

**CAP 1156**

**KADOORIE FARM AND BOTANIC GARDEN CORPORATION ORDINANCE**

**Long title**

To establish a body corporate to manage and control the Kadoorie Farm and Botanic Garden for the public benefit as a centre for conservation and education, and for those purposes to vest in the body corporate the title to the existing Kadoorie Farm and Botanic Garden, and to provide for incidental matters.

(Enacted 1995)

[20 January 1995]

(Originally 9 of 1995)

**s 1 Short title**

**PART I**

**PRELIMINARY**

This Ordinance may be cited as the Kadoorie Farm and Botanic Garden Corporation Ordinance.

(Enacted 1995)

**s 2 Interpretation**

In this Ordinance, unless the context otherwise requires-

"Association" (協會) means the Incorporated Trustees of the Kadoorie Agricultural Aid Association;

"auditor" (核數師) means a certified public accountant (practising) within the meaning of section 2 of the Professional Accountants Ordinance (Cap 50); (Amended 23 of 2004 s. 56)

"Board" (董事局) means the Board of the Kadoorie Farm and Botanic Garden Corporation established by section 7(1);

"Chairman" (主席) means the Chairman of the Board appointed under section 9 or any other member when acting under section 10 as the Chairman.

"Corporation" (公司) means the Kadoorie Farm and Botanic Garden Corporation established by section 3(1);

"Executive Director" (執行董事) means the person appointed under section 15(1) to be the Executive Director;

"member" (成員) means a member of the Board;

"Kadoorie Farm and Botanic Garden" (嘉道理農場暨植物園) means the farm and botanic garden called by that name and situated at Paak Ngau Shek, New Territories and such other land as may be acquired by the Corporation from time to time;

"Trustees" (受託人) means the Incorporated Trustees of the Kadoorie Foundation.

(Enacted 1995)

**s 3 Establishment of the Corporation**

## PART II

### ESTABLISHMENT OF THE KADOORIE FARM AND BOTANIC GARDEN CORPORATION

- (1) There is established a body corporate called the Kadoorie Farm and Botanic Garden Corporation.
- (2) The Corporation has perpetual succession and a common seal and is capable of suing and being sued.

(Enacted 1995)

#### **s 4 Functions of the Corporation**

The functions of the Corporation are-

- (a) to manage and control the Kadoorie Farm and Botanic Garden for the public benefit as a centre for conservation and education with the aim of increasing the awareness of the environment;
- (b) to provide a sanctuary for animals and birds;
- (c) to collaborate with organizations or institutions with similar aims or of a similar nature whether in Hong Kong or elsewhere;
- (d) to support accepted principles and standards for the protection of biological diversity; and
- (e) for the purposes set out in this section, to provide related facilities and develop the Kadoorie Farm and Botanic Garden in the manner it thinks fit.

(Enacted 1995)

#### **s 5 General powers of the Corporation**

- (1) The Corporation may do all things necessary for, or incidental or conducive to, the better performance of its functions or a function reasonably incidental to or consequent upon one of those functions.
- (2) In particular and without prejudice to the general nature of subsection (1), the Corporation may-

- (a) acquire, take on lease, purchase, hold and enjoy property, movable or immovable, and sell, let or otherwise dispose of or deal with property as it thinks fit;
- (b) enter into, assign or accept the assignment of, and vary or rescind, any contract or obligation;
- (c) apply for and receive sponsorships, receive donations, grants and subsidies, whether on trust or otherwise, and act as trustee of moneys or other property vested in it on trust;
- (d) erect buildings or other structures on its land, lay roads on its land, make and maintain firebreaks, equip, maintain, alter, remove, demolish, replace, enlarge, improve and keep in repair its buildings, roads, reservoirs, structures, premises, furniture and equipment;
- (e) appoint agents and contractors to carry out works related to its functions;
- (f) fix and collect fees, subscriptions and charges and specify conditions for the use of facilities and services provided by it;
- (g) reduce, waive or refund fees, subscriptions or charges fixed in the exercise of its powers under this section generally or in any particular case or class of case;

- (h) conduct businesses incidental to the promotion of the Kadoorie Farm and Botanic Garden in accordance with its aims including the operation of shops, restaurants and refreshment outlets at the Kadoorie Farm and Botanic Garden;
- (i) establish a new body corporate for the purpose of doing anything which the Corporation may do;
- (j) collaborate with other organizations with a view to promoting the functions of the Corporation; and
- (k) apply its profits however derived towards the promotion of its functions.

(3) The detailed powers set out in subsection (2) are not to be read as an exhaustive list of powers but as a descriptive list of some of the powers of the Corporation.

(Enacted 1995)

### **s 6 Documents of the Corporation**

(1) The Corporation may make and execute any document to perform or exercise its functions or powers or for a matter reasonably incidental to or consequential upon performing or exercising its functions or powers.

(2) The common seal of the Corporation is affixed as the Board authorizes and is authenticated by the signatures of any 2 members authorized by the Board, either generally or specifically, to act for the purpose.

(3) A document purporting to be executed under the seal of the Corporation is admissible in evidence and is, unless the contrary is proved, to be taken to have been duly executed.

(4) A contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of the Corporation by a person generally or specifically authorized by the Corporation for that purpose.

(Enacted 1995)

### **s 7 Establishment of the Board**

## **PART III**

### **ESTABLISHMENT OF THE BOARD OF THE CORPORATION**

(1) There is established a Board called the Board of the Kadoorie Farm and Botanic Garden.

(2) The Board is the governing and executive body of the Corporation and, as such, performs the functions imposed on the Corporation and may exercise the powers conferred on the Corporation by this Ordinance.

(Enacted 1995)

### **s 8 Membership of the Board**

(1) The Board consists of not less than 5 members and not more than 9 members who are appointed by the Trustees.

(2) A member holds office for a period of not more than 3 years as the Trustees may determine, but may be re-appointed.

(3) A member may at any time resign from the Board by written notice to the Trustees.

(Enacted 1995)

## **s 9 Chairman and Honorary Chairman of the Board**

- (1) The Trustees shall appoint a Chairman from among the members.
- (2) The Chairman holds office for a period of not more than 3 years as the Trustees may determine, but may be re-appointed.
- (3) Sir Horace Kadoorie is appointed the Honorary Chairman during his lifetime.
- (4) The Chairman acts in addition to the Honorary Chairman.

(Enacted 1995)

## **s 10 Proceedings of the Board**

- (1) At a meeting of the Board 3 of the members for the time being present at the commencement of and throughout the meeting form a quorum.
- (2) At a meeting of the Board the Chairman presides.
- (3) Where the Chairman is absent from Hong Kong or is, for any other reason, unable to perform the functions of his office, the members may appoint one of their number to act as the Chairman during that absence or incapacity of the Chairman.
- (4) All questions for determination at a meeting of the Board are decided by a majority of votes of the members present and voting on the question and the member presiding has a casting vote in addition to his original vote where there is an equality of votes.
- (5) Where a member is in any way directly or indirectly interested in a contract made or proposed to be made by the Corporation-

- (a) he is required to disclose the nature of his interest at a meeting of the Board;
- (b) the Board is required to record the disclosure in its minutes; and
- (c) the member is not to take part in the deliberation of the Board in relation to the contract except with the permission of the Chairman and is not, in any event, to vote on a question concerning it.

- (6) Subject to this Ordinance, the Board may determine all arrangements for, procedure at, and conduct of, its meetings.

(Enacted 1995)

## **s 11 Transaction of business by circulation of papers**

The Board may transact its business by circulation of papers among members (whether a member is in or outside Hong Kong), and a written resolution which is approved in writing by all of the members is as valid and effectual as if it had been passed at a meeting of the Board.

(Enacted 1995)

## **s 12 Corporation to be vested with land, etc.**

### **PART IV**

#### **CORPORATION TO BE VESTED WITH LAND AND RELATED MATTERS**

- (1) The property described in the Schedule currently vested in or belonging to the Association or the Kadoorie Agricultural Aid Association (as specified in the Schedule) is as from the date of commencement of this Ordinance transferred to and vested in the same interest in the Corporation without any further assurance and the Corporation shall have the powers necessary to take possession

of, recover and obtain the benefit of the property.

(2) The Corporation shall register or cause to be registered a Government Printer's copy of this Ordinance in the Land Registry for the transfer of the property in accordance with the Land Registration Ordinance (Cap 128).

(3) In addition to the property referred to in subsection (1), the rights, obligations and liabilities of the Trustees and the Association and relating to the Kadoorie Farm and Botanic Garden immediately before the commencement of this Ordinance are, as from the date of commencement, the rights, obligations and liabilities of the Corporation and the Corporation shall have the powers necessary to exercise and discharge them (as the case may be).

(4) No stamp duty is payable on the transfer of property under this section.

(Enacted 1995)

### **s 13 References in documents to the Trustees**

(1) On the commencement of this Ordinance, a reference to the Trustees or the Association in any document relating to a matter or property vested in the Corporation is read as a reference to the Corporation.

(2) For the purposes of this section "document" (文件) does not include any document which relates to the incorporation of the Trustees or the Association.

(Enacted 1995)

### **s 14 Saving of employees of the Kadoorie Farm and Botanic Garden**

(1) A person who was, immediately before the commencement of this Ordinance, an employee of the Association and employed at the Kadoorie Farm and Botanic Garden is, on and from the commencement of this Ordinance, an employee of the Corporation on the same terms and conditions as he was an employee of the Association immediately before the commencement of this Ordinance.

(2) For the purposes of determining the rights or benefits of an employee on his ceasing service, there is no break in continuity of his service by reason only of this Ordinance.

(Enacted 1995)

### **s 15 Appointment of Executive Director and other employees**

## **PART V**

### **STAFF OF THE CORPORATION**

(1) The Corporation is to appoint an Executive Director, who is responsible to the Corporation for the day to day management and administration of the Kadoorie Farm and Botanic Garden.

(2) The Corporation may employ other employees as it thinks fit and determine all matters relating to their remuneration and the terms and conditions of their employment.

(Enacted 1995)

### **s 16 Employment of technical and professional advisers**

(1) The Corporation may engage the services of technical and professional advisers to advise the Corporation in matters arising out of or in connection with any of the functions or powers of the Corporation.

(2) Matters relating to the remuneration and the terms and conditions of engagement of advisers, and the manner of their engagement, under subsection (1) are determined by the Corporation.

(Enacted 1995)

### **s 17 Power of Corporation to delegate**

#### **PART VI**

##### **DELEGATION**

The Corporation may, with or without restrictions or conditions as it thinks fit, delegate in writing any of its functions or powers to the Executive Director, other than its power-

- (a) to appoint the Executive Director;
- (b) to appoint an auditor; or
- (c) to make bylaws.

(Enacted 1995)

### **s 18 Power of Executive Director to delegate**

(1) The Executive Director may, with or without restrictions or conditions as he thinks fit, delegate in writing to a person as he thinks fit, his functions and powers, including a function or power delegated to him under section 17.

(2) The power of the Executive Director to delegate a function or power of the Corporation delegated to him under section 17 and the exercise by a person of a function or power delegated by the Executive Director under subsection (1), are subject to any restriction or condition imposed by the Corporation under section 17.

(Enacted 1995)

### **s 19 Power to borrow money**

#### **PART VII**

##### **FINANCIAL**

The Corporation may, for the promotion of its functions, borrow money and charge its property as security therefor, and pay interest on the money borrowed.

(Enacted 1995)

### **s 20 Accounts and statements**

(1) The Corporation is-

- (a) to keep proper accounts of all its financial transactions;
- (b) to prepare for each financial year a statement of the accounts of the Corporation including an income and expenditure account and balance sheet signed by the Chairman.

(2) An auditor appointed by the Corporation is to audit the accounts of the Corporation and the signed statement of accounts.

(3) The auditor is to certify the statement subject to such report, if any, as he thinks fit.

(Enacted 1995)

## **s 21 Investment of surplus funds**

The Corporation may invest such of its funds that are not immediately required in such forms of investments as are set out in Schedule 2 to the Trustee Ordinance (Cap 29).

(Enacted 1995)

## **s 22 Trustees may obtain information**

### **PART VIII**

#### **MISCELLANEOUS**

The Corporation is required on request by the Trustees to afford to them sufficient facilities to obtain information on the property and affairs of the Corporation and in the manner and at the times as the Trustees may require to furnish them with returns, accounts and other relevant information and to afford to them facilities for the verification of information furnished.

(Enacted 1995)

## **s 23 Bylaws**

(1) The Corporation may, under its seal, make bylaws not inconsistent with this Ordinance for the following purposes-

- (a) the terms and conditions of access to and use of the Kadoorie Farm and Botanic Garden;
- (b) the management and control, including the closing or partial closing, of the Kadoorie Farm and Botanic Garden;
- (c) the fixing of the times during which the Kadoorie Farm and Botanic Garden or any part may be open to members of the public;
- (d) the use of any equipment, apparatus, fitting or facility provided for use at the Kadoorie Farm and Botanic Garden;
- (e) the preservation of good order and discipline and prevention of abuses and nuisances in the Kadoorie Farm and Botanic Garden;
- (f) prohibiting or restricting the killing, hunting, trapping, molesting or disturbance of any form of wildlife within the Kadoorie Farm and Botanic Garden or the taking of, destruction of, or interference with, vegetation within the Kadoorie Farm and Botanic Garden or the doing of anything therein which will interfere with the soil;
- (g) prohibiting or restricting the lighting of fires within the Kadoorie Farm and Botanic Garden and the prevention of fire hazards;
- (h) prohibiting or controlling the use of the Kadoorie Farm and Botanic Garden for-
  - (i) picnicking;
  - (ii) barbecuing;
  - (iii) camping;
  - (iv) swimming;
  - (v) hawking;
  - (vi) advertising;
  - (vii) fishing; and
  - (viii) any other similar activities;
- (i) the control of pollution, including prohibiting littering and the disposal of rubbish, chemicals or other pollutants into any body of water within the

Kadoorie Farm and Botanic Garden, and controlling the level of noise within the Kadoorie Farm and Botanic Garden;

(j) the control (including prohibition) of trading, advertising or the erection of structures in or on the Kadoorie Farm and Botanic Garden, the removal, storage and sale of trading, advertising or construction materials that are brought into or remain in or on the Kadoorie Farm and Botanic Garden in contravention of any bylaw made under this section, the recovery of any costs incurred for the removal, storage and sale, and the forfeiture of the proceeds of sale; and

(k) the better carrying out of the functions and powers of the Corporation.

(2) A bylaw made under this section may provide that a contravention of specified provisions is an offence and may prescribe penalties not exceeding a fine at level 2.

(3) Without prejudice to any Ordinance relating to the prosecution of criminal offence or to the power of the Secretary for Justice for the prosecution of criminal offences, prosecutions under a bylaw may be brought in the name of the Corporation. (Amended L.N. 362 of 1997)

(4) The Corporation is to print copies of the bylaws and is to-

(a) display them prominently in the Kadoorie Farm and Botanic Garden;

(b) keep a copy at its principal office; and

(c) make them available for sale to any person at a reasonable cost.

(Enacted 1995)

## s 24 Saving

Remarks:

Adaptation amendments retroactively made - see 61 of 2000 s. 3

Nothing in this Ordinance shall affect or be deemed to affect the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws, or the rights of any body politic or corporate or of any other persons except such as are mentioned in this Ordinance and those claiming by, from or under them.

(Enacted 1995. Amended 61 of 2000 s. 3)

## SCHEDULE

[section 12]

### PROPERTY TO VEST IN THE CORPORATION

1. All that piece or parcel of land registered at the Land Registry being the Remaining Portion of Lot No. 1822 in D.D. 10 at Paak Ngau Shek, New Territories, Hong Kong and registered in the name of the Association. (Amended 20 of 2002 s. 5)

2. All that piece or parcel of land registered at the Land Registry and comprised in Lot No. 18 in D.D. 10 at Paak Ngau Shek, New Territories, Hong Kong and registered in the name of the Kadoorie Agricultural Aid Association. (Amended 20 of 2002 s. 5)

3. The benefit of the Government Land Licence T19005 in favour of the Association in respect of land used as a fire break at Kwun Yam Shan and Ng Tung Chai in D.D. 10.

4. The benefit of the Short Term Tenancy No. 1352 in favour of the Association in respect of land at Kwun Yam Shan, Yuen Long, New Territories in D.D. 114.

(Enacted 1995)

