

**MARINE PARKS ORDINANCE
- CHAPTER 476**

LONG TITLE

Long title VerDate:30/06/1997

An Ordinance to provide for the designation, control and management of marine parks and marine reserves, and for purposes connected therewith.
(Enacted 1995)

[1 June 1995]

(Originally 37 of 1995)

SECT 1

Short title VerDate:30/06/1997

PART I

PRELIMINARY

This Ordinance may be cited as the Marine Parks Ordinance.
(Enacted 1995)

SECT 2

Interpretation VerDate:30/06/1997

In this Ordinance, unless the context otherwise requires-

"Authority" means the Country and Marine Parks Authority within the meaning of section 3;

"authorized officer" means a person authorized by the Authority under section 24;

"Board" means the Country and Marine Parks Board established by section 5 of the Country Parks Ordinance (Cap 208);

"development" means the carrying out of the following activities-

- (a) building, engineering or installation of structure;
- (b) digging, dredging, rock removal or extraction of minerals;
- (c) reclamation or dumping;
- (d) construction of any buoy, jetty, pier, breakwater, shelter, anchorage or other port facility;
- (e) laying any cable, pipe or other utility; or
- (f) any other similar operation,

in, on, over or under any land, the sea or any tidal water within Hong Kong;

"land" includes land covered by water;

"marine life", in relation to a marine park or marine reserve, as the case may be, includes all animals and plants therein;

"marine park" means any area that is designated as a marine park under section 15;

"marine reserve" means any area that is designated as a marine reserve under section 15;

"new development" means any development other than development in respect of which all the necessary approvals and permissions have been obtained prior to the date of publication in the Gazette of a notice under section 8(1) in respect of the area where the development is carried out, but does not include any work carried out for the purposes of inspecting, maintaining or repairing any utility or any sewer, main, pipe, cable or other apparatus;

"proposed marine park" means any area that is proposed to be designated as a marine park;

"proposed marine reserve" means any area that is proposed to be designated as a marine reserve;

"Secretary of the Board" means the Secretary of the Country and Marine Parks Board appointed under section 5(8) of the Country Parks Ordinance (Cap 208);

"vessel" (è¹éš») means-

(a) any ship, junk, boat, dynamically supported craft, seaplane, or any other description of vessel used in navigation; and

(b) any other description of vessel in Hong Kong or in the waters of Hong Kong not used in navigation or not constructed or adapted for use in navigation,

but does not include a ship of war or any vessel having the status of a ship of war.
(Enacted 1995)

SECT 3

Control and management of marine parks and marine reserves VerDate:01/01/2000

PART II

DUTIES OF COUNTRY AND MARINE PARKS AUTHORITY AND FUNCTIONS OF COUNTRY AND MARINE PARKS BOARD

(1) Subject to this Ordinance, the control and management of marine parks and marine reserves are vested in the Country and Marine Parks Authority.

(2) The Director of Agriculture, Fisheries and Conservation shall be the Authority for the purposes of this Ordinance. (Amended L.N. 331 of 1999)

(Enacted 1995)

SECT 4

Duties of the Authority VerDate:01/07/1997

Adaptation amendments retroactively made - see 34 of 2000 s. 3

For the purposes of this Ordinance, it shall be the duty of the Authority-

(a) to make recommendations to the Chief Executive in Council for the designation of areas as marine parks or marine reserves; (Amended 34 of 2000 s. 3)

(b) to control and manage marine parks and marine reserves, and to take such measures in respect of marine parks and marine reserves as the Authority considers necessary, for the purposes of-

(i) protecting, restoring and, where the Authority considers necessary, enhancing the marine life in and marine environment of any marine park or marine reserve;

(ii) managing the uses of resources in marine parks to meet the needs and aspirations of present and future generations of mankind;

(iii) facilitating recreational activities in marine parks; and

(iv) providing opportunities for educational and scientific studies in the marine life in and marine environment of marine parks and marine reserves; and

(c) generally to administer this Ordinance.
(Enacted 1995)

SECT 5

Functions of the Board VerDate:30/06/1997

For the purposes of this Ordinance, the Board shall-

(a) act as a consultative body to advise the Authority upon any matter referred to it by the Authority under this Ordinance;

(b) consider and advise the Authority on the policy of and programmes prepared by the Authority in respect of marine parks and marine reserves, including proposed marine parks and proposed marine reserves; and

(c) consider any objections that may be lodged under section 12.
(Enacted 1995)

SECT 6

Power of Chief Executive to give directions VerDate:01/07/1997

Adaptation amendments retroactively made - see 34 of 2000 s. 3

(1) The Chief Executive may give such directions as he thinks fit, either generally or in any particular case, with respect to the exercise or performance by the Authority or a public officer of any power, function or duty under this Ordinance.

(2) The Authority and every public officer shall, in the exercise or performance of any power, function or duty under this Ordinance, comply with any directions given by the Chief Executive under subsection (1).

(Enacted 1995. Amended 34 of 2000 s. 3)

SECT 7

Preparation of draft maps VerDate:01/07/1997

Adaptation amendments retroactively made - see 34 of 2000 s. 3

PART III

DESIGNATION OF MARINE PARKS AND MARINE RESERVES

(1) The Authority shall, at the direction of the Chief Executive in Council, prepare draft maps showing proposed marine parks or proposed marine reserves. (Amended 34 of 2000 s. 3)

(2) Any map prepared under subsection (1) shall show the boundaries of the proposed marine park or proposed marine reserve, as the case may be, and such details as the Authority considers appropriate.

(3) The Authority may, in conjunction with any draft map prepared under subsection (1), prepare explanatory material relating to the map, which may be in the form of diagrams, illustrations, notes or descriptive matter; and any such explanatory material shall be part of the map.

(4) The Authority shall consult the Board on the preparation of any draft map under this section and may make such inquiries as he may consider necessary for the preparation of such draft map.
(Enacted 1995)

SECT 8

Publication of notice and inspection of draft map VerDate:12/02/2005

(1) Where the Authority has prepared a draft map under section 7, he shall publish in the Gazette a notice in English and in Chinese-

(a) containing a general description of the area shown in the draft map;

(b) giving particulars of the places and times at which a copy of the draft map, and other information (if any) relating to the proposed marine park or proposed marine reserve, as the case may be, may be inspected by the public; and

(c) specifying the time within which, and the manner in which, objections with regard to the draft map may be made.

(2) Where the Authority publishes a notice under subsection (1), he shall-

(a) publish a copy of the notice in 3 issues of one English language and 2 Chinese language daily newspapers; and

(b) where he considers it practicable and appropriate, display copies of such notice in prominent positions within or near the proposed marine park or proposed marine reserve, as the case may be.

(3) A copy of the draft map, together with other information relating to the proposed marine park or proposed marine reserve, as the case may be, as the Authority considers appropriate, shall be made available for inspection free of charge at the Land Registry, the headquarters of the Agriculture, Fisheries and Conservation Department and the headquarters of the Marine Department for a period of 60 days from the date of publication of the notice under subsection (1) and during the hours when those offices are normally open to the public. (Amended L.N. 331 of 1999; 20 of 2002 s. 5)

(4) Any person may obtain a copy of the draft map, upon payment of such fee as the Authority may determine, at the headquarters of the Agriculture, Fisheries and Conservation Department.
(Amended L.N. 331 of 1999)

(5) Any person may in writing request the Authority to provide him with further information relating to the proposed marine park or proposed marine reserve, as the case may be, which has not already been made available for inspection under subsection (3).

(6) Upon receipt of a request under subsection (5), the Authority may-

(a) provide the required information to the person making the request; or

(b) on any reasonable ground, refuse to provide such information.
(Enacted 1995)

SECT 9

Effect of publication of notice under section 8(1) VerDate:30/06/1997

(1) After the publication in the Gazette of a notice under section 8(1), no new development shall be carried out within the proposed marine park or proposed marine reserve, as the case may be, shown in the draft map without the prior approval in writing of the Authority.

(2) The restriction under subsection (1) on the carrying out of new development shall have effect until the publication in the Gazette of a notice under section 14(2) or an order under section 15 in respect of that proposed marine park or proposed marine reserve, as the case may be, and in the case of an order under section 15, sections 20 to 22 shall apply in respect of the designated marine park or marine reserve after such publication.

(3) Where any new development has been carried out or is being carried out within any proposed marine park or proposed marine reserve without the prior approval of the Authority or in breach of or

without compliance with any condition imposed on the granting of approval by the Authority under section 10(3)(b), the Authority may by order in writing served on-

- (a) the person carrying out such new development; or
 - (b) the person for whom such new development has been or is being carried out or his agent, require-
 - (i) the carrying out of such new development to cease forthwith; and
 - (ii) where appropriate, remedial and restoration work to be carried out at that person's expense within such time as may be specified in the order.
- (4) If a person fails to comply with any requirement under subsection (3)(i) or (ii), the Authority may, without further notice, carry out, or cause to be carried out, such work as may be necessary to ensure that the requirement is complied with.
- (5) The cost of any work carried out, or caused to be carried out, by the Authority under subsection (4) shall be recoverable, as a civil debt due to the Government, from the person or persons referred to in subsection (3)(a) or (b) or both irrespective of on whom the order under subsection (3) has been served.
- (6) Any person who-
- (a) carries out any new development within any proposed marine park or proposed marine reserve without the prior approval of the Authority; or
 - (b) fails to comply with an order served on him under subsection
- (3), commits an offence and is liable on conviction-
- (i) to a fine at level 5 and to imprisonment for 1 year; and
 - (ii) to a fine of \$5000 for each day during which it is proved to the satisfaction of the court that the offence has continued.
- (Enacted 1995)

SECT 10

Approval for new development VerDate:30/06/1997

- (1) An application for approval by the Authority under section 9 to carry out new development shall be made to the Authority in writing which application shall include details of the proposal for the new development.
- (2) The Authority may require the applicant to produce any additional information as the Authority may consider necessary.
- (3) Upon receipt of an application under subsection (1) and any additional information under subsection (2) if required, the Authority may, after seeking the advice of the Board-

- (a) refuse to grant the approval; or
 - (b) grant such approval which may be subject to such conditions as the Authority may impose.
- (4) The granting of approval by the Authority under subsection (3)(b) shall be in addition to any other approval which may be required in respect of the new development.
(Enacted 1995)

SECT 11

Appeal VerDate:30/06/1997

- (1) An applicant aggrieved by a decision of the Authority under section 10(3) may, within 21 days of being notified of the decision of the Authority, appeal to the Administrative Appeals Board.
- (2) Upon consideration of an appeal under subsection (1) the Administrative Appeals Board may confirm, vary or reverse the decision of the Authority.
- (3) A decision of the Authority under section 10(3)(b) against which an appeal is brought under subsection (1) shall be suspended in its operation as from the day on which the appeal is made until such appeal is disposed of, withdrawn or abandoned unless such suspension would, in the opinion of the Authority, be contrary to the public interest and the notice of the decision contains a statement to that effect.
(Enacted 1995)

SECT 12

Objections VerDate:30/06/1997

- (1) Any person aggrieved by a draft map available for inspection under section 8 may within the period of 60 days referred to in section 8(3) send to the Authority a written statement of his objection to the draft map.
- (2) A written statement under subsection (1) shall set out-
- (a) the nature of and reasons for the objection; and
 - (b) if the objection would be removed by an alteration to the draft map, any alteration proposed.
- (3) Where the Authority receives a written statement of objection under subsection (1), he may within 90 days from the date of publication of the notice concerned under section 8(1) submit to the Secretary of the Board his written representations concerning such objection.
- (4) Upon receipt of an objection under subsection (1) and any representations by the Authority under subsection (3), the Secretary of the Board shall fix a time and place for the hearing of the objection by the Board and shall give 14 clear days' notice thereof to the objector.
- (5) The objector may attend the meeting of the Board at which the objection is to be heard, and may be heard in person or by his authorized representative.

- (6) Upon the hearing of the objection, the Board may-
- (a) reject the objection in whole or in part; or
 - (b) direct the Authority to make amendments to the draft map to meet such objection in whole or in part.
- (7) Where the Board rejects the objection under subsection (6)(a), the Secretary of the Board shall notify in writing the objector of the Board's decision.
(Enacted 1995)

SECT 13

Submission of draft map to Chief Executive in Council VerDate:01/07/1997

Adaptation amendments retroactively made - see 34 of 2000 s. 3

The Authority shall, within 6 months from the last day of the period during which objections under section 12 may be lodged, submit the draft map to the Chief Executive in Council for approval, and shall at the same time submit- (Amended 34 of 2000 s. 3)

- (a) a schedule of objections and representations made under section 12; and
- (b) a schedule of the amendments made by the Authority pursuant to a direction under section 12(6)(b) with a view to meeting such objections.
(Enacted 1995)

SECT 14

Power of Chief Executive in Council upon submission of draft map VerDate:12/02/2005

- (1) Upon submission of a draft map under section 13, the Chief Executive in Council shall-
- (a) approve the draft map;
 - (b) refuse to approve it; or
 - (c) refer it to the Authority for further consideration and amendment.
- (2) Where the Chief Executive in Council refuses to approve a draft map under subsection (1)(b), the Authority shall as soon as possible after such refusal give notice in the Gazette of such refusal.
- (3) The Chief Executive in Council may by order in the Gazette correct any omission from or error in any map approved by him.
- (4) Every map approved by the Chief Executive in Council shall be signed by the Authority.
- (5) Copies of the approved map, certified as true copies of the original by the Authority, shall be deposited in the Land Registry, the headquarters of the Agriculture, Fisheries and Conservation Department and the headquarters of the Marine Department and shall be made available for inspection

free of charge at those offices during the office hours when those offices are normally open to the public.
(Amended L.N. 331 of 1999; 20 of 2002 s. 5)

(6) The deposit of maps under subsection (5) shall be notified in the Gazette.

(7) Any person may obtain a copy of an approved map, upon payment of such fee as the Authority may determine, at the headquarters of the Agriculture, Fisheries and Conservation Department.

(Amended L.N. 331 of
1999)

(Enacted 1995. Amended 34 of 2000 s. 3)

SECT 15

Designation of marine parks and marine reserves VerDate:01/07/1997

Adaptation amendments retroactively made - see 34 of 2000 s. 3

Where the Chief Executive in Council has approved a draft map under section 14(1)(a) and it has been deposited in accordance with section 14(5), the Chief Executive shall, by order in the Gazette, designate the area shown in the approved map to be a marine park or marine reserve, as the case may be.

(Enacted 1995. Amended 34 of 2000 s. 3)

SECT 16

Replacement or revocation of approved maps VerDate:01/07/1997

Adaptation amendments retroactively made - see 34 of 2000 s. 3

(1) The Chief Executive in Council may refer any map approved by him under section 14(1)(a) to the Authority for- (Amended 34 of 2000 s. 3)

(a) replacement by a new map for the purpose of-

(i) extending any marine park or marine reserve; or

(ii) excising any area within a marine park or marine reserve, if the Chief Executive in Council considers that such excision is required for a public purpose or is in the public interest; or

(b) revocation for the purpose of cancelling the designation of any marine park or marine reserve, if the Chief Executive in Council considers that such cancellation is required for a public purpose or is in the public interest. (Amended 34 of 2000 s. 3)

(2) The Authority shall-

(a) upon any reference under subsection (1)(a), prepare a map

(hereinafter called a "replacement map") showing the boundaries of the extended or excised marine park or marine reserve, as the case may be, which shall indicate thereon the area of such extension or excision in the manner which the Authority considers appropriate; or

(b) upon any reference under subsection (1)(b), prepare a map

(hereinafter called a "revocation map") showing the boundaries of the marine park or marine reserve, as the case may be, which shall cease to be designated as such and the map shall indicate thereon the cancellation of the designation in the manner which the Authority considers appropriate.

(3) The Authority may, in conjunction with any replacement map or revocation map, prepare explanatory material relating to the map, which shall be in the form of diagrams, illustrations, notes or descriptive matter; and any such explanatory material shall be part of the map.

(4) The Authority shall consult the Board on the preparation of any draft replacement map or draft revocation map under this section and may make such inquiries as he may consider necessary for the preparation of such draft map.

(5) Where the Authority has prepared a replacement map or revocation map under subsection (2), sections 8 to 14 shall, with necessary modifications, apply in respect of the replacement map or revocation map, as the case may be, in like manner as they apply to the map it replaces or revokes; and-
<* Note - Exp. X-Ref.: Sections 8, 9, 10, 11, 12, 13, 14 *>

(a) the work "map" in sections 8 to 14 shall be construed as referring to the replacement map or revocation map, as the case may be;
and <* Note - Exp. X-Ref.: Sections 8, 9, 10, 11, 12, 13, 14 *>

(b) in so far as the replacement map relates to the extension of any marine park or marine reserve-

(i) the term "new development" in sections 9 and 10 and subsection (6) means new development carried out within the proposed area of extension of the marine park or marine reserve, as the case may be, and in its definition in section 2, the reference to the publication in the Gazette of a notice under section 8(1) shall be construed as reference to the publication of a notice pursuant to this subsection in the Gazette in the manner described in section 8(1); and

(ii) in section 9(2), the reference to the publication in the Gazette of a notice under section 14(2) or an order under section 15 shall be construed as reference to publication in the Gazette of a notice pursuant to this subsection in the manner described in section 14(2) or an order under subsection (8)(a)(i).

(6) Any person who-

(a) carries out any new development within any proposed area of extension of any marine park or marine reserve without the prior approval of the Authority; or

(b) fails to comply with an order served on him pursuant to subsection (5) in the manner described in section 9(3),

commits an offence and is liable on conviction-

(i) to a fine at level 5 and to imprisonment for 1 year; and

(ii) to a fine of \$5000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

(7) Upon approval of the replacement map or revocation map by the Chief Executive in Council, the map referred to the Authority under subsection (1) shall be- (Amended 34 of 2000 s. 3)

(a) replaced by the replacement map; or

(b) revoked,

as the case may be.

(8) Where the Chief Executive in Council has approved- (Amended 34 of 2000 s. 3)

(a) a replacement map and it has been deposited in the manner described in section 14(5), the Chief Executive shall by order in the Gazette- (Amended 34 of 2000 s. 3)

(i) designated the area of extension shown in the approved replacement map to be a marine park or marine reserve being part of the original marine park or marine reserve, as the case may be, shown in the map replaced; or

(ii) cancel the designation of the marine park or marine reserve, as the case may be, shown in the map replaced to the extent that it relates to the area of excision shown in the approved replacement map; or

(b) a revocation map and it has been deposited in the manner described in section 14(5), the Chief Executive shall by order in the Gazette cancel the designation of the marine park or marine reserve, as the case may be, shown in the approved revocation map. (Amended 34 of 2000 s. 3)
(Enacted 1995)

SECT 17

Resumption of land VerDate:01/07/1997

Adaptation amendments retroactively made - see 29 of 1998 s. 89; 34 of 2000 s. 3

PART IV

MISCELLANEOUS

(1) Where the Chief Executive in Council decides that the resumption of any land is required for the purpose of any marine park or marine reserve, the Chief Executive may order the resumption thereof in accordance with the provisions of the Lands Resumption Ordinance (Cap 124). (Amended 34 of 2000 s. 3)

(2) A resumption in pursuance of an order under subsection (1) shall be deemed to be a resumption for a public purpose within the meaning of the Lands Resumption Ordinance (Cap 124).
(Enacted 1995. Amended 29 of 1998 s. 89)

SECT 18

Exclusion VerDate:01/07/1997

Amendments retroactively made - see 29 of 1998 s. 90

(1) This Ordinance shall not apply in respect of any land within a marine park or marine reserve-

(a) subject to subsection (3), held under a Government lease existing before the publication in the Gazette of a notice under section 8(1) in respect of that marine park or marine reserve, as the case may be, until the expiration of such lease; or (Amended 29 of 1998 s. 90)

(b) occupied under a licence or a deed or memorandum of appropriation issued under the Land (Miscellaneous Provisions) Ordinance (Cap 28) before the publication in the Gazette of a notice under section 8(1) in respect of that marine park or marine reserve, as the case may be, until the expiration of the validity period of such licence or deed or memorandum of appropriation, (Amended 29 of 1998 s. 90) and for the purpose of this subsection, a marine park or marine reserve includes a proposed marine park or proposed marine reserve, or a proposed area of extension of a marine park or marine reserve, as the case may be.

(2) For the avoidance of doubt, nothing in this Ordinance shall be construed to the prejudice of the Shipping and Port Control Ordinance (Cap 313) and the Water Pollution Control Ordinance (Cap 358).

(3) Nothing in subsection (1)(a) shall prevent an order from being made under section 17(1) for the resumption of any land referred to in subsection (1)(a) and this Ordinance shall apply to the land resumed in pursuance of such order.
(Enacted 1995)

SECT 19

Extinguishment of rights VerDate:30/06/1997

(1) Upon the publication in the Gazette of an order under section 15 or 16(8)(a)(i), all rights existing under common law in relation to any land, the sea or any tidal water within the area of the marine park or marine reserve concerned shall be extinguished and cease to exist.

(2) No action, claim or proceedings shall lie or be brought against the Government or any other person to recover damages, compensation or costs for-

- (a) damage or disturbance to or loss in the value of any land, trade or business;
- (b) personal disturbance or inconvenience;
- (c) extinguishment, modification or restriction of rights; or
- (d) the costs of effecting or complying with any requirement,

which is authorized or imposed by or under this Ordinance or arises from any act or omission so authorized or for any other matters related to the designation of marine parks or marine reserves except in relation to a resumption ordered under section 17(1).
(Enacted 1995)

SECT 20

Regulations VerDate:01/07/2007

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The Secretary for the Environment may make regulations to provide for- (Amended 78 of 1999 s. 7; L.N. 106 of 2002; L.N. 130 of 2007)

(a) the proper management and control of (including the specification of zones within and the closure or partial closure of) marine parks and marine reserves;

(b) prohibiting or controlling the following activities within a marine park or marine reserve-

(i) fishing and spear-fishing;

(ii) mariculture;

(iii) swimming and diving;

(iv) collection of marine life and resources;

(v) boating, including surfing, wind-surfing and water-skiing;

(vi) barbecuing and camping on beaches;

(vii) mooring;

(viii) hawking;

(ix) dumping and littering;

(x) advertising; and

(xi) any other activities incompatible with the carrying into effect of the provisions of this Ordinance or any regulation made under this section;

(c) prohibiting or controlling discharge of matter into a marine park or marine reserve by any person therein or from any vessel therein;

(d) prohibiting or restricting the killing, hunting, trapping, molesting or disturbance of any form of marine life within a marine park or marine reserve, the possession of equipment or implements used for hunting or fishing, the taking of, destruction of or interference with the marine life within a marine park or marine reserve;

(e) the seizure and disposal of any marine life, resources or other article or thing in respect of which any regulation made under this section is contravened;

(f) the preservation of good order and prevention of abuses and nuisances within marine parks and marine reserves;

(g) prohibiting or restricting the entry into, or movement within, marine parks and marine reserves of persons, vehicles, vessels and animals;

(h) the application for, and the grant and renewal of licences and permits, and the fees payable in respect thereof;

(i) the fees payable in connection with the use of any marine park or marine reserve or any part thereof, in connection with the use of any facility provided therein; and

(j) generally, the carrying into effect of the provisions of this Ordinance.

(2) Regulations made under this section may provide that a contravention or breach thereof shall be an offence punishable by a fine at level 4 and imprisonment for 1 year and, where the offence is a continuing offence, punishable by a further fine of \$400 for each day during which it is proved to the satisfaction of the court that the offence has continued.

(Enacted 1995)

SECT 21

Approval for inspection, repair works and new development VerDate:30/06/1997

(1) Notwithstanding any provision of this Ordinance, the Authority may approve in writing the carrying out of any work for the purposes of inspecting or repairing any existing structure or facility within any marine park or marine reserve and may, after seeking the advice of the Board, approve the carrying out of any new development within any marine park or marine reserve, where he considers it to be in the public interest to do so, and may impose any conditions on granting the approval.

(2) Sections 10 and 11 shall, with necessary modifications, apply in respect of an application for approval to carry out any work or new development referred to in subsection (1) within a marine park or marine reserve.

(3) Where any work referred to in subsection (1) or any new development has been carried out or is being carried out within any marine park or marine reserve without the prior approval of the Authority or in breach of or without compliance with any condition imposed on the granting of approval by the Authority under that subsection, the Authority may by order in writing served on-

(a) the person carrying out such work or new development; or

(b) the person for whom such work or new development has been or is being carried out or his agent,
require-

(i) the carrying out of such work or new development to cease forthwith; and

(ii) where appropriate, remedial and restoration work to be carried out at that person's expense within such time as may be specified in the order.

(4) If a person fails to comply with any requirement under subsection (3)(i) or (ii), the Authority may, without any further notice, carry out, or cause to be carried out, such work as may be necessary to ensure that the requirement is complied with.

(5) The cost of any work carried out, or caused to be carried out, by the Authority under subsection (4) shall be recoverable, as a civil debt due to the Government, from the person or persons referred to in subsection (3)(a) or (b) or both irrespective of on whom the order under subsection (3) has been served.

(6) Any person who-

(a) carries out any work referred to in subsection (1) or any new development within any marine park or marine reserve without the prior approval of the Authority; or

(b) fails to comply with an order served on him under subsection

(3),
commits an offence and is liable on conviction-

(i) to a fine at level 5 and to imprisonment for 1 year; and

(ii) to a fine of \$5000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

(Enacted 1995)

SECT 22

Licences and permits VerDate:30/06/1997

(1) Notwithstanding any provision of this Ordinance, the Authority may grant to any person a licence or permit in writing upon such terms and conditions as he thinks fit to do anything which is controlled under this Ordinance and may, after seeking the advice of the Board, grant to any person a licence or permit in writing upon such terms and conditions as he thinks fit to do anything which is otherwise prohibited under this Ordinance.

(2) Any person aggrieved by the decision of the Authority in relation to the granting of or refusal to grant a licence or permit may, within 21 days of being notified of the decision of the Authority, appeal to the Administrative Appeals Board.

(3) A decision of the Authority against which an appeal is brought under subsection (2) shall be suspended in its operation as from the day on which the appeal is made until such appeal is disposed of, withdrawn or abandoned unless such suspension would, in the opinion of the Authority, be contrary to the public interest and the notice of the decision contains a statement to that effect.
(Enacted 1995)

SECT 23

Protection of the Government and public officers VerDate:30/06/1997

(1) No liability shall rest on the Government or upon any public officer by reason of the fact that any licence or permit is granted under this Ordinance.

(2) A public officer shall not be personally liable in respect of any act or omission of his if it was done or made by him in the honest belief that it was required or authorized in the exercise of any function, duty or power of his under this Ordinance.

(3) The protection conferred on public officers by subsection (2) in respect of any act or omission shall not in any way affect any liability of the Government in tort for that act or omission.
(Enacted 1995)

SECT 24

Authorized officers VerDate:30/06/1997

The Authority may, subject to such limitations as he thinks fit, authorize in writing any public officer or class of public officers to exercise any of the powers or perform any of the duties conferred or imposed on an authorized officer under this Ordinance or any regulation made thereunder.

(Enacted 1995)

SECT 25

Powers of inspection, search, seizure and arrest VerDate:30/06/1997

(1) If an authorized officer has reasonable grounds for suspecting that a person has committed or is about to commit or intends to commit an offence under this Ordinance or any regulation made thereunder, he may without warrant and upon production of written evidence of his identity-

(a) stop the person or, where the person is on board a vessel, stop and board that vessel for the purpose of requiring that the person produce for inspection-

(i) proof of his identity;

(ii) any licence or permit for the activities or works which he has carried out or is about to carry out or intends to carry out;

(b) detain the person for a reasonable period while the authorized officer inquires about the suspected commission of the offence;

(c) search the person, his property and the vessel for anything that is likely to be of value to the investigation of the offence;

(d) seize any marine life or resources, or any utensils, equipment or appliances believed to be or to be capable of being evidence of the commission of the offence; and

(e) detain the vessel which he is empowered by this section to stop, board and search until it has been searched.

(2) It shall be lawful for an authorized officer to arrest without warrant any person whom he reasonably suspects of having committed an offence under this Ordinance or any regulation made thereunder if it appears to the authorized officer that service of a summons is impracticable because-

(a) the name of the person is unknown to, and cannot readily be ascertained by, the authorized officer;

(b) the authorized officer has reasonable grounds for doubting whether a name given by the person as his name is his real name;

(c) the person has failed to give a satisfactory address for service; or

(d) the authorized officer has reasonable grounds for doubting whether an address given by the person is a satisfactory address for service.

(3) If any person who may lawfully be arrested under subsection (2) forcibly resists the endeavour to arrest him or attempts to evade the arrest, an authorized officer may use all means necessary to effect the arrest.
(Enacted 1995)

SECT 26

Taking arrested person to police station VerDate:30/06/1997

Where an authorized officer arrests a person under section 25 he shall forthwith take the person to the nearest police station and shall there hand him over to the custody of a police officer and thereupon the provisions of the Police Force Ordinance (Cap 232) shall apply.
(Enacted 1995)

SECT 27

Assaulting or resisting or obstructing authorized officer VerDate:30/06/1997

Any person who assaults or resists or obstructs any authorized officer in the execution of his duty commits an offence and is liable on conviction to a fine at level 3.
(Enacted 1995)

SECT 28

Application of Ordinance to the Government VerDate:01/07/1997

(1) Subject to this section, this Ordinance shall bind the Government.

(2) Sections 9, 16, 20 and 21 shall not have effect to permit proceedings to be taken against, or to impose any criminal liability on, the Government or any person who does any act which he is required to do in the course of carrying out his duties in the service of the Government.

(3) If it appears to the Authority that there has been a contravention of section 9, 16 or 21 or any regulation made under section 20 by any person in the course of carrying out his duties in the service of the Government, the Authority shall, if the contravention is not forthwith terminated to his satisfaction, report the matter to the Chief Secretary for Administration. (Amended L.N. 362 of 1997)

(4) On receipt of a report under subsection (3) the Chief Secretary for Administration shall inquire into the circumstances and, if his inquiry shows that a contravention of section 9, 16 or 21 or any regulation made under section 20 is continuing or likely to recur, he shall ensure that the best practicable steps are taken to terminate the contravention or avoid the recurrence. (Amended L.N. 362 of 1997)

(5) Any application under this Ordinance for approval for the carrying out of any work or new development or for any licence or permit which is to be, or may be, made by or on behalf of the Government may be made by any public officer on behalf of the Government.

(6) Any order under this Ordinance concerning the cessation of any work or new development and the carrying out of remedial and restoration work which is to be, or may be, served by the Authority on the Government shall be served on the head of the Government department which appears to the Authority to be responsible for the work or new development; and, in the event of any question arising as to which department is responsible, the question shall be determined by the Chief Secretary for

Administration. (Amended L.N. 362 of 1997)

(7) No fee or charge prescribed for the purposes of this Ordinance shall be payable by the Government.

(Enacted 1995)

SECT 29

(Omitted as spent) VerDate:30/06/1997

(Omitted as spent)

(Enacted 1995)

SECT 30

(Omitted as spent) VerDate:30/06/1997

(Omitted as spent)

(Enacted 1995)

SECT 31

(Omitted as spent) VerDate:30/06/1997

(Omitted as spent)

(Enacted 1995)

SECT 32

(Omitted as spent) VerDate:30/06/1997

(Omitted as spent)

(Enacted 1995)

SECT 33

(Omitted as spent) VerDate:30/06/1997

(Omitted as spent)

(Enacted 1995)

SECT 34

(Omitted as spent) VerDate:30/06/1997

(Omitted as spent)

(Enacted 1995)

SECT 35
(Omitted as spent) VerDate:30/06/1997

(Omitted as spent)
(Enacted 1995)

SECT 36
(Omitted as spent) VerDate:30/06/1997

(Omitted as spent)
(Enacted 1995)