

SHIPPING AND PORT CONTROL ORDINANCE  
- CHAPTER 313

LONG TITLE

Long title VerDate:17/12/1999

To provide for the regulation and control of ports and of vessels in Hong Kong or in the waters of Hong Kong, the regulation and control of repairs and breaking up of vessels, cargo handling on vessels and pollution caused by vessels in the waters of Hong Kong, the regulation for and control of construction or reclamation works in which vessels are used and for other matters affecting vessels, navigation and the safety of vessels at sea (whether within or beyond the waters of Hong Kong). (Amended 46 of 1981 s. 2; 57 of 1990 s. 2; Amended 70 of 1999 s. 2)

[29 December 1978] L.N. 291 of 1978

(Originally 76 of 1978)

SECT 1

Short title VerDate:30/06/1997

PART I

PRELIMINARY

This Ordinance may be cited as the Shipping and Port Control Ordinance.

SHIPPING AND PORT CONTROL ORDINANCE - SECT 2

Interpretation VerDate:02/01/2007

In this Ordinance, unless the context otherwise requires-

"agent" means any person acting in Hong Kong as agent for the owner of a vessel for the purposes of this Ordinance;

"aid to navigation" means a lighthouse, beacon or buoy, and any cables, wires and other forms of communication apparatus connected or used with a lighthouse, beacon or buoy;

"authorized officer" means-

(a) the Director and any public officer of the Marine Department of or above the rank of Marine Inspector Class II; (Amended 46 of 1981 s. 3)

(b) any police officer of or above the rank of Sergeant; and (Amended 60 of 1979 s. 2)

(c) any public officer authorized in writing in this behalf by the Director;

"beacon" means any light, mark or sign established as an aid to navigation, other than a lighthouse or buoy;

"buoy" means any floating light, mark or sign established as an aid to navigation, other than a lighthouse or beacon;

"cargo" means any goods, container, pallet, material and solid ballast, ships' stores, provisions and equipment, mail and passengers' baggage, carried, or intended to be carried, in or on a vessel;

(Amended  
70 of 1999 s. 3)

"cargo handling" means-

- (a) the loading of cargo on, or the unloading of cargo from, a vessel;
- (b) the transfer of cargo within a vessel; or

(c) the hoisting, lowering, moving and handling of cargo or any other thing in any manner, on or from a vessel;

"collision regulations" means the Merchant Shipping (Safety) (Signals of Distress and Prevention of Collisions) Regulations (Cap 369 sub. leg. N); (Added 57 of 1990 s. 3)

"crane" means any appliance equipped with mechanical means of hoisting and lowering a load and for transporting the load while suspended; and also all chains, ropes, swivels, or other tackle (down to and including the hook), used in the operation of the appliance; but does not include:

- (a) a hoist block running on a fixed rail or wire;
- (b) a stacker or conveyer whereby a load is moved by means of a belt or platform; or
- (c) an earth or mineral moving or excavating appliance not fitted with a grab; (Added 24 of 2005 s. 40)

"dangerous goods" means the substances and articles which are specified in the Schedule to the Dangerous Goods (Application and Exemption) Regulations (Cap 295 sub. leg. A);

"dead ship" means any ship exceeding 50 metres in length, other than a laid-up vessel, which-

- (a) is, for any reason, unable to proceed under its own power;
- (b) is, for any reason, unable to manoeuvre with its own steering gear;
- (c) is, for any reason, unable to work its own anchors; or

(d) has any part of the hull structure removed, or under repair, which may affect the water-tight integrity of the ship;

"Director" means the Director of Marine;

"dynamically supported craft" means a craft that is operable on or above water and the weight of which, or a significant part thereof, is balanced in one mode of operation by other than hydrostatic forces;

"junk" includes any vessel-

- (a) of Chinese or other Asiatic build, construction or rig;
- (b) of Chinese or other Asiatic build and construction but of European rig; or (Amended L.N. 386 of 1993)

(c) of European build and construction, but of Chinese or other Asiatic rig, whether such vessel is of a sea-going type or not and whether mechanically propelled or not;

"laid-up vessel" means any vessel exceeding 50 metres in length, other than a dead ship, which remains, or is to remain, within the waters of Hong Kong through lack of employment or pending the outcome of any legal proceedings before any court;

"lifting appliance" means a crane, winch, hoist, derrick boom, sheer legs, excavator, pile driver, pile extractor, fork lift truck or other self-propelled machine, and any other description of lifting appliance, derrick and mast bands, goose-necks, eyebolts, and all other permanent attachments to a derrick, mast or deck, used on a vessel for the purposes of hoisting or lowering in connection with works; (Added 24 of 2005 s. 40)

"lifting gear" includes a chain, rope sling, canvas sling, net, tray, board, box, bull rope, snorter, can hook or other means of supporting cargo and attachments thereto including a ring, link, hook, plate, clamp, shackle, swivel, eyebolt, bridle, beam, spreader, rope and wire, used on a vessel in connection with works; (Added 24 of 2005 s. 40)

"lighthouse" includes a lightship and any floating or other light exhibited for the guidance of ships, other than a beacon or buoy;

"marine construction" means any construction or reclamation works, including dredging, drilling, pipe laying, buoy laying, cable laying and caisson construction, in which vessels are used; (Added 24 of 2005 s. 40)

"local vessel" means a local vessel within the meaning of the Merchant Shipping (Local Vessels) Ordinance (Cap 548) except a local vessel referred to in section 3(4) of that Ordinance; (Added 43 of 1999 s. 91)

"master", in relation to a vessel, means the person (except a pilot) having for the time being command or charge of the vessel; (Amended 43 of 1999 s. 91)

"material" includes construction material, waste material and debris; (Added 70 of 1999 s. 3)

"mooring" includes a mooring dolphin or post, buoy, pontoon, floating pier or other floating structure used for the mooring of vessels or to assist in the embarkation or disembarkation to or from vessels;

"owner" -

(a) in relation to a vessel, means-

(i) the person or persons registered as the owner of the vessel, or in the absence of registration, the person or persons owning the vessel, except that in relation to a vessel owned by a State which is operated by a person registered as the vessel's operator, it means the person registered as its operator; or (Amended 43 of 1999 s. 91)

(ii) a demise charterer of the vessel; and

(b) in relation to cargo, includes-

(i) the consignor, consignee or shipper of the cargo; and

(ii) the agent of the owner of the cargo;

"person in charge of works" means-

(a) the owner or master of, or other person having control over, a vessel on, to or by means of which any works are to be, or are being, carried out;

(b) a principal contractor or sub-contractor, if any, who contracts to carry out, or who carries out, any works; or

(c) any other person having for the time being the command or charge of any works being carried out on, to or by means of a vessel;

(Added 24 of 2005 s. 40)

"pilot" means the person who is a pilot within the meaning of the Pilotage Ordinance (Cap 84);

"place on land" means-

(a) any premises, building or vehicle on land;

(b) any building, structure or object erected or placed on the bed or shore of the sea; or

(c) anything afloat (other than a vessel) if it is anchored or attached to the bed or shore of the sea;

"port" means any area of the waters of Hong Kong which is declared to be a port under section 56;

"port dues" means any due, fee or charge payable under this Ordinance in respect of a vessel which enters the waters of Hong Kong or uses any port facility;

"port facility" means any aid to navigation, mooring or signal station;

"principal contractor" means a person who enters into a contract directly with the owner or master of, or other person having control over, a vessel to carry out any works; (Added 24 of 2005 s. 40)

"repairs", in relation to-

(a) any vessel, means any repairs, alterations or maintenance works on or to the vessel carried out by any person other than a member of the crew or the master of the vessel or that involve or are likely to involve the safety of any person other than a member of the crew or the master of the vessel; and

(b) any vessel carrying dangerous goods, means any repairs, alterations or maintenance works on or to the vessel capable of providing an ignition source, including those that involve welding, burning or the use of blow lamps, braziers or other devices using combustible materials; (Added 24 of 2005 s. 40)

"river trade limits" means-

(a) the waters in the vicinity of Hong Kong within the following boundaries-

(i) to the East, meridian 114° 30' East;

(ii) to the South, parallel 22° 09' North; and

(iii) to the West, meridian 113° 31' East; and

(b) all inland waterways in the provinces of Kwangtung and Kwangsi on the mainland of China to which access can be obtained by water from the area defined in paragraph (a);

"ship" means any vessel used in navigation other than a local vessel or a junk; (Amended 43 of 1999 s. 91)

"signal station" means a signal station so specified by regulations made under this Ordinance;

"sub-contractor" means-

(a) any person who enters into a contract, express or implied, with a principal contractor to perform all or any part of the works which the principal contractor has contracted to perform; or

(b) any other person who enters into a contract, express or implied, to perform all or any part of the works which a sub-contractor within the meaning of paragraph (a) has contracted to perform; (Added 24 of 2005 s. 40)

"tidal water" means any part of the sea or of a river within the ebb and flow of the tide at ordinary spring tides;

"tons" and "tonnage" mean tons and tonnage as calculated according to the Merchant Shipping (Registration) (Tonnage) Regulations (Cap 415 sub. leg. C); (Amended 64 of 1999 s. 3)

"use of signals of distress regulations" means the Merchant Shipping (Safety) (Use of Signals of Distress) Regulations (Cap 369 sub. leg. O); (Added 57 of 1990 s. 3. Amended 70 of 1999 s. 3)

"vessel" includes-

(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; (Amended 46 of 1981 s. 3)

"waters of Hong Kong" means waters of Hong Kong within the meaning of section 3 of the Interpretation and General Clauses Ordinance (Cap 1);

(Replaced 26 of 1998 s. 44. Amended 24 of 2005 s. 40)

"works" means-

(a) repairs to a vessel;

(b) the breaking up of a vessel;

- (c) cargo handling; or
- (d) marine construction. (Added 24 of 2005 s. 40)

(Amended 57 of 1990 s. 3)

#### SECT 3

Application VerDate:02/01/2007

(1) This Ordinance shall, except where otherwise specially provided, apply to all vessels (except local vessels) in Hong Kong or in the waters of Hong Kong, including vessels for the time being used by the Hong Kong Government and all warships and ships for the time being used by Her Majesty's Government or the Government of any State. (Amended 46 of 1981 s. 4; 43 of 1999 s. 91)

(2) Nothing in this Ordinance shall derogate from the provisions of any other law.

#### SECT 4

Installation of Government port facilities VerDate:30/06/1997

### PART II

#### PORT FACILITIES

The Director may lay, place, erect and maintain under his control in the waters of Hong Kong such port facilities as he thinks fit.

#### SECT 5

Use of port facilities VerDate:30/06/1997

(1) Subject to any other provision of this Ordinance, no person shall use a port facility otherwise than for the purpose for which it is provided.

(2) Any person who contravenes subsection (1) commits an offence and is liable to a fine of \$5000.

#### SECT 6

Restriction on installation of private port facilities, etc. VerDate:30/06/1997

(1) Subject to subsection (2), except with the written permission of the Director, no person shall lay, place, erect or maintain a port facility or any floating or other structure in the waters of Hong Kong.

(2) The Director may, by notice in the Gazette, specify any area of the waters of Hong Kong in which any floating or other structure specified in the notice may be laid, placed, erected or maintained without the permission of the Director.

(3) Any person who contravenes subsection (1) commits an offence and is liable to a fine of \$5000.

(4) Without prejudice to the liability for an offence under subsection (3), the Director may give such directions as he thinks fit for the removal, moving or modification of a port facility or any floating or other structure laid, placed, erected or maintained in contravention of subsection (1).

#### SECT 7

Damage, etc., to aids to navigation VerDate:30/06/1997

(1) Any person who wilfully or negligently-

- (a) removes, alters, damages, destroys, or interferes with, any aid to navigation or mooring; or
- (b) makes fast to any aid to navigation, commits an offence and is liable to a fine of \$5000.

(2) If an offence under subsection (1) is committed by a person on or in respect of a vessel, then, in addition to that person, the owner and the master of the vessel commit an offence and each of them is liable to a fine of \$5000.

#### SECT 8

Liability for damage to port facilities, etc. VerDate:30/06/1997

(1) Where any damage is caused by a vessel to any port facility, pier, breakwater or other property owned by the Government, the owner and the master of the vessel shall, without prejudice to the liability for an offence under this Ordinance, be jointly and severally liable for any loss arising out of the damage to the extent that such loss is attributable to any fault on the part of the vessel or to any wilful or negligent act of any person on the vessel.

(2) Such loss may be recovered by the Director as a civil debt.

#### SECT 9

Power to require removal of unauthorized lights and signs VerDate:30/06/1997

The Director may direct an owner or his agent or the master of any vessel, or any person who appears to him to be the owner or occupier of a place on land, at or from which there is exhibited a light or illuminated sign which, in the opinion of the Director-

(a) obscures, restricts or interferes with, or is likely to obscure, restrict or interfere with, the functions or use of any signal station or aid to navigation;

(b) is likely to be mistaken for a light or signal proceeding from any signal station or aid to navigation; or

(c) in any way interferes with, or is likely to interfere with, the safe navigation of vessels in the waters of Hong Kong, to remove the light or illuminated sign or to extinguish or screen it in the manner specified in the direction.

#### SECT 10

Application of collision regulations and use of signals of distress regulations VerDate:02/01/2007

### PART III

## CONTROL OVER VESSELS AND PORTS

(1) Subject to any special provision in or under this Ordinance, the collision regulations and the use of signals of distress regulations shall apply-

(a) (Repealed 43 of 1999 s. 91)

(b) to all vessels (not being ships to which the regulations apply pursuant to the provisions of the Merchant Shipping (Safety) Ordinance (Cap 369)) while they are within the waters of Hong Kong, (Amended 43 of 1999 s. 91) and shall, for the purpose of their application by virtue of this section, be read and construed as if references to "ships" were references to "vessels". (Amended 43 of 1999 s. 91)

(2) For the purpose of subsection (1) the collision regulations and the use of signals of distress regulations shall each be deemed to have been made under section 80 and may be amended thereunder.

(3) If any of the collision regulations is contravened by a vessel, the owner of the vessel, the master and any person for the time being responsible for the conduct of the vessel shall each be guilty of an offence and liable to a fine of \$20000.

(4) It shall be a defence to a charge under subsection (3) for the person charged to prove that he took all reasonable precautions to prevent the contravention to which the charge relates.

(5) If the master of a vessel uses or displays or causes or permits any person under his authority to use or display-

(a) any signal prescribed by the collision regulations except in the circumstances and for the purposes prescribed by the use of signals of distress regulations; or

(b) any private signal, whether registered or not, which is liable to be mistaken for any signal prescribed by the collision regulations, he commits an offence and is liable to a fine of \$20000 and shall further be liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal having been supposed to be a signal of distress; and that compensation may, without prejudice to any other remedy, be recovered in the same manner as salvage.

(6) Notwithstanding anything in the Magistrates Ordinance (Cap 227) an information or complaint relating to an offence under this section which has been committed outside Hong Kong may be laid or made at any time within 2 years from the commission of the offence.  
(Replaced 57 of 1990 s. 4)

## SECT 11

Application VerDate:02/01/2007

Sections 11A and 11B shall apply in relation to all vessels whether within or outside the waters of Hong Kong except for-

(a) (Repealed 43 of 1999 s. 91)

(b) any warship or other ship for the time being used by Her Majesty's Government other than for commercial purposes.  
(Replaced 69 of 1993 s. 2)

## SECT 11A

Notification prior to arrival of vessels VerDate:30/06/1997

Subject to any provision in or pursuant to this Ordinance, where a vessel is expected to arrive in the waters of Hong Kong, the owner or the master of the vessel shall notify the Director of such expected arrival not less than 24 hours before the arrival of the vessel, or, if that is not practicable, as early as practicable before the arrival of the vessel. (Added 69 of 1993 s. 2)

#### SECT 11B

Refusal of permission to enter, leave, etc. VerDate:01/07/1997

Adaptation amendments retroactively made - see 64 of 1999 s. 3

(1) Notwithstanding any other provision in this Ordinance, the Director may, if he is satisfied that there is reason for doing so, give directions-

(a) refusing permission for a vessel or class, type or description of vessel to enter or leave the waters of Hong Kong; or

(b) requiring the removal of a vessel or class, type or description of vessel from the waters of Hong Kong.

(2) Without limiting the generality of subsection (1) and without prejudice to any of the Director's powers under this Ordinance, the Director may give directions prohibiting the entry of a vessel into, or requiring the removal of a vessel from, the waters of Hong Kong if in his opinion the condition of that vessel or the nature or condition of anything it contains is such that its presence in the waters of Hong Kong may involve-

(a) grave and imminent danger to the safety of any person or property; or

(b) grave and imminent risk that the vessel may, by sinking, foundering or otherwise, prevent or seriously prejudice the use of any part of the waters of Hong Kong by other vessels.

(3) Any directions under subsection (1) or (2) may be given as respects the vessel in question to the owner or the master of the vessel.

(4) At any time any directions under subsection (1) or (2) are given to any person, the Director shall inform that person of the grounds for giving such directions.

(5) If any directions of the Director under subsection (2) were not reasonably necessary to prevent or reduce the danger or risk provided therein, a person incurring expense or suffering damage as a result of any action taken in compliance with the Director's directions shall be entitled to claim and recover compensation from the Government.

(6) Nothing in this section shall affect the exercise by the Director of any of the powers conferred on him by section 6 of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap 413). (Amended 64 of 1999 s. 3)  
(Added 69 of 1993 s. 2)

#### SECT 11C

Offences VerDate:30/06/1997

(1) If without reasonable excuse section 11A is contravened, the owner and the master of the vessel each commits an offence and is liable to a fine of \$50000 and to imprisonment for 1 year.

(2)(a) If a vessel which is refused permission under section 11B(1)(a) or which is prohibited under section 11B(2) to enter the waters of Hong Kong so enters without reasonable excuse, the owner and the master of the vessel each commits an offence and is liable to a fine of \$250000 and to imprisonment for 2 years and to an additional fine of \$25000 for each day during which the vessel in question remains in the waters of Hong Kong without reasonable excuse after so entering.

(b) If a vessel which is refused permission under section 11B(1)(a) to leave the waters of Hong Kong so leaves without reasonable excuse, the owner and the master of the vessel each commits an offence and is liable to a fine of \$250000 and to imprisonment for 2 years.

(c) If without reasonable excuse a direction under section 11B(1)(b) or (2) for the removal of a vessel from the waters of Hong Kong is not complied with, the owner and the master of the vessel each commits an offence and is liable to a fine of \$250000 and to imprisonment for 2 years and to an additional fine of \$25000 for each day during which the vessel in question remains in the waters of Hong Kong without reasonable excuse.

(Added 69 of 1993 s. 2)

## SECT 12

Power to detain vessels VerDate:17/12/1999

(1) Where-

(a) a vessel is refused permission to leave the waters of Hong Kong under section 11B; or  
(Amended 70 of 1999 s. 5)

(b) it is provided in this Ordinance that under specified conditions a vessel shall not leave any port or the waters of Hong Kong, the Director may take such steps as are necessary to detain the vessel in such port or waters.

(2) If the Director incurs any cost in detaining a vessel under subsection (1), he may recover the cost-

(a) as a civil debt from the owner or master of the vessel; or

(b) under section 55 as if the cost represented port dues payable in respect of the vessel.

(3) Where any vessel not registered in Hong Kong is detained under subsection (1), notice thereof shall be given to the consular officer for the State to which the vessel belongs, and if there is no such consular officer to the master of the vessel, and such notice shall specify the grounds on which the vessel has been detained. (Amended 23 of 1998 s. 2)

## SECT 13

Penalty for taking detained vessel to sea VerDate:30/06/1997

(1) If a vessel which is detained under section 12 proceeds to sea the master, and the owner or his agent if he is party or privy to such action, commit an offence and each of them is liable to a fine of \$50000 and to imprisonment for 2 years.

(2) Where a vessel proceeds to sea in contravention of subsection

(1) whilst having on board a public officer who is acting in the execution of his duty-

(a) the master and the owner or his agent, in addition to committing an offence under subsection (1), commit an offence under this subsection and each of them is liable to a fine of \$20000

and to imprisonment for 6 months, and to an additional fine of \$1000 for each day during the period from the date on which the vessel proceeded to sea until the date on which the officer is returned to Hong Kong or, if he does not return directly to Hong Kong, would have returned if he had travelled by the quickest practicable route; and

(b) the master and the owner and his agent shall be jointly and severally liable to pay all expenses incidental to the taking of the officer to sea and to securing his return to Hong Kong, and all such expenses may be recovered in the same manner as a fine.

#### - SECT 14

Director to be allowed to board VerDate:30/06/1997

(1) When a ship arrives within the waters of Hong Kong, the master of the ship shall allow and assist the Director to board the ship as soon as he comes alongside the ship and shall give to the Director such information as he may be required to give under this Ordinance.

(2) Any master or officer of a ship who-

(a) fails to allow, or fails to assist, the Director to board the ship; or

(b) delays or impedes the Director from boarding the ship, commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months.

#### SECT 15

Port clearance to be obtained before departure VerDate:30/06/1997

(1) Subject to subsection (2), no vessel shall proceed to sea unless there is in relation to the vessel a valid port clearance in writing obtained in the prescribed manner.

(2) Subsection (1) shall not apply-

(a) to any warship or other ship for the time being used by Her Majesty's Government or the Government of any State for other than commercial purposes;

(b) to any vessel for the time being used by the Hong Kong Government;

(c) to any vessel of a class that is exempted by the Director by notice in the Gazette from the operation of this section;

(d) to any vessel that is obliged to leave any port or the waters of Hong Kong due to weather conditions, or other circumstances beyond the control of its master, in the interests of safety of the vessel, its cargo, crew or passengers.

(3) If subsection (1) is contravened, the master commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months.

#### SECT 16

Power to give directions VerDate:30/06/1997

The Director may give to an owner or his agent or to a master of, or other person who appears to the Director to be in control over, a vessel such directions as he thinks fit in any particular case-

- (a) for controlling the vessel when entering or leaving the waters of Hong Kong;
- (b) for controlling the navigation and movement of the vessel in the waters of Hong Kong;
- (c) as to the place and manner in which the vessel shall be berthed, moored, anchored or secured;
- (d) for the removal of the vessel from any berth, mooring or anchorage to another berth, mooring or anchorage;
- (e) prohibiting the berthing, mooring or anchoring of the vessel in any particular place;
- (f) for ensuring the safety of, or preventing the outbreak of fire on, the vessel in the waters of Hong Kong. (Amended 46 of 1981 s. 5)

#### SECT 16A

Power to give directions generally VerDate:30/06/1997

(1) Without prejudice to the generality of section 16, the Director may, by notice in the Gazette, give to an owner or his agent or to a master of, or other person who appears to the Director to be in control over, any vessel belonging to a class, type or description of vessel specified in the notice such directions as he thinks fit in respect of any matter in relation to which the Director may give directions under that section.

(2) A notice under subsection (1) which has not been repealed, or which has not expired, on or before the effluxion of the period of 6 months immediately following the day on which it is published in the Gazette shall expire on the day immediately following that period.

(3) It is hereby declared that a notice under subsection (1)-

- (a) is subsidiary legislation;
- (b) may be in the same terms as another notice under that subsection where that first-mentioned notice is to come into operation upon or after the expiration of that second-mentioned notice.

(4) Without prejudice to the generality of section 61(5) or (6), sections 61(1), (2), (3) and (4) and 66 shall not apply to a direction given in a notice under subsection (1).  
(Added 15 of 1995 s. 2)

#### SECT 16B

Closure of waters VerDate:30/06/1997

(1) Where the Director reasonably believes that it is necessary in the interests of safety to close any area of the waters of Hong Kong to all vessels, or to any vessel belonging to any class, type or description of vessel, he may, by notice in the Gazette, close that area to such vessels or vessel, as the case may be.

(2) A notice under subsection (1) which has not been repealed, or which has not expired, on or before the effluxion of the period of 6 months immediately following the day on which it is published in the Gazette shall expire on the day immediately following that period.

(3) It is hereby declared that a notice under subsection (1)-

(a) is subsidiary legislation;

(b) may be in the same terms as another notice under that subsection where that first-mentioned notice is to come into operation upon or after the expiration of that second-mentioned notice;

(c) shall not apply to any vessel which is being used for any fire services, ambulance, police, customs and excise or Marine Department purpose if compliance with the notice is likely to hinder the use of that vessel for that purpose.

(4) If without reasonable excuse a vessel the subject of a notice under subsection (1) enters an area of the waters of Hong Kong the subject of that notice, the master of the vessel commits an offence and is liable to a fine at level 3 and to imprisonment for 6 months.

(Added 15 of 1995 s. 2)

#### SECT 17

Ships to anchor in ports VerDate:30/06/1997

(1) Subject to subsection (2), no ship or junk shall, except with the permission of the Director, anchor at any place in the waters of Hong Kong other than in a port or at a specified anchorage specified in the Third Schedule to the Pilotage Ordinance (Cap 84). (Amended 29 of 1985 s. 8)

(2) Subsection (1) shall not apply where a ship or junk anchors at any place in the waters of Hong Kong, other than in a place in which anchoring is expressly restricted or prohibited under this Ordinance, because of stress of weather or other sufficient cause.

(3) If subsection (1) is contravened, the master commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months.

#### SECT 18

Dead ships VerDate:30/06/1997

(1) No dead ship shall, except with the permission of the Director, enter, or be brought into, the waters of Hong Kong.

(2) Subject to subsection (4), no dead ship shall, except with the written permission of the Director, be berthed, moored or anchored at any place in the waters of Hong Kong.

(3) Subject to subsection (4), no owner, agent or master of a ship which is within the waters of Hong Kong shall, except with the written permission of the Director, carry out, or cause to be carried out, any maintenance or repair work on the ship which will result in the ship becoming a dead ship.

(4) Subsections (2) and (3) do not apply to a dead ship which is drydocked or within the precincts of, or berthed or moored alongside, a dockyard.

(5) Without prejudice to section 64(5), a permission granted under this section may be withdrawn or cancelled by the Director at any time if the dead ship becomes, or is likely to become, a danger to life, other vessels, port facilities or other property.

(6) If without reasonable excuse subsection (1), (2) or (3) is contravened, the owner or his agent and the master commit an offence and each of them is liable to a fine of \$10000 and to imprisonment for 6 months.

## SECT 19

Laid-up vessels VerDate:30/06/1997

(1) Subject to subsection (2), no laid-up vessel shall, except with the written permission of the Director, be berthed, moored or anchored at any place in the waters of Hong Kong.

(2) Subsection (1) does not apply to a laid-up vessel which is drydocked or within the precincts of, or berthed or moored alongside, a dockyard.

(3) If without reasonable excuse subsection (1) is contravened, the owner or his agent and the master commit an offence and each of them is liable to a fine of \$10000 and to imprisonment for 6 months.

## SECT 20

Beaching, etc. of vessels VerDate:30/06/1997

(1) Where a vessel-

(a) is on fire;

(b) has suffered damage by fire, explosion or collision; or

(c) is disabled, stranded or out of control because of damage, bad weather or mechanical failure, the Director may, if he has reasonable grounds to believe that any of the circumstances specified in subsection (2) prevail, direct the owner or master of the vessel- (Amended L.N. 386 of 1993)

(i) to beach the vessel;

(ii) to take the vessel outside the limits of a port; or

(iii) to take such other action as the Director thinks fit.

(2) The circumstances for the purposes of subsection (1) are that the vessel-

(a) is, or is likely to become, a danger to life, other vessels, aircraft or navigation;

(b) is causing, or is likely to cause, pollution of the waters of Hong Kong;

(c) is causing, or is likely to cause, damage to port facilities or other property.

(3) If without reasonable excuse any direction given under subsection (1) is not complied with, the owner or master to whom the direction is given commits an offence and is liable to a fine of \$20000 and to imprisonment for 1 year.

## SECT 21

Removal, etc. of stranded, abandoned or sunken vessel VerDate:04/09/1998

Adaptation amendments retroactively made - see 64 of 1999 s. 3

(1) The Director may give to an owner or master of, or other person who claims or appears to the Director to exercise control over, a vessel which is stranded, abandoned or sunk in the waters of Hong Kong such directions as he thinks fit in respect of the removal, movement, anchoring, mooring, securing, raising or destruction of the vessel. (Amended L.N. 307 of 1998)

(2) If without reasonable excuse any direction given under subsection (1) is not complied with, the person to whom the direction is given commits an offence and is liable to a fine of \$20000 and to imprisonment for 1 year.

(3) The Director may seize and detain a vessel referred to in subsection (1) together with any cargo and other things on board if-

- (a) a direction given under subsection (1) is not complied with;
- (b) after reasonable inquiry he is unable to ascertain the ownership of the vessel or to trace the owner or master of the vessel; or
- (c) no person claims or appears to the Director to exercise control over the vessel.

(4) For the purposes of seizing a vessel, cargo or other things under subsection (3), the Director may take, or cause to be taken, any action that is necessary including the employment of pilots and the use of tugs and equipment to remove, move, anchor, moor, secure or raise the vessel, cargo and other things.

(5) The Director shall publish in the Gazette and in one English language and one Chinese language newspaper circulating in Hong Kong a notice of a seizure effected under subsection (3) and the notice shall specify-

- (a) the names (if known to the Director) of the persons whom the Director believes to be the owner and the master of the vessel;
- (b) the name (if known to the Director) of the person whom the Director believes to be the owner or otherwise entitled to the possession of any cargo or other things on board;
- (c) a description of the vessel and the place at which it was seized;
- (d) a description of the cargo or other things on board; and
- (e) a reasonable period within which and the place at which a claim shall be submitted to the Director for the release of the vessel, cargo or other things on board.

(6) If a valid claim to a vessel, cargo or other things seized under subsection (3) is submitted at any time before a notice is published under subsection (5) or within the period specified in a notice published under that subsection, the Director shall, on payment to him of all expenses involved in the seizure and custody of the vessel, cargo or other things, as the case may be, release the vessel, cargo or other things to the claimant.

(7) If the release of a vessel, cargo or other things is not obtained in pursuance of subsection (6), the Director may sell, or otherwise dispose of in such manner as he thinks fit, the vessel, cargo or other things, as the case may be, and in the case of sale the proceeds, after deducting all expenses payable under subsection (6) and any reasonable expense incurred in the sale, shall be paid to the person making a valid claim thereto within one year after the date of sale or forfeited to the Government if not claimed within that period. (Amended 64 of 1999 s. 3)

SECT 22

Notice of change of ownership of stranded, abandoned or sunken vessels VerDate:30/06/1997

(1) Where the owner of a vessel which is stranded, abandoned or sunk in the waters of Hong Kong sells the vessel, or otherwise parts with the ownership of the vessel, he shall forthwith notify the Director in writing of the name and address of the new owner of the vessel.

(2) Any owner who contravenes subsection (1) commits an offence and is liable to a fine of \$10000.

#### SECT 23

Vessels not registered in Hong Kong, etc. VerDate:01/07/1997

Adaptation amendments retroactively made - see 23 of 1998 s. 2

Where-

(a) a vessel not registered in Hong Kong is stranded, abandoned or sunk in the waters of Hong Kong; or

(b) a vessel not registered in Hong Kong which is stranded, abandoned or sunk near the coast of Hong Kong, or any part of such vessel or cargo or other thing belonging thereto, is brought into Hong Kong, and the owner or master of the vessel, or the owner of the cargo or other thing, as the case may be, is not in Hong Kong-

(i) the consular officer of the country to which the vessel, or in the case of cargo or other thing to which its owner, may have belonged; or

(ii) the consular officer of that country authorized in that behalf by any treaty or arrangement with that country, shall be deemed to be the agent of the owner of the vessel, cargo or other thing so far as relates to its custody and disposal.

(Amended 23 of 1998 s. 2)

#### SECT 24

(Repealed 43 of 1999 s. 91) VerDate:02/01/2007

#### PART IV

#### SECT 25

(Repealed 43 of 1999 s. 91) VerDate:02/01/2007

#### SECT 26

(Repealed 43 of 1999 s. 91) VerDate:02/01/2007

#### SECT 27

(Repealed 43 of 1999 s. 91) VerDate:02/01/2007

#### SECT 28

(Repealed 43 of 1999 s. 91) VerDate:02/01/2007

#### SECT 29

(Repealed 43 of 1999 s. 91) VerDate:02/01/2007

#### SECT 30

(Repealed 43 of 1999 s. 91) VerDate:02/01/2007

SECT 31  
(Repealed 43 of 1999 s. 91) VerDate:02/01/2007

SECT 32  
(Repealed 43 of 1999 s. 91) VerDate:02/01/2007

SECT 33  
(Repealed 43 of 1999 s. 91) VerDate:02/01/2007

SECT 34  
(Repealed 43 of 1999 s. 91) VerDate:02/01/2007

SECT 35  
(Repealed 43 of 1999 s. 91) VerDate:02/01/2007

SECT 36  
Interpretation VerDate:02/01/2007

## PART V

WORKS  
(Amended 70 of 1999 s. 6)

In this Part, unless the context otherwise requires-  
"approved code" means a code of practice issued under section 44A; (Added 70 of 1999 s. 7)  
"inspector" means a person appointed under section 38 to be an inspector;  
"machinery, equipment or appliance" in the case of-

(a) repairs to a vessel, means any machinery, equipment or appliance provided or used for that purpose;

(b) the breaking up of a vessel, means any machinery, equipment or appliance provided or used for that purpose; (Amended 70 of 1999 s. 7)

(c) cargo handling, means any lifting appliance or lifting gear provided or used for that purpose; and (Amended 70 of 1999 s. 7)

(d) marine construction, means any machinery, equipment or appliance provided or used for that purpose. (Added 70 of 1999 s. 7. Amended 24 of 2005 s. 41)  
(Amended 24 of 2005 s. 41)

SECT 37  
Application VerDate:17/12/1999

(1)This Part shall not apply to repairs to, or the breaking up of, a vessel which is-(Amended 70 of 1999 s. 8)

- (a) (Repealed 70 of 1999 s. 8);
- (b) in a dock other than a floating dock; or
- (c) on a slip or mechanical lift.

(2)(Repealed 70 of 1999 s. 8)

SECT 38

Appointment of inspectors VerDate:30/06/1997

The Director shall appoint such persons as he thinks fit to be inspectors for the purposes of this Part.

SECT 39

Powers of Directors and inspectors VerDate:02/01/2007

(1)The Director and an inspector shall have power-

(a) at any reasonable time (or, in a situation which in the opinion of the Director or an inspector is or may be dangerous, at any time) to board any vessel within the waters of Hong Kong which he has reason to believe it is necessary to board for the purposes of this Part, and for the purpose of boarding any such vessel which is floating alongside any premises at a seawall or pier, to enter such premises;

(b) to take with him such persons as may be necessary to assist him in the exercise of his powers, or performance of his duties, under this Part;

(c) to inspect and examine any vessel on or to which any works are being carried out;

(d) to make such examination and inquiry as may be necessary to ascertain that safe working conditions obtain and that the provisions of this Part are complied with;

(e) to investigate any accident involving any works or injury to any person arising out of or in the course of carrying out any works;

(f) to require the production of any register, certificate or other document required to be kept in pursuance of regulations made under section 80 and to inspect and copy any of them or any entry in them; and (Amended 24 of 2005 s. 42)

(g) to require the posting of any notice in pursuance of regulations made under section 80 or any notice related to works, machinery, equipment or appliances, or the safety of persons employed in carrying out any works. (Amended 24 of 2005 s. 42)

(2)An owner or master of, or other person having control over, a vessel shall furnish such safe means required by the Director or an inspector as are necessary for the purposes of boarding, inspection, examination, investigation, or otherwise for the exercise of his powers under this Part.

(3)Any person who-

(a) without reasonable excuse fails to comply with any requirement of the Director or an inspector in pursuance of this section;

(b) without reasonable excuse fails to produce any register, certificate or other document which he is required in pursuance of this Part to produce;

(c) without reasonable excuse withholds any information as to who is the owner or master of, or person having control over, the vessel, or the owner of any machinery, equipment or appliance provided or used for the carrying out of any works, commits an offence and is liable to a fine at level 4 and to imprisonment for 6 months. (Amended 70 of 1999 s. 9)

#### SECT 40

Restriction on carrying out repairs or breaking up of vessels VerDate:02/01/2007

(1) Subject to subsections (1A) and (2), no owner or master of, or other person having control over, a vessel shall, except with the written permission of the Director, carry out, or cause to be carried out, any repairs to, or break up, the vessel. (Amended 70 of 1999 s. 10)

(1A) Subsections (1) does not apply to any vessels of 50 metres or less in length unless the Director gives written notification to the person in charge of works that subsection (1) applies to that vessel. (Added 70 of 1999 s. 10)

(2) The Director may by notice in the Gazette specify any type of repairs to a vessel in respect of which permission under subsection (1) is not required.

(3) Any person who without reasonable excuse contravenes subsection

(1) commits an offence and is liable to a fine at level 6 and to imprisonment for 2 years. (Amended 70 of 1999 s. 10)

#### SECT 41

Safe atmosphere VerDate:02/01/2007

(1) Where a vessel is being repaired or broken up, the person in charge of works shall not-

(a) provide or use, or cause to be provided or used, any machinery, equipment or appliance that is capable of providing an ignition source; or

(b) carry out, or cause to be carried out, any works that involve welding or burning, the use of blow lamps, braziers or other devices using combustible materials, in an atmosphere containing flammable vapours, flammable gases or explosive dusts.

(2) A person in charge of works who contravenes subsection (1) commits an offence and is liable to a fine at level 5 and to imprisonment for 1 year. (Amended 70 of 1999 s. 11)

#### SECT 42

Directions regarding repairs or breaking up of vessels VerDate:02/01/2007

(1) The Director may direct any person who, in the opinion of the Director, is the owner or master of a vessel, or who claims or appears to the Director to exercise control over a vessel, that is to be repaired or broken up or is being repaired or broken up, or who is in charge of the repairs or the breaking up of a vessel-

(a) to remove the vessel to a position or place within the waters of Hong Kong specified by the Director;

(b) to comply with such safety requirements as may be specified by the Director generally or in any particular case;

(c) to comply with any other requirements which may be specified by the Director in respect of the manner in which the vessel may be repaired or broken up;

(d) in the case of the breaking up of a vessel, to give security, in cash or otherwise, in such amount as the Director may consider necessary to ensure the effective breaking up and complete removal of the vessel.

(2) Any person who fails to comply with any direction given to him under subsection (1) commits an offence and is liable to a fine at level 4 and to imprisonment for 6 months, and to an additional fine of \$2000 for each day during which such failure to comply continues after notice requiring compliance with the direction has been served by the Director on such person. (Amended 70 of 1999 s. 12)

#### SECT 43

Prohibition against use of dangerous equipment, etc. VerDate:02/01/2007

(1) A person in charge of works shall not provide or use, or cause to be provided or used, any machinery, equipment or appliance for the carrying out of the works if the machinery, equipment or appliance is in such a condition or so constructed that it cannot be used without unnecessary risk of accident or bodily injury.

(2) If the Director or an inspector has reasonable grounds to believe that any machinery, equipment or appliance provided or used for the carrying out of any works is in such a condition or so constructed that it cannot be used without unnecessary risk of accident or bodily injury, the Director or inspector may give directions to the person in charge of works-

(a) prohibiting the use of the machinery, equipment or appliance, or if it is capable of repair or alteration, prohibiting its use until it is repaired or altered as specified in the direction; or

(b) requiring him to take such other steps as may be specified in the directions for remedying the unnecessary risk of accident or bodily injury.

(3) A person in charge of works who-

(a) contravenes subsection (1) commits an offence and is liable to a fine at level 5 and to imprisonment for one year;

(b) fails to comply with any direction given to him under subsection (2) commits an offence and is liable to a fine at level 4 and to imprisonment for 6 months, and to an additional fine of \$2000 for each day during which such failure to comply continues after notice requiring compliance with the direction has been served by the Director or an inspector on such person. (Amended 70 of 1999 s. 13)

#### SECT 44

Prohibition against carrying out works in dangerous conditions VerDate:02/01/2007

(1) A person in charge of works shall not carry out, or cause to be carried out, any works in a condition or manner that does not provide adequately against unnecessary risk of accident or bodily injury.

(2) If the Director or an inspector has reasonable grounds to believe that any works are being carried out in a condition or manner that does not provide adequately against unnecessary risk of accident or bodily injury, the Director or inspector may give directions to the person in charge of the works requiring him to take such steps as may be specified in the directions for remedying the unnecessary risk of accident or bodily injury.

(3) A person in charge of works who-

(a) contravenes subsection (1) commits an offence and is liable to a fine at level 5 and to imprisonment for one year;

(b) fails to comply with any direction given to him under subsection (2) commits an offence and is liable to a fine at level 4 and to imprisonment for 6 months, and to an additional fine of \$2000 for each day during which such failure to comply continues after notice requiring compliance with the direction has been served by the Director or an inspector on such person. (Amended 70 of 1999 s. 14)

#### SECT 44A

Code of practice VerDate:17/12/1999

(1) For the purpose of providing practical guidance in respect of any one or more of the requirements of this Part or of regulations made under this Ordinance, the Director may issue such codes of practice

(whether prepared by the Director or not) as the Director considers appropriate.

(2) The Director may amend or revoke a code of practice issued by him under subsection (1).

(3) Where the Director exercises a power under subsection (1) or

(2), he shall as soon as may be reasonably practicable publish notice thereof in the Gazette and the notice shall be in such form as the Director considers appropriate.

(4) A failure by any person to observe a provision of an approved code shall not of itself cause him to incur any criminal liability, but where-

(a) in any criminal proceedings the defendant is alleged to have committed an offence either-

(i) by reason of a contravention of or a failure to comply with, whether by act or omission, this Ordinance or regulations under this Ordinance; or

(ii) by reason of a failure to discharge or perform a duty imposed by this Ordinance or such regulations; and

(b) the matter to which the alleged contravention or failure relates is one to which, in the opinion of the court, an approved code relates, then subsection (5) shall apply as regards to the proceedings.

(5) In any criminal proceedings to which this subsection applies, the following, namely-

(a) compliance with a provision of an approved code found by the court to be relevant to a matter to which a contravention or failure alleged in the proceedings relates;

(b) a contravention of or failure to comply with, whether by act or omission, any such provision so found, may be relied on by any party to the proceedings as tending to establish or to negative any liability which is in question in the proceedings.

(6) In any criminal proceedings, and document which purports to be a copy of a particular approved code shall, in the absence of evidence to the contrary, be regarded by the court as being a true copy of that code. (Added 70 of 1999 s. 15)

#### SECT 45

Interpretation VerDate:30/06/1997

## PART VI

### POLLUTION OF WATER

In this Part-

"mixture containing oil" means any mixture of oil with water or with any other substance, and any waste consisting of or arising from oil;

"occupier" in relation to-

- (a) a place on land, if it has no occupier, means the owner thereof; and
- (b) a vehicle, means the person in charge of the vehicle and not the occupier of the land on which the vehicle stands;

"oil" means oil of any description, spirit produced from oil of any description and coal tar. [cf. 1971 c. 60 s. 29 U.K.]

#### SECT 46

Discharge of oil into the waters of Hong Kong VerDate:30/06/1997

(1) If any oil or mixture containing oil is discharged into the waters of Hong Kong, then the following commit an offence-

- (a) the person by whom the oil or mixture containing oil is so discharged or caused to be discharged; and
- (b) whether or not the person referred to in paragraph (a) has been charged with an offence-
  - (i) if the discharge is from a vessel, the owner and the master of the vessel, unless the owner or master, as the case may be, proves that the discharge took place and was caused as mentioned in sub-paragraph (ii);
  - (ii) if the discharge is from a vessel but takes place in the course of a transfer of oil to or from another vessel or a place on land and is caused by the act or omission of any person in charge of any apparatus in that other vessel or that place, the owner and the master of that other vessel or, as the case may be, the occupier of that place;
  - (iii) if the discharge is from a place on land, the occupier of that place, unless he proves that the discharge was caused by the act of a person who is in that place without the permission (express or implied) of the occupier;
  - (iv) if the discharge takes place otherwise than as mentioned in sub-paragraph (i), (ii) or (iii) and is the result of any operations for the exploration of the seabed and subsoil or the exploration of their natural resources, the person carrying on the operations.

(2) Reference in subsection (1) to the discharge of oil or mixture containing oil, or to its being discharged, from a vessel or place on land includes a reference to the escape of the oil or mixture containing oil, or (as the case may be) to its escaping, from that vessel or place on land. [cf. 1971 c. 60 s. 29(3) U.K.]

(3) Any person who commits an offence under this section is liable to a fine of \$200000. [cf. 1971 c. 60 s. 2 U.K.]

#### SECT 47

Defences under section 46 VerDate:30/06/1997

(1) Where a person is charged with an offence under section 46 as the owner or master of a vessel it shall be a defence to prove that the oil or mixture containing oil was discharged for the purpose of-

(a) securing the safety of the vessel;

(b) preventing damage to the vessel or its cargo; or

(c) saving life, unless the court is satisfied that the discharge of the oil or mixture containing oil was not necessary for that purpose or was not a reasonable step to take in the circumstances.

(2) Where a person is charged as mentioned in subsection (1) it shall also be a defence to prove-

(a) that the oil or mixture containing oil escaped in consequence of damage to the vessel and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing, the escape of the oil or mixture containing oil; or

(b) that the oil or mixture containing oil escaped by reason of leakage, that neither the leakage nor any delay in discovering it was due to want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.  
[cf. 1971 c. 60 s. 5 U.K.]

#### SECT 48

Duty to report discharge of oil into Hong Kong waters VerDate:30/06/1997

(1) If any oil or mixture containing oil-

(a) is discharged from a vessel into the waters of Hong Kong;

(b) is found to be escaping or to have escaped from a vessel into any such waters; or

(c) is found to be escaping or to have escaped into any such waters from a place on land, the owner or master of the vessel, or the occupier of the place on land, as the case may be, shall forthwith report the occurrence to the Director.

(2) A report made under subsection (1) by the owner or master of the vessel shall state whether the occurrence falls within paragraph (a) or (b) of that subsection.

(3) Any person who fails to make a report as required by this section commits an offence and is liable to a fine of \$5000.

[cf. 1971 c. 60 s. 11 U.K.]

#### SECT 48A

Discharges under the Water Pollution Control Ordinance (Cap 358) VerDate:30/06/1997

No offence under section 46 is committed by, and no obligation arises under section 48 on the part of, any person who makes a discharge or deposit of oil or a mixture containing oil under and in accordance with a licence for the purposes of the Water Pollution Control Ordinance (Cap 358).

(Added 41 of 1980 s. 50. Amended 42 of 1985 s. 6; 67 of 1990 s. 23)

SECT 49  
Interpretation VerDate:30/06/1997

## PART VII

### POLLUTION OF AIR

In this Part, unless the context otherwise requires-  
"smoke" includes soot, ash, grit and gritty particles emitted in smoke or steam.  
"smoke"

SECT 50  
Emission of smoke from vessels VerDate:30/06/1997

(1) Subject to subsection (2), no vessel in the waters of Hong Kong shall emit smoke in such quantity as to be a nuisance.

(2) Subsection (1) shall not apply to the emission of smoke in circumstances affecting the safety of life or of the vessel.

(3) If subsection (1) is contravened, the owner and master of the vessel commit an offence and each of them is liable for a first offence to a fine of \$10000 and for a second or subsequent offence to a fine of \$20000.

SECT 51  
Regulations VerDate:01/07/1997

Adaptation amendments retroactively made - see 64 of 1999 s. 3

(1) The Chief Executive in Council may make regulations for all or any of the following purposes-  
(Amended 64 of 1999 s. 3)

- (a) specifying periods during which emission of smoke from vessels may be permitted in any class of case and subject to limitations;
- (b) the adoption of precautions against the emission of smoke from vessels;
- (c) generally for effectively controlling the emission of smoke from vessels.

(2) Any regulations made under this section may provide that a contravention of specified provisions thereof is an offence and may prescribe penalties therefor not exceeding a fine of \$5000.

SECT 52  
Port dues and remissions VerDate:30/06/1997

## PART VIII

### PORT DUES

(1) Subject to subsection (2), the owner, his agent and the master of every vessel which enters any port or other part of the waters of Hong Kong, or which uses any port facility, shall be jointly and severally

liable to pay in respect of the vessel such port dues as may be prescribed.

(2) Subsection (1) shall not apply to any vessel for the time being used by the Hong Kong Government or to any warship or ship for the time being used by Her Majesty's Government or the Government of any State for other than commercial purposes.

(3) The Director, Deputy Director of Marine or an Assistant Director of Marine may refund or waive the payment of, in whole or in part, any port dues in respect of any vessel, or class, type or description of vessel, used for other than commercial purposes.

#### SECT 53

Payment of port dues VerDate:30/06/1997

(1) Port dues shall be paid to the Director on demand made by him.

(2) The Director may require the payment of port dues in advance in the case of any specified vessel, or specified class, type or description of vessel.

(3) The Director may in any particular case or class of case permit the port dues to be paid in arrear, subject to such conditions as to security or time for payment as he thinks fit.

#### SECT 54

Failure to pay port dues VerDate:30/06/1997

(1) If any port dues are not paid on demand-

(a) where payment is required to be made in advance under section 53(2), the Director may refuse permission for the vessel to enter the waters of Hong Kong;

(b) where payment is required to be made before a vessel leaves the waters of Hong Kong, the Director may refuse permission for the vessel to leave the waters of Hong Kong;

(c) the port dues payable may be recovered as a civil debt from the owner, his agent and the master of the vessel either jointly or severally.

(2) Without prejudice to subsection (1)(c), a master of a vessel who leaves any port or other part of the waters of Hong Kong without paying any port dues which he is required by the Director to pay commits an offence and is liable to a fine of \$5000.

(3) Notwithstanding anything in the Magistrates Ordinance (Cap. 227), proceedings in respect of an offence under this section may be brought at any time within 2 years next after the commission of the offence.

#### SECT 55

Recovery of port dues by seizure VerDate:30/06/1997

(1) If the owner or his agent or the master of a vessel fails on demand to pay any port dues payable in respect of the vessel, the Director may, without prejudice to section 54, board the vessel and seize the goods, tackle, or any thing belonging to, or on board, the vessel, and detain such goods, tackle or thing until the port dues are paid.

(2) If payment of the port dues is not made within the 3 days following the seizure, the Director may, at any time during the continuance of the non-payment, cause the goods, tackle or thing seized to be appraised by 2 persons (other than public officers) appointed for that purpose by the Director, and thereupon sell the same and apply the proceeds in payment of the port dues and all reasonable expenses incurred by him under this section, and pay the balance (if any) on demand to the owner or master of the vessel.

#### SECT 56

Power to declare ports 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.

### PART IX

#### MISCELLANEOUS PROVISIONS

The Secretary for Transport and Housing may, by order published in the Gazette, declare any area of the waters of Hong Kong to be a port. (Amended 4 of 1995 s. 4; L.N. 106 of 2002; L.N. 130 of 2007)

#### SECT 57

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

Adaptation amendments retroactively made - see 64 of 1999 s. 3

(1) The Chief Executive may give to the Director and to any public officer such directions as he thinks fit, either generally or in any particular case, with respect to the performance or exercise of their respective duties or powers under this Ordinance.

(2) A person to whom a direction is given by the Chief Executive under subsection (1) shall, in the performance or exercise of his duties or powers under this Ordinance, comply with that direction. (Amended 64 of 1999 s. 3)

#### SECT 58

Delegation by Director VerDate:02/01/2007

(1) Subject to subsection (3), the Director may, either generally or in any particular case, delegate to any other public officer the performance or exercise on his behalf of any of the functions, duties or powers imposed or conferred upon him under this Ordinance.

(2) Where any function, duty or power imposed or conferred on the Director under this Ordinance is performed or exercised by any other public officer, the Director shall, unless the contrary is proved, be deemed to have delegated to the public officer under subsection (1) the performance or exercise of the function, duty or power.

(3) No delegation under subsection (1) shall be made of any power-

- (a) to amend a Schedule to the regulations made under this Ordinance;
- (b) under section 52(3); (Amended 24 of 2005 s. 43)

(c) under section 63, except in respect of a provision specified for the purposes of this section in the Schedule; or (Replaced 46 of 1981 s. 9. Amended 24 of 2005 s. 43)

(d) to make exemptions under any regulation made under section 80(1)(i)(i), except in respect of a provision specified for the purposes of this section in the Schedule. (Added 24 of 2005 s. 43)

(4)The Chief Executive in Council may, by order published in the Gazette, amend the Schedule.  
(Added 46 of 1981 s. 9. Amended 64 of 1999  
s. 3)

## SECT 59

Powers of authorized officers VerDate:02/01/2007

(1)Without prejudice to any other provision of this Ordinance, an authorized officer may, at any time of day or night, stop and board any vessel in the waters of Hong Kong, other than a warship, for the purpose of-

(a) inspecting or searching the vessel or any part thereof;

(b) investigating any occurrence specified in section 67(1), whether or not such occurrence has been reported to the Director under that section;

(c) making such examination and investigation as may be necessary where any provision of this Ordinance or any other enactment has been contravened in respect of the vessel or by any person on board the vessel, or where an authorized officer has reasonable grounds for suspecting that such contravention has taken place;

(d) directing the conduct of any other authorized officer who may be on board the vessel;

(e) observing, inspecting or searching any person-

(i) for the time being on board the vessel;

(ii) employed, engaged or dwelling on board the vessel; or

(iii) employed or engaged in loading or unloading the vessel; or

(f) taking any action which he considers necessary-

(i) to provide against fire or accident on board the vessel;

(ii) to preserve peace and good order on board the vessel; or

(iii) to prevent or detect any offence under this Ordinance or any other enactment in respect of the vessel or by any person on board the vessel.

(2)Any police officer of or above the rank of Sergeant may-  
(Amended 60 of 1979 s. 3)

(a) take into custody and remove from any vessel in the waters of Hong Kong, other than a warship, any person who he suspects on reasonable grounds of-

(i) having committed an offence under this Ordinance or any other enactment; or

(ii) having boarded, or remained on board, the vessel without the permission of the owner or his agent or of the master of the vessel; or

(b) (Repealed 43 of 1999 s. 91)

(3) An authorized officer boarding a vessel under subsection (1) may take with him such persons as may be necessary to assist him for the purposes of this section.

(4) The master of a vessel, when required to stop the vessel by an authorized officer in the exercise of his powers under subsection (1), shall stop the vessel and permit the authorized officer to board the vessel.

(5) Any master who without reasonable excuse-

(a) fails to comply with a direction given under subsection (2)(b);

or

(b) contravenes subsection (4), commits an offence and is liable to a fine of \$5000.

#### SECT 60

Powers of investigating officers VerDate:30/06/1997

(1) Subject to subsection (3), for the purpose of any investigation by an inspector under section 39 or by an authorized officer under section 59, an inspector or authorized officer may-

(a) require that the vessel which he has boarded or any part of it, or anything therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary to carry out the investigation;

(b) take such measurements and photographs and make such recordings as he considers necessary;

(c) inspect, seize and remove from the vessel any article or substance in respect of which he suspects on reasonable grounds that an offence under this Ordinance or any other enactment has been committed;

(d) in the case of any article or substance removed under paragraph

(c), detain it for so long as is necessary-

(i) to examine it and to cause it to be subjected to any process or test;

(ii) to ensure that it is not tampered with before the examination of it is completed;

(iii) to ensure that it is available for use as evidence in any proceedings for an offence under this Ordinance or any other enactment;

(e) require any person whom he has reasonable cause to believe to be able to give any information relevant to the investigation to answer (in the absence of persons other than a person nominated by him to be present and any persons whom the inspector or authorized officer may allow to be present) such questions as the inspector or authorized officer thinks fit to ask and to sign a declaration of the truth of his answers;

(f) require the production of, inspect, and take copies of any entry in, the log book of the vessel or any document which it is necessary for him to see for the purposes of the investigation.

(2) No answer given by a person in pursuance of a requirement imposed under subsection (1)(e) shall be admissible in evidence against that person or the husband or wife of that person in any proceedings.

(3) For the purpose of an investigation under section 39, the powers of an inspector shall be limited to matters to which Part V relates or to offences under that Part.

(4) Any person who-

(a) contravenes any requirement imposed by an inspector or authorized officer under subsection (1);

(b) prevents any other person from appearing before an inspector or authorized officer or from answering any question to which an inspector or authorized officer may by virtue of subsection (1)(e) require an answer, commits an offence and is liable to a fine of \$5000 and to imprisonment for 6 months.

[cf. 1974 c. 37 s. 20 U.K.]

#### SECT 60A

Powers of authorized officers to enter premises, etc. VerDate:02/01/2007

(1) Subject to this section, an authorized officer may, on producing, if so required, some duly authenticated document showing his authority, enter any non-domestic premises at any time between the hours of 7 a.m. and 7 p.m. for the purposes of-

(a) (Repealed 43 of 1999 s. 91)

(b) taking any action authorized or required to be taken by or under this Ordinance in respect of any such vessel found on the premises.

(2) A magistrate may, if satisfied by information on oath that-

(a) admission to any non-domestic premises has been refused or that refusal is apprehended, or that such premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry, or that it is reasonable for the purposes of this Ordinance in the circumstances of the case that entry be effected between the hours of 7 p.m. and 7 a.m.; and

(b) there is reasonable ground for entry into the premises for any of the purposes of subsection (1), issue a warrant authorizing an authorized officer to effect entry, if need be by force: Provided that such warrant shall not be issued unless the magistrate is satisfied that notice of the intention to apply for a warrant has been given to the occupier of the premises, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry, or that it is reasonable for the purposes of this Ordinance in the circumstances of the case that entry be effected between the hours of 7 p.m. and 7 a.m., as may be appropriate.

(3) A magistrate may, if satisfied by information on oath that there is reasonable ground for entry into domestic premises for any of the purposes of subsection (1), issue a warrant authorizing an authorized officer to effect entry between the hours of 7 a.m. and 7 p.m., if need be by force:

Provided that such warrant shall not be issued unless the magistrate is satisfied that notice of the intention to apply for a warrant has been given to the occupier of the premises, or that the premises are

unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.

(4) Any authorized officer entering any premises by virtue of the provisions of subsection (1) or of a warrant issued under subsection (2) or (3) may take with him such persons as may be necessary, and on leaving any unoccupied premises which he has so entered, shall leave such premises as effectually secured against trespassers as he found the same to be at the time of entry.

(5) Every warrant issued under subsection (2) or (3) shall continue in force until the purpose for which the entry is necessary has been satisfied.

(6) For the purposes of this section-

"domestic premises" means any premises used wholly or mainly for residential purposes and constituting a separate household unit; and

"non-domestic premises" means any premises other than domestic premises.

(Added 46 of 1981 s. 10)

#### SECT 60B

Obligation to give certain information VerDate:30/06/1997

(1) Where-

(a) a vessel is involved in any occurrence specified in section 67(1); or

(b) the master, person in charge or person in control of a vessel is suspected of having committed an offence under this Ordinance involving the use of the vessel, the Director may, within 3 months after the occurrence or alleged offence, serve on the owner of the vessel a written notice requiring him to furnish to the Director, within 21 days after the date of the notice, a written statement signed by the owner, specifying the name and address of the master, person in charge or person in control of the vessel at the time of the occurrence or alleged offence.

(2) Subject to subsection (3), an owner who fails to comply with a notice served on him under subsection (1) within the time specified in that subsection commits an offence and is liable to a fine of \$5000 and to imprisonment for 6 months.

(3) In proceedings for an offence under subsection (2), it shall be a defence to show that the accused person did not know, and could not with reasonable diligence have ascertained, the name or address of the master, person in charge or person in control of the vessel at the time of the occurrence or alleged offence referred to in subsection (1).

(4) The provisions of this section shall be in addition to and shall not derogate from section 67.

(Added 46 of 1981 s. 10)

#### SECT 60C

Proof of identity of master etc. in proceedings VerDate:30/06/1997

If, in any proceedings for an offence under this Ordinance involving a vessel, there is produced to the court or a magistrate a statement furnished under section 60B, which-

(a) purports to have been signed by the accused person; and

(b) states that the accused person was the master, person in charge or person in control of the vessel at the time of the offence, the court or magistrate shall admit the statement as prima facie

evidence that the accused person was the master, person in charge or person in control of the vessel at the time of the offence.

(Added 46 of 1981 s. 10)

#### SECT 61

Giving of directions and offence of non-compliance VerDate:30/06/1997

(1) A direction given under this Ordinance may be given orally or in writing, or by means of signals.

(2) If requested by any person who is given a direction orally or by means of signals the person giving the direction shall confirm the direction in writing.

(3) A direction given under this Ordinance shall be complied with-

(a) forthwith; or

(b) where a time limit for compliance is specified in the direction, within such time limit, notwithstanding that the direction has not been confirmed under subsection (2).

(4) Where under this Ordinance a direction may be given to a master of a vessel it shall be sufficient if the direction is given to a person on board the vessel who is on duty to accept any direction on behalf of the master, and if there is no such master or such master cannot be traced, the direction may be given to the owner of the vessel or his agent or to any other person who appears to the person giving the direction to be in control of the vessel at that time.

(5) The giving of a direction under this Ordinance shall not diminish or in any way affect the responsibility of the master in relation to his vessel, persons on board, its cargo or any other person or property.

(6) Without prejudice to any other express penalty for failure to comply with a direction, any person who without reasonable excuse fails to comply with a direction given to him under this Ordinance commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months.

#### SECT 62

Director may give effect to directions in certain cases VerDate:02/01/2007

(1) Where a person who is given a direction under this Ordinance fails to comply with it, the Director may, whether or not the person is or will be prosecuted for an offence under this Ordinance, take or cause to be taken such action as may be necessary to give effect to the direction.

(2) Where no person to whom a direction under this Ordinance may be given exists or can be found, the Director may take or cause to be taken such action as he would have directed to be taken if such person existed or could be found.

(3) In a case of emergency affecting the safety of life or property the Director may take or cause to be taken such action as he would have directed to be taken under this Ordinance.

(4) For the purpose of taking any action under this section in respect of any vessel or property, the Director may board the vessel or enter the property without the permission of the owner or his agent or of the master of the vessel, or the owner or occupier of the property, as the case may be, and take with him such persons as may be necessary to assist him for that purpose.

(5) The Director may recover the cost of any action taken or caused to be taken under this section-

(a) as a civil debt from the person to whom the direction (if any) was given, or the owner of the vessel or property in respect of which the action was taken; or (Amended 43 of 1999 s. 91)

(b) where the cost is incurred in respect of a vessel, under section 55 as if the cost represented port dues payable in respect of the vessel. (Amended 43 of 1999 s. 91)

(c) (Repealed 43 of 1999 s. 91)

(6) For the purposes of subsection (5), the cost of any action taken or caused to be taken under this section shall include all disbursements and other expenses incurred thereby by the Director.

#### SECT 63

Director's general power of exemption VerDate:30/06/1997

The Director may, on application made to him in such manner as he may determine or on his own initiative, exempt any person or any vessel or any type, class or description of vessel from any requirement under this Ordinance, subject to such terms and conditions as the Director may specify.

#### SECT 64

Director's permission to do restricted acts VerDate:30/06/1997

(1) Where it is provided under this Ordinance that no person shall do, or cause or permit to be done, any specified act without the permission of the Director, the Director may-

(a) on application made to him in such manner as he may determine;  
and

(b) on payment to him of the prescribed fee (if any), permit the specified act to be done subject to such terms and conditions as he may specify generally or in any particular case.

(2) Except where this Ordinance provides for a written permission, a permission under this Ordinance may be granted orally or by means of signals.

(3) A written permission granted under this Ordinance shall be-

(a) kept on the vessel or at the place in which the act in respect of which the permission is required is being done; and

(b) produced for inspection by the Director, an authorized officer, or by any other officer appointed for the purposes of this Ordinance, on demand or within such time and at such place as the Director or such officer may specify.

(4) If any person to whom a written permission is granted under this Ordinance without reasonable excuse fails to comply with subsection

(3)(a) or to produce it under subsection (3)(b), he commits an offence and is liable to a fine of \$2000.

(5) A permission granted under this Ordinance may be withdrawn or cancelled by the Director-

(a) if any term or condition of the permission is not complied with; or

(b) if the Director considers it necessary to do so for any other reason.

(6) Without prejudice to subsection (5), where a person without reasonable excuse fails to comply with any term or condition of a permission granted under this Ordinance, he commits an offence and is liable to a fine of \$10000.

#### SECT 65

Compliance by master or owner VerDate:30/06/1997

Where by or under this Ordinance-

- (a) any obligation or duty is placed on an owner or his agent or on a master of a vessel;
- (b) any direction is given to an owner or his agent or to a master of a vessel; or
- (c) an owner or his agent or a master of a vessel is required to comply with any requirement, it shall, except where it is otherwise expressly provided, be sufficient if such obligation, duty, direction or requirement is met or complied with either by the owner or his agent or the master of the vessel.

#### SECT 66

Appeals VerDate:02/01/2007

(1) If any person is aggrieved by a direction, decision or act of the Director, or any other person, performing or exercising any function, duty or power under this Ordinance, he may within 14 days after- (Amended 43 of 1999 s. 91)

- (a) the date on which the direction, decision or act was given, made or done; or
- (b) the date on which he was notified of the direction, decision or act, appeal to the Chief Executive against the direction, decision or act by lodging the grounds of the appeal in writing with the Chief Secretary for Administration. (Amended L.N. 362 of 1997)

(2) On considering an appeal under subsection (1), the Chief Executive may confirm, vary or reverse the direction, decision or act appealed against and make such order as he thinks fit.

(3) A decision of the Chief Executive under subsection (2) shall be final. (Amended 64 of 1999 s. 3)

#### SECT 67

Duty to report collisions, etc. VerDate:30/06/1997

(1) Where, within the waters of Hong Kong-

- (a) a vessel is involved in a collision with another vessel, a port facility or other property;
- (b) a vessel sinks or becomes stranded or disabled;
- (c) a person is killed or seriously injured on board a vessel as a result of an accident;
- (d) an explosion or fire occurs on board a vessel;

(e) damage is caused by a vessel to a port facility or other property; or

(f) a person, cargo or equipment is lost overboard from a vessel, the owner or his agent or the master of the vessel shall report the occurrence forthwith to the Director orally, by means of signals, or in writing and shall furnish to the Director in writing full particulars thereof within 24 hours after the occurrence.

(2)An owner, agent or master of a vessel who-

(a) without reasonable excuse fails to comply with subsection (1);  
or

(b) makes a report or furnishes any particulars under subsection

(1) which he knows to be false in any material particular, commits an offence and is liable to a fine of \$10000.

(3)For the purposes of subsection (1)(c) a person shall be deemed to be seriously injured if he is admitted to a hospital immediately after he sustains the injury for observation or treatment.

SECT 68

(Repealed 69 of 1993 s. 3) VerDate:30/06/1997

SECT 69

Duty to report fires on vessels VerDate:30/06/1997

(1)Where-

(a) a fire occurs on board a vessel within the waters of Hong Kong;  
or

(b) a vessel which is on fire arrives within the waters of Hong Kong,  
the owner or his agent or the master of the vessel shall report such occurrence or arrival forthwith to the Director of Fire Services.

(2)The Director of Fire Services and any member of the Fire Services Department of or above the rank of Principal Fireman may, at any time of day or night, board any vessel in the waters of Hong Kong, other than a warship, for the purpose of extinguishing a fire on board the vessel whether or not the fire has been reported to the Director of Fire Services, and may take with him such persons as may be necessary to assist him for such purpose.

(3)An owner, agent or master who without reasonable excuse fails to comply with subsection (1) commits an offence and is liable to a fine of \$10000.

SECT 70

Boarding ships without authority VerDate:30/06/1997

(1)No person, other than a member of Her Majesty's forces in uniform and on duty or a person duly authorized by law for the purpose, shall without the permission of the owner or his agent or the master of a ship go on board the ship.

(2)A master of a ship may take into custody any person who contravenes subsection (1) and shall deliver such person forthwith to a police officer.

(3)Any person who contravenes subsection (1) commits an offence and is liable to a fine of \$5000 and to imprisonment for 6 months.

#### SECT 71

Cutting of moorings VerDate:30/06/1997

Any person, other than the Director or a person authorized by him, who without lawful excuse cuts a mooring or fastening of a vessel commits an offence and is liable to a fine of \$5000.

#### SECT 72

Endangering the safety of others VerDate:30/06/1997

Any person who by any unlawful act, or in any manner whatsoever without reasonable excuse, endangers or causes to be endangered the safety of any person conveyed in or being in or upon any vessel or in the sea commits an offence and is liable-

(a) on conviction on indictment to a fine of \$200000 and to imprisonment for 4 years; and

(b) on summary conviction to a fine of \$200000 and to imprisonment for 2 years.

(Amended 2 of 1979 s. 2)

#### SECT 72A

Beaching or scuttling vessel VerDate:30/06/1997

Any person who, by any unlawful act or in any manner whatsoever without reasonable excuse, disables, abandons, scuttles or beaches any vessel within the waters of Hong Kong commits an offence and is liable-

(a) on conviction on indictment to a fine of \$200000 and to imprisonment for 4 years; and

(b) on summary conviction to a fine of \$200000 and to imprisonment for 2 years.

(Added 2 of 1979 s. 3)

#### SECT 73

Discharge, storage, etc. of logs and other timber VerDate:30/06/1997

Except in pursuance of the regulations made under this Ordinance, no person shall-

(a) load or discharge logs or other timber at any public waterfront or public seawall within any port;

(b) discharge logs or other timber from a vessel into the waters of Hong Kong; or

(c) tow or store logs or other timber in the waters of Hong Kong.

#### SECT 74

Obstruction VerDate:30/06/1997

(1) Any person who obstructs the Director, or any other person, performing or exercising any function, duty or power under this Ordinance commits an offence and, subject to subsection (2), is liable to a fine of \$10000 and to imprisonment for 6 months.

(2) An owner, agent or master of a vessel who commits an offence under subsection (1) is liable to a fine of \$50000 and to imprisonment for 2 years.

#### SECT 75

False information VerDate:30/06/1997

(1) Without prejudice to any other provision of this Ordinance, any person who, being required to give any information to the Director or any other person under this Ordinance, fails without reasonable excuse to give such information or gives any information, whether in writing, orally or otherwise, which he knows to be false or misleading as to a material particular commits an offence and is liable to a fine of \$5000 and to imprisonment for 6 months. (Amended 46 of 1981 s. 11)

(2) Notwithstanding anything in the Magistrates Ordinance (Cap 227), proceedings in respect of an offence against this section may be brought at any time within 2 years next after the commission of the offence or within 6 months after the first discovery thereof by the prosecutor, whichever period expires first.

#### SECT 76

Use of official log book in evidence VerDate:30/06/1997

(1) In any legal proceedings for a contravention of this Ordinance, any entry in the official log book of a vessel, deck log book, engine room log book or other similar document, or a document purporting to be a copy of any such entry and to be certified as a true copy by any person specified in subsection (2), shall, until the contrary is proved-

- (a) be admitted in evidence and be sufficient evidence of the matters stated therein; and
- (b) in the case of such a copy, be presumed that it is so certified.

(2) For the purposes of subsection (1), the persons who may certify copies of entries in an official log book, deck log book, engine room log book or other similar document are-

- (a) the Director or any person authorized by him in writing in that behalf;
- (b) a magistrate;
- (c) (Repealed 47 of 1997 s. 10)
- (d) a notary public, as defined in the Legal Practitioners Ordinance (Cap 159);
- (e) a consular officer.

#### SECT 77

Notice to appear before a magistrate in respect of offences VerDate:30/06/1997

(1) Notwithstanding section 8 of the Magistrates Ordinance (Cap 227), if an officer of the Marine Department of the rank of Marine Inspector Class II or above reasonably suspects that an offence

under this Ordinance has been committed by a master of a vessel such officer may serve on the master personally or by handing the same personally to the senior officer on board the vessel or to the person appearing to be in charge or command of the vessel at the time of such service a notice requiring the master to appear before a magistrate to be dealt with according to law. (Amended 46 of 1981 s. 12)

(2)A notice under subsection (1)-

- (a) shall be in the prescribed form;
- (b) shall be signed by the officer by whom it is served; and
- (c) shall state-
  - (i) the name of the master upon whom it is served and the name of the vessel of which he is the master;
  - (ii) the offence which is alleged to have been committed with sufficient particulars thereof;
  - (iii) the time and place at which the offence is alleged to have been committed; and
  - (iv) the time and place at which the master on whom the notice is served is required to appear.

(3)If a master upon whom a notice under subsection (1) has been duly served fails to appear before a magistrate at the time and place mentioned in the notice, and it is made to appear to the magistrate by oath that the notice was served on the master personally or was handed personally to the senior officer or the person in charge or command of the vessel in accordance with subsection (1), the magistrate may issue his warrant for the apprehension of the master and to bring the master before him or another magistrate to be dealt with according to law duly endorsed as to the amount of bail, if any, upon which the master may be released in the meantime.

(4)If a master upon whom a notice under subsection (1) has been duly served appears before a magistrate in accordance with the notice, or is brought before a magistrate by a warrant issued under subsection (3), the magistrate may hear and determine the offence alleged in the notice as if a complaint had been made or an information had been laid against the master in respect of the offence and for such purposes, the provisions of the Magistrates Ordinance (Cap 227) relating to the hearing of a complaint or information and the proceedings thereon shall apply mutatis mutandis.

(5)If a master upon whom a notice under subsection (1) has been served is brought before a magistrate by a warrant issued under subsection

(3), the magistrate may, in addition to any other penalty, order the master to pay costs, of not more than \$400, solely in respect of the warrant.

(6)Any costs ordered to be paid under subsection (5) shall be recoverable under section 69(2) of the Magistrates Ordinance (Cap 227) in the same manner as costs awarded under section 69(1) of that Ordinance.

(7)Notwithstanding anything to the contrary in the Magistrates Ordinance (Cap 227), a magistrate may permit a representative to appear on behalf of a master upon whom a notice under subsection (1) has been served where such representative satisfies the magistrate that-

- (a) the master has left Hong Kong;
- (b) he is authorized to enter a plea of guilty on behalf of the master; and

(c) he is himself authorized and financially able to pay any fine imposed within 7 days or such longer time as the magistrate may allow.

#### SECT 78

Service of documents VerDate:02/01/2007

(1) Where for the purposes of this Ordinance any document is to be served on a person, that document may be served by any officer of the Marine Department of the rank of Marine Inspector Class II or above- (Amended 46 of 1981 s. 13)

(a) in any case by delivering the document personally to the person to be served, or by leaving it for him at his last known place of business or residence;

(b) if the document is to be served on the master of a vessel, where there is one, by leaving it for him on board the vessel with the person being or appearing to be in charge or command of the vessel or a member of the crew of the vessel;

(c) if the document is to be served on a person belonging to a vessel, by leaving it for him on board the vessel with the master of the vessel or with a person being or appearing to be in charge or command of the vessel;

(d) if the document is to be served on the master of a vessel, where there is no master and the vessel is in Hong Kong-

(i) on the owner of the vessel or his agent residing in Hong Kong; or

(ii) where no such owner or his agent is known or can be found, by affixing the document to the mast or other prominent part of the vessel;

(e) if the document is to be served on the owner of a vessel or his agent-

(i) by leaving the document for him on board the vessel with some person being or appearing to be in charge or command of the vessel or a member of the crew of the vessel; or (Amended 43 of 1999 s. 91)

(ii) by leaving the document for him at the office of the owner or his agent, as the case may be, with some person being or appearing to be in charge of the office. (Amended 43 of 1999 s. 91)

(iii) (Repealed 43 of 1999 s. 91)

(2) Any document referred to in subsection (1) which is to be served on the owner or master of a vessel may be addressed to the owner or master of the vessel without specifying the name of the owner or master.

#### SECT 79

Indemnity against damage, etc. VerDate:30/06/1997

No action in respect of any damage to property or injury to person shall lie against the Director or any other officer performing or exercising any function, duty or power under section 20, 21 or 62.

#### SECT 80

Regulations VerDate:02/01/2007

(1)The Chief Executive in Council may make regulations for all or any of the following matters-  
(Amended 64 of 1999 s. 3)

- (a) the provision of port facilities and control over their use;
- (b) the procedure to be followed, and the provisions to be complied with, by vessels entering or leaving the waters of Hong Kong;
- (c) the control of vessels within the waters of Hong Kong generally and in particular-
  - (i) the navigation of vessels and the prevention of collisions;
  - (ii) the speed of vessels;
  - (iii) the anchoring, mooring and berthing of vessels;
  - (iv) the manning of ships;
  - (v) the lights and signals to be exhibited by vessels;
- (d) the radiotelephone equipment to be carried and operated on vessels;
- (e) the aids to navigation to be laid or erected in respect of vessels which are disabled, stranded, abandoned or sunk in the waters of Hong Kong or in respect of construction or other marine works in the waters of Hong Kong; (Amended 24 of 2005 s. 44)
- (f) the control of the laying of private port facilities, or any floating or other structure, in the waters of Hong Kong and prescribing fees therefor;
- (g) the prevention of hazards to navigation and the removal and disposal of objects which are a hazard to navigation;
- (h) the control of dead ships, laid-up vessels, or vessels stranded, abandoned or sunk in the waters of Hong Kong, and the supply of information in relation thereto;
- (i) the control of works, the control of salvaging of vessels, the control and use of lifting appliances and lifting gear, the safety and protection against accidents of persons employed in such works or operations, the provision of safe workplaces on vessels, the operation, use and maintenance of hatches and hatch coverings on vessels in connexion with works, and regulations made for the purpose of this paragraph may empower the Director-
  - (i) to make exemptions from the application of the regulations where he is satisfied that the regulations have been substantially complied with or where compliance therewith is unnecessary having regard to the circumstances;
  - (ii) to approve any person to provide a safety training course and issue certificates to any person who attends the course; (Replaced 70 of 1999 s. 16)
- (j) (Repealed 70 of 1999 s. 16)
- (k) the prevention and control of pollution of the waters of Hong Kong;
- (l) the control of the loading, discharge, storage and movement of logs and other timber in the waters of Hong Kong, and of the loading or discharge of logs and other timber at any public waterfront or public seawall within the waters of Hong Kong;

(m) the establishment of typhoon shelters and typhoon anchorages and the control of their use and the vessels therein;

(n) the prohibition or control of fishing within specified areas of the waters of Hong Kong, the control of fishing by the use of bright lights, and the control of the erection and working of fishing stakes;

(o) the licensing of marine hawkers, tallyclerks and stevedores and the general control of persons engaged in the trade of, or acting as, marine hawkers, tallyclerks and stevedores;

(p) the port dues, fees and charges payable in respect of vessels and port facilities, any other fees or charges payable under this Ordinance, and the recovery of such port dues, fees and charges;

(q) empowering the Director, in order to calculate any port dues, to require the production of documents in respect of a vessel and to require the survey of a vessel at the cost of the owner or master of the vessel;

(r) the notification of accidents involving vessels and injuries to persons on vessels within the waters of Hong Kong, and the investigation and inquiry into such accidents and injuries;

(s) prohibiting, restricting or regulating the embarkation or disembarkation of persons, the loading and unloading of cargo and goods, and the conveyance and disposal of cargo and goods unlawfully obtained;

(t) empowering the Director to control and regulate water sports, races, regattas or other similar activities in the waters of Hong Kong and providing for the safety of persons taking part in, or affected by, such activities;

(u) establishing piers and terminals and controlling their use;

(ua) the prevention of collisions at sea; (Added 57 of 1990 s. 6)

(ub) giving effect to any provisions of an international agreement applicable to Hong Kong so far as the agreement relates to the prevention of collisions at sea; (Added 57 of 1990 s. 6)

(uc) prescribing what signals may be used by vessels as signals of distress; (Added 57 of 1990 s. 6)

(ud) prescribing the circumstances in which, and the purposes for which, any such signal is to be used and the circumstances in which it is to be revoked; (Added 57 of 1990 s. 6)

(ue) prescribing the circumstances and manner in which warnings of navigational dangers shall be reported; (Added 57 of 1990 s. 6)

(v) empowering the Director to give directions in any particular case in relation to such matters as may be specified;

(w) empowering the Director to amend any Schedule to such regulations;

(x) prescribing any other matter which is to be or may be prescribed under this Ordinance;

(y) providing generally for the better carrying out of the provisions and purposes of this Ordinance.

(1A) Any port dues or other fees or charges prescribed under this Ordinance may be fixed at levels which provide for the recovery of expenditure incurred or likely to be incurred by the Government or other authority in relation generally to the administration, regulation and control of ports, vessels and navigation in the waters of Hong Kong, and shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in the provision of any particular service, facility or matter. (Added 25 of 1986 s. 2)

(1B) Port dues and other fees and charges prescribed under this Ordinance may, without prejudice to the generality of subsection (1A)-

(a) in relation to moorings, be fixed having regard to any or all of the following-

(i) the size, whether measured by tonnage, length or otherwise, of any vessel moored or capable of being moored, at any mooring;

(ii) sums paid to owners of moorings by persons wishing to use or acquire them; and

(iii) the locations of moorings; and

(b) in any case be fixed at different amounts in relation to different sizes of vessel, whether measured by tonnage, length or otherwise, or in relation to different classes, types or descriptions of service, facility, licence or vessel. (Added 25 of 1986 s. 2)

(1C) Regulations made under subsection (1) may-

(a) (Repealed 43 of 1999 s. 91)

(b) regulate-

(i) the lights and shapes to be carried and exhibited;

(ii) the sound signals to be used; and

(iii) the steering and sailing rules to be observed, by vessels; and

(c) provide for the prevention of collisions at sea-

(i) between seaplanes on the surface of the water; and

(ii) between vessels and seaplanes on the surface of the water.

(Added 57 of 1990 s.6)

(2) Any regulations made under this section may provide that a contravention of specified provisions thereof is an offence and may prescribe penalties therefor not exceeding a fine of \$50000 and imprisonment for 6 months.

SECT 81

Validation VerDate:30/06/1997

For the avoidance of doubt, it is declared that the Shipping and Port Control (Fees) Ordinance 1986 (25 of 1986) shall apply in relation to any port dues or other fees or charges specified in regulations made before its commencement, and not revoked prior thereto, as it applies in relation to port dues and other fees and charges prescribed thereafter.

(25 of 1986 s. 4 incorporated)

SCHEDULE VerDate:02/01/2007

[section 58(3)]

PROVISIONS SPECIFIED FOR THE PURPOSES OF SECTION 58 IN RESPECT OF WHICH THE DIRECTOR MAY DELEGATE POWER TO EXEMPT UNDER SECTION 63

1. (Repealed 43 of 1999 s. 91)
  2. (Repealed 43 of 1999 s. 91)
  3. (Repealed 43 of 1999 s. 91)
  4. Shipping and Port Control Ordinance (Cap 313) Section 15. (Added L.N. 579 of 1994)
  5. Shipping and Port Control Regulations (Cap 313 sub. leg.) Regulations 22 and 27. (Added L.N. 579 of 1994)
- (Added 46 of 1981 s. 14. Amended L.N. 288 of 1981; L.N. 579 of 1994)