Health and Buildings Ordinance, 1903, as enacted by section 5 of Ordinance No. 6 of 1927 is repealed and the following paragraph is substituted therefor:—

(j) officers and non-commissioned officers of the Hong Kong Volunteer Defence Corps, Commissioned and Warrant Officers of the Hong Kong Naval Volunteer Force, and also such other members of the said Corps or of the said Force as shall have been exempted from jury service by the Governor in Council;

Ordinance No. 2 of 1933.

(3) Section 2 (d) (i) of the Arms and Ammunition Ordinance, 1933, is amended by the addition of the words “or the Hong Kong Naval Volunteer Force” after the words “police forces”.

Objects and Reasons.

1. The first 16 sections of this Ordinance, the object of which is to provide for the establishment of Volunteer Naval Defence Force, are from a model prepared at Home for enactment by the legislatures of this and other Colonies.

2. Section 17 is to make it clear that offences under the Ordinance, some of which are not confined to members of the Force, may be dealt with summarily by a Magistrate under the Magistrates Ordinance, 1932.

3. Section 18, which is derived from section 25 of Ordinance No. 10 of 1933, makes special provision for the storage of dangerous goods belonging to the Force.

4. Section 19 amends certain existing Ordinances.

C. G. ALABASTER,
Attorney General.

November, 1933.