

## LEGISLATIVE COUNCIL.

No. 1071.—His Excellency the Officer Administering the Government has given his assent, in the name and on behalf of His Majesty the KING, to the following Ordinance passed by the Legislative Council:—

Ordinance No. 16 of 1906.—An Ordinance further to amend the Merchant Shipping Ordinance, 1899, and for other purposes.

HONGKONG.

No. 16 OF 1906.

An Ordinance further to amend the Merchant Shipping Ordinance, 1899, and for other purposes.

F. H. MAY,

*Officer Administering the Government.*

[28th December, 1906.]

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

Short title and construction.

1. This Ordinance may be cited as the Merchant Shipping Amendment Ordinance, 1906, and shall be read and construed as one with the Merchant Shipping Ordinance, 1899, hereinafter called the Principal Ordinance.

Amendment of sub-section (1) (c) of section 26 of the Principal Ordinance.

2. Sub-section (1) (c) of section 26 of the Principal Ordinance is hereby amended by inserting in the second line thereof after the word "Colony" and immediately before the comma the words "without the written permission of the Harbour Master".

Repeal of sub-section (2) (a) of section 26 of the Principal Ordinance as amended by section 7 of the Merchant Shipping Amendment Ordinance, 1905, and new sub-section substituted with respect to obstruction of wharves, vessels, improper mooring, &c.

3. Sub-section (2) (a) of section 26 of the Principal Ordinance as amended by section 7 of the Merchant Shipping Amendment Ordinance, 1905, is hereby repealed and the following sub-section is substituted in place thereof:—

"(2) (a).—If any launch, junk or other vessel shall be found alongside any public wharf or landing place (not being engaged in taking on board or landing passengers or cargo) or alongside any vessel, private wharf or landing place (unless with the permission of the Master or Owner thereof, the proof of which shall lie on the person in charge of such launch, junk or other vessel) or lying off any vessel, wharf or landing place, public or private, so as to obstruct the free access of other vessels thereto, or"

Amendment of section 39 of the Principal Ordinance.

4. Section 39 (1) to (29) inclusive of the Principal Ordinance as amended by section 11 of the Merchant Shipping Amendment Ordinance, 1905, is hereby repealed and the following section is substituted therefor:—

Interpretation. "Licensed junk."

39—(1.) In the construction of this Part, the term "Licensed Junk" shall mean a junk, licensed under sub-section (14) or (15) of this section and shall include any other vessel licensed under sub-section (16).

The term "Master" shall include any person for the time being in command or charge of any junk.

Harbour Master's Stations.

(2.) Branch stations of the Harbour Master's Office shall be maintained at such places in the Colony as the Governor may, from time to time, determine, which shall be under the superintendence and control of the Harbour Master, and shall be called "Harbour Master's Stations."

(3.) The Harbour Master shall with the approval of the Governor, by regulation to be published in the *Gazette*, appoint suitable anchorages in the waters of the Colony to be called "Anchorage for Junks".

Anchorage  
for junks.

Unless and until the limits of such anchorages shall be altered by the Harbour Master, with the approval of the Governor, the limits of anchorages in Table S. of the Schedule to this Ordinance shall be in force.

(4.) No unlicensed junk shall (except from stress of weather) anchor at any place within the waters of the Colony other than at an "anchorage for junks".

Unlicensed  
junks to  
anchor at  
an anchorage  
for junks.

(5.) Every unlicensed junk arriving at any port of the Colony shall immediately proceed to and take up its berth within the limits of one of the "anchorage for junks".

Berthing of  
unlicensed  
junks.

(6.) Every unlicensed junk shall be provided with a Certificate (in the Form No. 1 in Table T. of the Schedule to this Ordinance) to be issued at the Harbour Master's Office or a Harbour Master's Station for which the fee prescribed therein shall be charged. The number of Certificate of every unlicensed junk shall be branded on her hull.

Unlicensed  
junks to be  
provided  
with  
Certificate.

(7.) The Master of every junk, whether licensed or not, shall immediately on arrival in the waters of the Colony, report such arrival at the Harbour Master's Office or at the nearest Harbour Master's Station, or, if the said Office or Station is closed, as soon as possible after it shall again be opened for business, and shall if licensed deposit the Licence, and if not licensed deposit the Certificate and furnish the particulars hereinafter mentioned, which shall be entered in a register kept for the purpose, that is to say :—

Report of  
arrival and  
particulars  
to be  
furnished.

(a.) Name and capacity of the junk (in piculs).

(b.) The name, address and description of the owner or owners and of the master.

(c.) The name, address and description of every consignee or agent if any of the junk and cargo in the Colony.

(d.) The description of the cargo on board and number of the crew and passengers.

(e.) The place from which the junk sailed on her voyage to the Colony and the date of the departure from such place and of her arrival in the Colony.

(f.) Whether carrying any and what guns, arms and ammunition.

(8.) Upon compliance with the provisions of the last preceding sub-section and after payment of the fees prescribed in Table T. of the Schedule to this Ordinance the master of an unlicensed junk shall receive a receipt in the Form No. 2 in such Table T.

Receipt.  
Form B.

(9.) The master of every junk whether licensed or not about to leave her anchorage at any Port of the Colony shall eighteen hours before the time of the intended departure of such junk hoist at the highest mast-head such flag or signal as shall, from time to time, be specified by the Harbour Master, and also shall give notice of such intending departure and the nature of the proposed voyage, together with the general character of cargo and particulars of any arms, ammunition and other such articles on board, at the Harbour Master's Office or Station, as the case may be, at which the Licence or Certificate of such junk has been deposited and he will thereupon, if there is no reasonable objection, have the Licence or Certificate returned to him and in the case of an unlicensed junk be furnished with a clearance (to be endorsed on the Form No. 2 in Table T. of the Schedule to this Ordinance) stating his destination, description of his cargo, passengers and the date of departure. Provided always that in case such junk shall not leave her anchorage within twenty-four hours thereafter, the master shall report the same at the Harbour Master's Office or Station, as the case may be, and the reason thereof and shall if so required to do redeposit the said Licence in the case of a licensed junk and the Certificate in the case of an unlicensed junk.

Flag to be  
hoisted be-  
fore depart-  
ure.  
Clearance.

- "Special Permit." (10.) The Harbour Master or the Officer for the time being in charge of any Harbour Master's Station may, from time to time, upon payment of the prescribed fee, grant to any master of a licensed junk a permit to be called a "Special Permit," which shall be a sufficient warrant or authority for the doing of any act mentioned in such permit.
- Junks not to leave without special permit or clearance. (11.) No junk shall leave any port in the Colony without a special permit or clearance, unless the safety of the vessel (through stress of weather) shall render it necessary and in such case, she shall return to her former anchorage or place in port when such necessity for leaving it shall have ceased.
- No junk to leave at night. (12.) No junk or other Chinese craft, whether licensed or not, shall leave her anchorage or leave or attempt to leave any port of the Colony between the hours of 6 p. m. and 6 a. m. from October to March inclusive nor between the hours of 7 p. m. and 5 a. m. from April to September inclusive, except in the case of a licensed fishing junk which has obtained a special permit from the Harbour Master.
- Penalty for unlawfully using a certificate, &c. (13.) No licence, certificate, receipt, or special permit shall be used in respect of any junk other than the junk therein specified, or for any purpose or for any period of time other than the one therein mentioned, and every master of a junk who shall knowingly use or attempt to use any licence, certificate, receipt, or special permit which shall not have been lawfully obtained, shall be liable to a penalty not exceeding three hundred dollars or imprisonment with or without hard labour for any period not exceeding twelve calendar months and every junk in respect of which a licence, certificate, receipt, or special permit shall have been used or attempted to be used in violation of this sub-section may, either with or without the cargo thereof, and whether the master shall have been brought to trial or not, at the discretion of the Court, be forfeited to the Crown.
- Trading Licences. (14.) It shall be lawful for the Harbour Master, in such cases as he shall think fit, and upon payment of the prescribed fee, to grant to the owner of any junk a trading licence authorizing such junk to ply between the ports of this Colony and other ports or places out of the Colony, during such period and subject to such conditions as the Harbour Master, with the approval of the Governor, may determine, which conditions shall be endorsed on or contained in such licence; and such junk, having obtained a trading licence, the master thereof shall cause the number of such licence to be painted in black figures twenty inches in length on a white ground on each bow and on the stern, and also branded on the hull in figures two inches in length. Every person guilty of a breach of any such conditions or of the provisions of this sub-section shall be liable to a penalty not exceeding two hundred dollars or in default to imprisonment not exceeding six months with or without hard labour in addition to any other penalty he may thereby incur.
- Fishing Licences. (15.) It shall be lawful for the Harbour Master in such cases as he shall think fit, and upon payment of the prescribed fee, to grant to the owner of any junk a fishing licence authorizing such junk to be used solely as a fishing junk for such period and subject to such conditions as the Harbour Master, with the approval of the Governor, may determine, which conditions shall be endorsed on or contained in such licence, and such junk having obtained a fishing licence, the master thereof shall cause the number of the said licence to be painted in white figures twenty inches in length on a black ground on each bow and on the stern. Every person guilty of a breach of any such conditions or of the provisions of this sub-section shall be liable to a penalty not exceeding one hundred dollars or in default to imprisonment not exceeding three months with or without hard labour in addition to any other penalty he may thereby incur.
- Licences to other Vessels. (16.) It shall be lawful for the Harbour Master to grant to any vessel other than a "Junk" a licence under the provisions of sub-section (14) or (15) of this section in such cases as it shall appear to him that the vessel referred to is to be employed in the same or similar manner

as a "Junk" and such vessel being so licensed shall, so long as the said licence is in force, be considered for all purposes of this Ordinance to be a licensed junk. For any such licences the same fee shall be paid as for a junk.

(17.) Any junk or vessel employed for fishing purposes and being within the waters of the Colony shall, unless licensed as aforesaid, be subject to the provisions in this section contained as to unlicensed junks. Unlicensed fishing vessels.

(18.) It shall be lawful for the Harbour Master to order all junks, lighters, boats, and other vessels of any description whatever to anchor or secure in such place as he may direct, or to prohibit their anchoring or securing in any particular place, or to order them to remove to any other place. Junks and other craft to be subject to orders of Harbour Master.

(19.) It shall be lawful for the Harbour Master to give such orders to all or any junks, or other vessels, for the proper discipline of the harbour and for the prevention of disorder or confusion, or otherwise as he may, in his discretion, think fit. Discipline of harbour.

(20.) Every master of any junk or other vessel, whether licensed or not, who shall, when within the waters of the Colony, disobey any lawful orders which the Harbour Master may see fit to give, shall be liable to a penalty not exceeding one hundred dollars. Penalty for disobeying Harbour Master's orders.

(21.) Every master of a junk, who brings into the Colony any person who, in the opinion of the Magistrate before whom the charge is tried, has come to the Colony for the purposes of mendicancy, or any person suffering from leprosy or any infectious or contagious disease, or who removes any such person from one part of the Colony to another, shall be liable to a penalty not exceeding ten dollars for each offence, unless in the case of any person suffering from any infectious or contagious disease, such master can show to the satisfaction of the Magistrate that he had no reasonable means of knowing that such person was so suffering. Penalty for bringing mendicants &c. into the Colony.

(22.) It shall be lawful for the Harbour Master or any person deputed thereto by him, or for any Officer or constable of the Police force, at any time to stop and board any junk within the waters of the Colony and demand the production of any licence, certificate, receipt or special permit, and in case by reason of the non-production of any of such documents, or for any other reason, there shall be ground to believe or suspect that any provision of the law has been violated by the master of such junk, or in case the document produced shall appear from the date thereof, or from any other cause, to have been unlawfully obtained, or to be unlawfully used, to arrest such junk and her cargo and the master of such junk, and deliver them into the custody of the Police. Power to board any junk and demand inspection of documents.

(23.) Every junk, the master of which shall be charged with having violated the provisions of this section, may be forthwith arrested and detained unless bail to the satisfaction of a Magistrate is given, until the said master shall either have been acquitted of the offence charged, or, if found guilty, shall have paid the penalty inflicted upon him, and in case he shall fail to pay, within ten days, any penalty which may be inflicted upon him, the same may be recovered by the sale of such junk, and the balance, if any, of the net proceeds thereof, after deducting therefrom the expenses of such sale and the amount of such penalty as aforesaid, shall be paid to the owner or owners of the junk, if claimed within twelve months from the date of the sale, and if not claimed within that period, shall be forfeited to the Crown: Provided that in case it shall be brought to the knowledge of the Magistrate that there is in the Colony any consignee or agent of such junk no sale thereof shall be made in pursuance of this sub-section until three days' previous notice thereof shall have been given in writing to such consignee or agent. In case of non-payment of penalty by master, the same may be levied by sale of junk.

(24.) Every junk forfeited or sold under the provisions of this section shall be transferred to the purchaser thereof, at his expense, by a bill of sale from the Harbour Master, and such bill of sale shall confer upon such purchaser, his executors, administrators and assigns an absolute title to such junk. Transfer to purchaser upon sale of junk.

Trial of offences under this section.

(25.) No junk or cargo liable to forfeiture, under the provisions of this section, shall be so forfeited unless the offence in respect of which such junk or cargo is liable to forfeiture, shall be tried by two Stipendiary Magistrates sitting together, who shall have power, in their discretion, to extend the period limited by law for an appeal from their decision to the Supreme Court, either before or after the expiration thereof.

Governor-in-Council empowered to frame rules for carrying out provisions of this section.

(26.) The Governor-in-Council is hereby empowered to make such rules and regulations as to him shall seem fit for the proper carrying out of the provisions of this section, and also from time to time fix and vary the fees payable by junks, and to prescribe the forms of all licences, certificates, permits, receipts and clearances under this section and the conditions of issuing the same, and to provide adequate means for preventing, by force when necessary, any junk from leaving the waters of the Colony, or any port thereof, or any anchorage for junks, in violation of this section.

Unless and until other fees are fixed by the Governor-in-Council, the fees mentioned in Table T. of the Schedule to this Ordinance shall be deemed to be the prescribed fees.

Penalty for infraction of sub-section (4) or (5).

(27.) Every master of a junk who shall violate or refuse or fail to comply with the provisions of sub-section (4) or (5) of this section shall be liable to a penalty not exceeding one hundred dollars, or to imprisonment with or without hard labour for any period not exceeding three months.

Penalty for infraction of sub-section (7) or (9).

(28.) Every master of a junk who shall refuse or fail to comply with the provisions of sub-section (7) or (9) of this section, or knowingly give untrue particulars concerning the information which he is thereby required to furnish, shall be liable to a penalty not exceeding two hundred dollars, or imprisonment with or without hard labour for any period not exceeding six months.

Penalty for infraction of sub-section (11) or (12).

(29.) Every master of a junk violating the provisions of sub-section (11) or (12) of this section shall be liable to a penalty not exceeding two hundred dollars, or imprisonment with or without hard labour for any period not exceeding six months, and such junk and her cargo may, in the discretion of the Magistrates, be forfeited to the Crown. It shall be lawful for any officer or constable of the Police or Harbour Department to arrest within the waters of the Colony any junk or other Chinese craft leaving or attempting to leave her anchorage, or which he has good reason to believe had left her anchorage or any part of the Colony between the hours aforesaid.

Junk not carrying lights to be deemed in fault for collision.

(30.) If in any action brought in any Court of the Colony, in respect of a collision occurring between sunset and sunrise, in or outside the waters of the Colony, between a junk and another vessel, it is proved that such junk did not carry either the light prescribed for sailing vessels by the International Collision Regulations or the lights prescribed for junks by sub-sections (1) and (2) respectively of section 25 of the Principal Ordinance as amended by section 11 of the Merchant Shipping Amendment Ordinance, 1905, then such junk shall be deemed to be in fault, unless it is shewn to the satisfaction of the Court that the circumstances of the case made the omission to carry such lights necessary.

Passed the Legislative Council of Hongkong, this 25th day of October, 1906.

A. G. M. FLETCHER,  
*Clerk of Councils.*

Assented to by His Excellency the Officer Administering the Government, the 28th day of December, 1906.

T. SERCOMBE SMITH,  
*Colonial Secretary*