

## AIR POLLUTION CONTROL ORDINANCE 1983

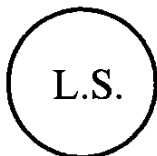
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HONG KONG

No. 17 OF 1983



I assent.

Edward YOUDE,  
Governor.  
28 April 1983

An Ordinance to make provision for abating, prohibiting and controlling pollution of the atmosphere with particular reference to stationary sources and for matters connected therewith.

~~Ordinance~~ ~~not~~  
~~disallowed~~ - See  
G. N. 2728/83.

[ 1 October 1983 ]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

## PART I

## PRELIMINARY

1. (1) This Ordinance may be cited as the Air Pollution Control Ordinance 1983. Short title and commencement.

(2) This Ordinance shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*, and notices under this section may appoint different dates for different provisions of this Ordinance.

2. In this Ordinance, unless the context otherwise requires— Interpretation.

“air control zone” means any part of Hong Kong declared under section 6 to be an air control zone;

“air pollutant” means any solid, particulate, liquid, vapour or gaseous substance emitted into the atmosphere;

“air pollutant nuisance” means any emission of air pollutant which either alone or in conjunction with any other such emission—

- (a) is prejudicial to health; or
- (b) is a nuisance to the inhabitants of the neighbourhood; or
- (c) imperils or is likely to imperil the safety of or otherwise interferes with the normal operation of aircraft using or being about to use any airport within Hong Kong;

“air quality objective” means an air quality objective established by the Secretary under section 7;

“Appeal Board” means an Appeal Board constituted under Part VI;

“Authority” means the public officer appointed under section 4(1) to be the air pollution control authority;

“authorized officer” means a public officer authorized under section 4(3);

“best practicable means”, where used with respect to the emission from a premises of an air pollutant, has reference not only to the provision and the efficient maintenance of appliances adequate for preventing such emission, but also to the manner in which such appliances are used and to the proper supervision by the owner of the premises of any operation in which such an air pollutant is evolved;

“chimney” includes structures and openings of any kind from or through which air pollutant may be emitted and, in particular, includes flues, and references to a chimney of a premises include references to a chimney which serves the whole or part of a premises but is structurally separate therefrom;

“engine” means an internal combustion engine;

“furnace” includes any kind of fireplace, grate or stove, whether open or closed and any structure enclosing a chamber where combustion takes place;

“industrial plant” includes any plant, whether fixed or movable, used for industrial or trade purposes, and also includes any incinerator used for or in connexion with any such purposes;

“licence” means a licence granted under section 15;

“licence holder” means the holder of a valid licence;

“noxious or offensive emission” means a noxious or offensive emission designated by regulations made under section 43(1)(a);

“owner”, in relation to premises, includes any lessee or occupier thereof, and any person carrying on any specified process thereon or therein;

“oven” includes any form of retort or container used to subject solid fuel to any process involving the application of heat;

“prejudicial to health” means injurious, or likely to cause injury, to health;

“premises” include any part of premises and any place or relevant plant;

“register” means the register required to be kept under section 39;

“relevant plant” means any furnace, engine, oven or industrial plant;

“Secretary” means the Secretary for Health and Welfare;

First Schedule. “specified process” means a process specified in the First Schedule.

Application. **3.** Except to the extent provided by section 43(1)(p) nothing in this Ordinance shall apply to any air pollutant emitted from any furnace or engine used in the propulsion of any vessel, motor vehicle, railway locomotive or aircraft.

Authority and authorized officers. **4.** (1) For the purposes of carrying out the provisions of this Ordinance, the Governor may appoint a public officer to be the air pollution control authority.

(2) An appointment under subsection (1) shall be notified in the *Gazette*.

(3) The Authority may authorize in writing any public officer to perform or exercise all or any of the functions, duties or powers which are imposed or conferred on the Authority by this Ordinance.

5. (1) The Governor may give such directions as he thinks fit, either generally or in any particular case, with respect to the exercise or performance by any public officer of any functions, duties or powers under this Ordinance. Governor may give directions.

(2) A public officer shall, in the exercise or performance of his functions, duties or powers under this Ordinance, comply with any direction given by the Governor under subsection (1).

## PART II

### AIR CONTROL ZONES AND AIR QUALITY OBJECTIVES

6. (1) The Governor in Council may, after consultation with the Environmental Protection Advisory Committee, by order published in the *Gazette*, declare any part of Hong Kong to be an air control zone for the purposes of this Ordinance. Air control zones.

(2) An order under subsection (1) shall, for each air control zone constituted thereby—

- (a) make reference to a plan or map of that zone deposited in the Land Office at Victoria; or
- (b) sufficiently describe the zone by other means.

7. (1) The Secretary shall, after consultation with the Environmental Protection Advisory Committee, establish for each air control zone air quality objectives or different objectives for different parts of a zone. Secretary to establish quality objectives.

(2) The air quality objectives for any particular air control zone or part thereof shall be the quality which, in the opinion of the Secretary, should be achieved and maintained in order to promote the conservation and best use of air in the zone in the public interest.

(3) Any air quality objective may be amended from time to time by the Secretary, after consultation with the Environmental Protection Advisory Committee.

(4) A statement of every air quality objective established under subsection (1) and all amendments thereto, signed by the Secretary, shall be published in the *Gazette* and shall be kept with the register and made available for inspection by the public free of charge at the same times as the register is so available.

(5) Where under subsection (1) the Secretary establishes different air quality objectives for different parts of an air control zone he shall ensure that the statement thereof kept with the register pursuant to subsection (4) sufficiently delineates each part of the air control zone.

8. (1) The Secretary shall in writing notify the Authority of the objective or objectives of quality established for each air control zone and of any amendment thereof under section 7(3). Authority to seek to achieve quality objectives.

(2) The Authority shall aim to achieve the relevant air quality objectives as soon as is reasonably practicable and thereafter to maintain the quality so achieved.

(3) If in the opinion of the Secretary the achievement or maintenance of any air quality objective would be better served by the exercise by the Authority in a particular manner of any of his powers under section 15(4), 17 or 22, the Secretary may give directions in writing to the Authority as to the manner in which he shall exercise those powers; and, in the case of a direction which relates to section 15(4), any such direction may be of a general nature or relate to a particular case or particular cases.

(4) The Authority shall comply with any direction given to him under subsection (3) and the discretion conferred on the Authority by section 15(4), 17 or 22 as the case may be, shall not apply to any specified process in respect of which such a direction is in force.

## PART III

## ABATEMENT OF AIR POLLUTANT NUISANCES

Notice of air pollutant nuisance to owner of premises.

9. (1) On any occasion when, in the opinion of the Authority or of an authorized officer, an air pollutant nuisance exists or is imminent, the Authority or such officer shall, subject to subsection (5), as soon as practicable after he has become aware thereof, notify, either verbally or in writing, the existence or imminence, as the case may be, of the nuisance to the owner of any premises in which any chimney or relevant plant is, in his opinion, by the emission of any air pollutant, causing or contributing to the existence or imminence of such nuisance.

(2) Such notification may require the owner forthwith, or at some future time, and for so long as the notification specifies, or until it is withdrawn—

- (a) to reduce to such extent as is specified in the notification the emission of the air pollutant from such chimney or relevant plant, as the case may be; or
- (b) in any case where, in the opinion of the Authority or of an authorized officer, such air pollutant nuisance—
  - (i) is or is likely to be prejudicial to health; or
  - (ii) imperils or is likely to imperil the safety of aircraft using or being about to use any airport within Hong Kong, to eliminate the emission of such pollutant.

(3) Where a notification requires the elimination of an emission under subsection (2)(b) it shall contain a declaration that it was given to protect health or to preserve the safety of aircraft, as the case may be.

(4) If any notification under this section is given or withdrawn verbally, such notification or such withdrawal, as the case may be, shall be confirmed by the Authority or an authorized officer in writing as soon thereafter as circumstances permit.

(5) Notwithstanding the preceding provisions of this section, the Authority may, except in a case that falls within subsection (2)(b), instead of acting under this section proceed instead under section 30 to the extent permitted in that section.

Penalty for failure to abate air pollutant nuisance.

10. (1) Subject to subsection (2), any owner who fails to comply with any of the requirements of a notification given to him under section 9 commits an offence and is liable—

- (a) in any case where such notification contains a declaration that it was given to protect health or to preserve the safety of aircraft, to a fine of \$50,000; and
- (b) in any other case, to a fine of \$5,000,

and in either case to a further fine of \$100 in respect of every one quarter of an hour during the whole or any part of which the offence continues.

(2) A court shall not convict an owner under subsection (1) unless the prosecution proves that the air pollutant nuisance mentioned in the notification existed or was imminent at the time the notification was given to the owner under section 9.

## PART IV

## SPECIFIED PROCESSES AND THE LICENSING OF PREMISES THEREFOR

Power to amend First Schedule.

11. The Legislative Council may by resolution amend the First Schedule.

Prevention of discharge of noxious or offensive emissions.

12. (1) The owner of any premises used for the conduct of any specified process shall use the best practicable means for preventing the emission of noxious or offensive emissions from such premises, and for preventing the discharge, whether directly or indirectly, of such emissions into the atmosphere, and for rendering such emissions where discharged harmless and inoffensive.

(2) Any person who fails to comply with subsection (1) commits an offence and is liable to a fine of \$50,000, and, in addition, if the offence is a continuing offence, to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

(3) No person shall be convicted of an offence under this section if he proves that the specified process in respect of which he is charged was conducted by him in the manner and in accordance with the particulars and information notified by him under section 19(1).

13. (1) Subject to section 20, the owner of any premises shall not use those premises, or permit those premises to be used, for the conduct of a specified process unless he is the holder of a licence to use the premises for the conduct of that specified process.

Licence required to use premises for specified process.

(2) Any owner who contravenes subsection (1) commits an offence and is liable to a fine of \$50,000, and, in addition, if the offence is a continuing offence, to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

14. (1) Any person who wishes to obtain a licence to conduct a specified process in any premises shall apply to the Authority in the prescribed form.

Application for licences.

(2) An application under subsection (1) shall be accompanied by the prescribed fee.

(3) The Authority shall publicly notify all applications for licences—

- (a) by entering in the register such particulars thereof as may be prescribed;
- (b) by causing a notice to be published at the expense of the applicant in an English language and a Chinese language newspaper determined by the Authority containing such particulars of the application and other information as may be prescribed and a statement of the place or places where a copy of the application may be inspected.

(4) During the period of 30 days after the last notice is published pursuant to subsection (3)(b)—

- (a) a copy of the application shall be kept at each place notified under subsection (3)(b) and shall be available for inspection by the public during normal office hours; and
- (b) where an air quality objective has been established for an air control zone, or part thereof, where it is proposed to conduct the specified process concerned any person may, in such manner as may be prescribed, object to the granting of the application on the ground that it would tend to inhibit the attainment or maintenance of the relevant air quality objective.

15. (1) The Authority may, not earlier than 40 days after the last notice is published in a newspaper pursuant to section 14(3)(b), either grant or refuse to grant a licence.

Grant or refusal of licences.

(2) If he refuses to grant a licence the Authority shall notify the applicant in writing of his refusal and shall inform him of his reasons therefor.

(3) In the exercise of his discretion to grant or refuse to grant a licence the Authority shall—

- (a) have regard to the capability of the applicant to provide and maintain the best practicable means for the prevention of the emission from his premises of any air pollutant;
- (b) have as his purpose the attainment and maintenance of any relevant air quality objective established for any air control zone, or part thereof, where it is proposed to conduct the specified process.

Second Schedule.

(4) A licence granted under this section shall be for a reasonable period of not less than 2 years and may be subject to such terms and conditions as the Authority thinks fit including terms and conditions relating to the matters set out in the Second Schedule.

Renewal of licences.

16. (1) During such period before the expiry of a licence as may be prescribed, the licence holder may apply in the prescribed form for a renewal of the licence.

(2) An application for renewal of a licence shall be accompanied by the prescribed fee.

(3) Except where the Secretary directs otherwise, the provisions of section 14(3)(b) shall not apply in relation to an application for renewal of a licence.

(4) The Authority may renew or refuse to renew the licence but shall not do so later than 21 days before the expiry of the licence, nor, where section 14(3)(b) applies under subsection (3), earlier than 40 days after the last notice is published in a newspaper pursuant to that section.

(5) Subsections (2), (3) and (4) of section 15 shall apply to the renewal of a licence as they apply to the grant or refusal of a licence under that section.

Cancellation or variation of a licence.

17. (1) Where a licence is in force and the Authority considers it necessary in the public interest, the Authority may, subject to subsection (2), by notice in writing to the licence holder—

- (a) impose new or amended terms or conditions subject to the observance of which, as from a specified date, the licence shall continue in force;
- (b) cancel the licence as from a specified date;
- (c) revoke or amend or add to any notice previously given under this subsection, or any part of such notice, or substitute a new notice for it.

(2) Unless the Authority considers that the continuation of the specified process to which the licence relates would be, or be likely to be, prejudicial to health he may exercise any power set out in subsection (1) in relation to that licence only with the prior approval of the Governor in Council, as to both the exercise of the power and the manner of the exercise of the power, or with the agreement of the licence holder.

(3) Subject to subsection (4), the date specified in a notice for the addition, revocation or amendment of any term or condition under paragraph (a) or (c) of subsection (1) or the cancellation of a licence under paragraph (b) thereof shall be not less than 90 days after the day on which the notice is given to the licence holder.

(4) Where in the opinion of the Authority it is necessary to add, revoke or amend a term or condition under paragraph (a) or (c) of subsection (1) or cancel a licence under paragraph (b) thereof because the continuation of the specified process to which the licence relates would be, or be likely to be, prejudicial to health, he may exercise any of the said powers with effect from such date as the circumstances may require and shall not be bound to comply with subsection (3).

(5) Where a notice is given under subsection (1), the person to whom the notice is given may, within the period of 30 days after such notice is given, make written submissions to the Authority as to why any new or amended terms and conditions should not be imposed or as to why the licence should not be cancelled.

(6) The Authority, on receipt of written submissions made by any person under subsection (5) may, after considering such submissions, exercise any of his powers under subsection (1)(c).

Applications for and variations of licences.

18. (1) A licence holder may apply to the Authority in the prescribed form for a variation of the licence.

(2) The application shall be accompanied by the prescribed fee.

(3) Section 14(3) and (4) shall apply for the purpose of publicly notifying an application under this section for the variation of a licence as if it were an application for a licence.



(4) The Authority may either grant the application, with or without modification, or refuse to grant it but shall not do so earlier than 40 days after the last notice is published in a newspaper pursuant to subsection (3).

(5) If the Authority refuses to grant an application or any part thereof he shall notify the applicant and shall inform him of the reasons for his refusal.

(6) Section 15(3) shall apply to the exercise by the Authority of his discretion under this section as it applies to the exercise of his discretion to grant or refuse a licence.

(7) The Authority may grant an application on such terms and conditions as he thinks fit (including terms and conditions relating to the matters set out in the Second Schedule). Second Schedule.

19. (1) The Secretary may, by order published in the *Gazette*, specify in relation to any specified process the particulars and information required to be furnished to the Authority by the owner of any premises used for the conduct of that specified process and, within 6 months after the publication of such an order, or such further period as the Authority may in any particular case allow, the owner of the premises concerned shall give notice of the existence of those premises to the Authority in such manner and form and containing such particulars and information as may be specified in the order. Notices of existing premises used for specified processes.

(2) Any owner who fails to comply with subsection (1) commits an offence and is liable to a fine of \$5,000.

(3) Any owner who in any notice under subsection (1) makes any statement or gives any particular or information which he knows to be incorrect in a material respect or who recklessly makes any statement or gives any particular or information which is incorrect in a material respect or knowingly omits any material particular therefrom commits an offence and is liable to a fine of \$5,000.

20. (1) The owner of any premises used for the conduct of a specified process at the date of publication of an order under section 19 shall, subject to subsections (2) and (4) and section 21, be exempt so far as use of that premises is concerned in respect of that process from the operation of section 13 if notice of the existence of that premises has been duly given under section 19. Exemption of certain premises.

(2) Notwithstanding that any process mentioned in the second column of the Third Schedule is declared to be a specified process, subsection (1) shall not apply in respect of any premises described opposite thereto in the third column of that Schedule. Third Schedule.

(3) The Legislative Council may by resolution amend the Third Schedule.

(4) No exemption shall arise under this section if, at the time when notice is given under section 19, the premises used for the conduct of the specified process—

(a) have been unlawfully erected on unleased land in contravention of section 4 of the Crown Land Ordinance; or (Cap. 28.)

(b) are situated on land held under a Crown lease or on land occupied under a licence issued under section 5 of the Crown Land Ordinance and the use of the premises for the conduct of the specified process is in breach of the Crown lease or the licence.

(5) Where at the date of publication of an order under section 19 any person is the owner of premises which are being developed for use for the conduct of a specified process the Authority may in writing subject to subsections (2) and (4) and section 21 exempt him in respect of those premises from the operation of section 13 upon his giving notice under section 19, which shall for the purposes of this subsection apply *mutatis mutandis*.

Cessation of exemption in certain circumstances and application for licence.

**21.** (1) Without prejudice to the powers in section 22 when, on or in any premises used for the conduct of a specified process the owner of which is exempt under section 20 from the operation of section 13, for any reason, including addition, alteration or modification thereto or renewal thereof, any chimney or relevant plant used in or in connexion with the conduct of the specified process ceases to conform with any of the particulars in relation thereto—

- (a) given by such owner under section 19; and
- (b) recorded in a register kept under section 39(1)(b),

then, in respect of that part of the premises on or in which such chimney or relevant plant is situate, the owner thereof—

- (i) shall cease to be exempt under section 20; and
- (ii) shall apply forthwith under section 14 for a licence.

(2) Except where the Secretary directs otherwise, the provisions of section 14(3)(b) shall not apply in relation to an application for a licence in accordance with subsection (1)(ii), and section 15(1) as regards the period after which the Authority may grant or refuse to grant a licence shall likewise not apply except where the Secretary has directed that section 14(3)(b) shall apply.

(3) Any owner who, without reasonable excuse, fails to comply with subsection (1)(ii) commits an offence and is liable to a fine of \$50,000 and, in addition, if the offence is a continuing offence, to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

(4) Where the owner of a premises applies for a licence in accordance with subsection (1)(ii), then, pending the grant or refusal to grant the licence, the operation of section 13 shall be suspended in relation to the part of the premises which has ceased to be exempt under subsection (1)(i) and which is referred to in the application made under section 14.

Further powers in relation to an existing specified process.

**22.** (1) Where in relation to any premises used for the conduct of a specified process the owner of which is exempt under section 20 from the operation of section 13 the Authority considers it necessary so to do in the public interest he may, by notice in writing to the owner of the premises—

- (a) (i) impose terms and conditions subject to the observance of which, as from a specified date, the exemption shall continue in force;
- (ii) declare the exemption liable to cancellation if at any time the person fails to observe any such term or condition;
- (iii) cancel the exemption as from a specified date if the person fails to observe any such term or condition;
- (b) cancel the exemption as from a specified date;
- (c) amend or add to any notice previously given under this section, or any part of such notice, or substitute a new notice for it.

(2) Unless the Authority considers that the continuation of the specified process would of itself be, or be likely to be, prejudicial to health, he may exercise any power set out in subsection (1) only with the prior approval of the Governor in Council, as to both the exercise of the power and the manner of the exercise of the power, or with the agreement of the owner of the premises used for the conduct of the specified process.

(3) The Authority may revoke a notice previously given under this section, subject to the further approval of the Governor in Council in the case of a revocation which affects anything previously done under this section with the approval of the Governor in Council.

(4) Subject to subsection (5) the date specified in a notice for the imposition, amendment or addition of any term or condition under paragraph (a)(i) or (c) of subsection (1) or for the cancellation of an exemption under paragraph (a)(iii) or (b) thereof shall be not less than 90 days after the day on which the notice is given to the owner of the premises used for the conduct of the specified process.

(5) Where in the opinion of the Authority it is necessary to impose, amend or add any term or condition under paragraph (a)(i) or (c) of subsection (1) or to cancel an exemption under paragraph (a)(iii) or (b) thereof because the continuation of the specified process would of itself be, or be likely to be, prejudicial to health, he may exercise any of the said powers with effect from such date as the circumstances may require and shall not be bound to comply with subsection (4).

(6) Subject to subsection (2) the Authority may impose such terms and conditions under subsection (1) as he thinks fit including any term or condition—

- (a) requiring the person to restrict or from time to time to suspend the emission of any air pollutant;
- (b) relating to the matters set out in the Second Schedule.

Second Schedule.

23. (1) A person who is the owner of any premises used for the conduct of a specified process and who is exempt under section 20 from the operation of section 13 may apply to the Authority in the prescribed form for a variation or cancellation of any term or condition imposed by the Authority under section 22.

Exempted premises—approval of changes.

(2) An application under subsection (1) shall be accompanied by the prescribed fee.

(3) Section 14(3) and (4) shall apply for the purpose of publicly notifying an application under this section as if it were an application for a licence.

(4) The Authority may either grant the application in whole or in part or refuse to grant it but shall not do so earlier than 30 days after the last notice is published in a newspaper pursuant to subsection (3).

(5) If the Authority refuses to grant an application or any part thereof he shall notify the applicant and shall inform him of the reasons for his refusal.

(6) Section 15(3) shall apply to the exercise by the Authority of his discretion under this section as it applies to the exercise of his discretion to grant or refuse a licence.

(7) The Authority may grant an application on such terms and on such conditions as he thinks fit (including terms and conditions relating to the matters set out in the Second Schedule).

Second Schedule.

24. Where a licence is, pursuant to section 17(1)—

- (a) cancelled as provided in section 17(1)(b); or
- (b) varied as provided in section 17(1)(a) so as to impose additional obligations on the licence holder,

Compensation for cancellation or variation of licences.

the Authority shall be liable to pay compensation if—

- (i) such cancellation or variation was effected with the prior approval of the Governor in Council pursuant to section 17(2); or
- (ii) where the licence is cancelled or varied because the Authority considers that the continuation of the specified process to which the licence relates would be, or be likely to be, prejudicial to health, the possibility of such prejudice to health was known, or could with reasonable foresight have been known, to the Authority at the time the licence was granted or renewed; or
- (iii) the prejudice to health mentioned in paragraph (ii) is a consequence of the fact of licences having been granted or renewed after the grant (or, where a licence has been renewed, the last renewal) of the licence which is cancelled or varied.

25. Where an exemption under section 20 is, pursuant to section 22—

- (a) cancelled as provided in section 22(1)(b); or
- (b) varied as provided in section 22(1)(a)(i) or (c) so as to impose additional obligations on the owner of the premises used for the conduct of the specified process to which the exemption relates,

Compensation for cancellation or variation of exemptions with the approval of the Governor in Council.

the Authority shall be liable to pay compensation if such cancellation or variation was effected with the prior approval of the Governor in Council pursuant to section 22(2).

Assessment of compensation.

**26.** (1) Subject to subsection (2), the manner of determining the amount of compensation payable under sections 24 and 25, the factors to be taken into account or disregarded and the principles to be applied in determining that amount shall be such as may be prescribed in regulations made under section 43.

Fourth Schedule.

(2) The provisions of the Fourth Schedule shall have effect for the purposes of determining the amount of compensation payable under sections 24 and 25 and for the purposes of the incidental matters for which they provide.

## PART V

### ENFORCEMENT

Authority may obtain information.

**27.** (1) The Authority may, by notice in writing to any person, require him to furnish to the Authority, within such time and in such form as is specified in the notice, any information specified in the notice which the Authority may reasonably require for the purpose of exercising and performing his functions, duties and powers under this Ordinance.

(2) A person who—

- (a) fails without reasonable excuse to comply with any of the requirements of a notice duly served on him under subsection (1); or
- (b) in compliance or purported compliance with such a notice, makes any statement which he knows to be incorrect in a material respect or recklessly makes any statement which is incorrect in a material respect or knowingly omits any material particular,

commits an offence and is liable to a fine of \$5,000.

Powers of entry and inspection, etc.

**28.** (1) For the purpose of—

- (a) determining the position of any apparatus or device or sampling point to be used for the measurement of any air pollutant emitted from any chimney or relevant plant or passing through any chimney;
- (b) determining the composition, concentration, quantity, quality or density of any air pollutant emitted from any chimney or relevant plant or passing through any chimney;
- (c) determining the composition of any fuel, or other material, or viscosity of any liquid fuel used in any relevant plant;
- (d) observing and recording any process or procedure used in or in connexion with—
  - (i) the operation of any chimney or relevant plant; or
  - (ii) the conduct of any specified process;
- (e) ascertaining the source of any air pollutant;
- (f) ascertaining whether there is or has been on or in connexion with any premises any contravention of any of the requirements of this Ordinance;
- (g) establishing any other matter in connexion with paragraphs (a) to (f),

the Authority or an authorized officer may—

- (i) inspect any chimney or relevant plant;
- (ii) take samples from, and make measurements of, any air pollutant emitted from any relevant plant or passing through any chimney;
- (iii) take samples of any fuel or other material used in any relevant plant;
- (iv) observe and record any process or procedure referred to in paragraph (d);

- (v) require the production of and inspect any drawings, records or documents relating to any chimney or relevant plant or specified process whether or not the same are required to be kept under this Ordinance;
- (vi) make copies of any drawings, records or documents referred to in paragraph (v);
- (vii) make such examination and inquiry as may be necessary to ascertain whether the requirements of this Ordinance are complied with, and seize, remove and detain anything which may appear to be evidence of an offence against this Ordinance.

(2) Subject to subsection (3), for the purposes of subsection (1), the Authority, or any authorized officer, may without warrant enter and search any premises.

(3) No premises which is used solely for dwelling purposes shall be entered or searched under subsection (2) except by virtue of a warrant issued by a magistrate, where such magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Ordinance, has been, is being or is about to be committed in such premises or that there is in such premises anything likely to be or to contain evidence of such offence.

(4) An authorized officer who enters any premises shall—

- (a) if so required, produce evidence of his identity and of his authorization by the Authority under section 4(3); and
- (b) if a warrant has been issued under subsection (3), produce that warrant.

**29.** Any person who—

- (a) wilfully resists, obstructs or delays any officer in the exercise of any power conferred on such officer by or under section 28;
- (b) fails without reasonable excuse to comply with any requirement duly made by an officer under section 28;
- (c) in compliance or purported compliance with any such requirement produces any drawing, record or document which he knows to be incorrect or inaccurate in a material respect or does not believe to be correct or accurate; or
- (d) wilfully or recklessly gives information which is incorrect in a material respect or withholds information as to any of the matters in respect of which information is required to be given under section 28,

Offences in relation to section 28.

commits an offence and is liable to a fine of \$5,000.

**30.** (1) Where it appears to the Authority that any chimney or relevant plant is by reason of—

- (a) unsuitable design, defective construction or maintenance;
- (b) excessive wear and tear;
- (c) the use of unsuitable fuel or other material; or
- (d) any other cause,

Power to require modification etc., of chimneys and relevant plant.

emitting a greater quantity of air pollutant than need be, the Authority may cause a notice to be served upon the owner of the premises upon which such chimney or relevant plant is situate—

- (i) requiring him, within such reasonable time as is specified in the notice, to modify, replace, clean or repair such chimney or relevant plant or to take such other steps as are specified in the notice to ensure the elimination of unnecessary air pollutant;
- (ii) prohibiting him from using in such relevant plant, after such reasonable time as is specified in the notice, such fuel, or other material, or mixture of fuels, or other materials, as is specified in the notice.

(2) Any owner who fails, without reasonable excuse, to comply with any of the requirements of a notice duly served upon him under subsection (1) commits an offence and is liable to a fine of \$30,000 and in addition, if the offence is a continuing offence, to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

## PART VI

### APPEALS

When appeal may be brought; and effect thereof.

**31.** (1) A person may appeal to the Appeal Board if he is aggrieved by a decision, requirement or specification of a public officer under any of the following provisions—

- (a) section 9(2)(a) (requiring reduction of the emission of air pollutant);
- (b) section 9(2)(b) (requiring the elimination of the emission of air pollutant);
- (c) section 15(1) (refusing to grant a licence);
- (d) section 15(4) (fixing terms and conditions of licence);
- (e) section 16(4) (refusing to renew a licence);
- (f) section 17(1)(a) (imposing new or amended terms or conditions for continuance of a licence);
- (g) section 17(1)(b) (cancelling a licence);
- (h) section 17(1)(c) (revoking, amending or adding to a notice or substituting a new notice);
- (i) section 18(4) (refusing to vary a licence);
- (j) section 18(7) (fixing terms and conditions for variation of a licence);
- (k) section 22(1)(a)(i) (imposing terms and conditions subject to which an exemption may continue in force);
- (l) section 22(1)(a)(iii) or 22(1)(b) (cancelling an exemption);
- (m) section 22(1)(c) (amending or adding to a notice or substituting a new notice);
- (n) section 23(4) (refusing to vary or cancel terms or conditions subject to which an exemption may continue in force);
- (o) section 27 (requiring information to be furnished);
- (p) section 30(1)(i) (requiring the modification, replacing, cleaning or repair of, or other steps to be taken relating to, a chimney or relevant plant);
- (q) section 30(1)(ii) (prohibiting the use of specified fuels or other materials);
- (r) section 40 (refusing to withhold information from the register);
- (s) any regulations made under section 43.

(2) An appeal under subsection (1) shall be made by lodging notice of appeal in the prescribed manner and form within 21 days after the person aggrieved has received notice of the decision, requirement or specification.

(3) Where the decision, requirement or specification appealed from was made under a provision mentioned in paragraphs (a) or (e) to (m) or (o) to (q) of subsection (1) the notice thereof shall be suspended from the day on which notice of appeal is duly given to the Authority and until the appeal is disposed of, withdrawn or abandoned, unless—

- (a) the decision, requirement or specification is considered by the Authority to be necessary because the continuation of the activities, whether licensed or otherwise, to which the notice relates would be, or be likely to be, prejudicial to health; and

(b) the notice contains a declaration to that effect.

(4) No appeal shall lie under this section where the requirement of the Authority is made with the prior approval of the Governor in Council under section 17(2) or 22(2).

**32.** (1) Every appeal under section 31 shall be determined by an Appeal Board constituted under this Part.

Constitution of  
Appeal Board.

(2) The Governor shall appoint as Chairman of Appeal Boards a person who is qualified in law.

(3) Subject to section 34(3), the Chairman shall be appointed for a term of 2 years but may be re-appointed.

(4) The Governor shall also appoint a panel of persons whom he considers to be suitable for appointment as members of an Appeal Board pursuant to section 33(1).

(5) An appointment under subsection (2) and every appointment to the panel under subsection (4) shall be notified in the *Gazette*.

(6) In subsection (2) and in section 34(1) "qualified in law" means qualified for appointment as a District Judge under section 5 of the District Court Ordinance.

(Cap. 336.)

**33.** (1) The jurisdiction of an Appeal board on any appeal or group of appeals shall be exercised by the Chairman and such number of persons from the panel referred to in section 32(4) as the Chairman may appoint for that appeal or group of appeals.

Exercise of  
Appeal Board's  
jurisdiction.

(2) On any appeal an Appeal Board may confirm, reverse or vary the decision, requirement or specification appealed from.

(3) Every question before an Appeal Board shall be determined by the opinion of the majority of the Chairman and the members hearing the appeal except a question of law which shall be determined by the Chairman; in the event of an equality of votes the Chairman shall have a casting vote.

(4) An Appeal Board shall not at any time consist of a majority of persons who are public officers.

(5) An Appeal Board may—

(a) receive evidence on oath;

(b) admit or take into account any statement, document, information or matter whether or not it would be admissible as evidence in a court of law; and

(c) by notice in writing summon any person to appear before it to produce any document or to give evidence that may reasonably be required.

(6) Where an Appeal Board allows an appeal under section 31(1)(a) or (b), it may make an award of—

(a) costs in the case of an appeal under section 31(1)(a), and

(b) costs and compensation in the case of an appeal under section 31(1)(b),

of such sum, if any, as is just and equitable in all the circumstances of the case, including the conduct and comparative blameworthiness of the appellant and his servants and agents, and of the public officers and any other persons concerned.

(7) The Appeal Board shall have the powers which are vested in the High Court in the exercise of its powers under subsection (5)(a) or (c).

(8) The Chairman may determine any form or matter of practice or procedure in so far as no provision is made therefor by or under this Ordinance.

**34.** (1) If the Chairman is precluded by illness, absence from Hong Kong or any other cause from exercising his functions the Governor may appoint any other person qualified in law to act as Chairman and as such to exercise and perform all of the functions, duties and powers of the Chairman during the period of his appointment.

Supplementary  
provisions as to  
Appeal Board.

(2) If a person appointed by the Chairman under section 33(1) to hear an appeal or group of appeals is precluded by illness, absence from Hong Kong, or any other cause from exercising his functions, the Chairman may appoint any other person from the panel provided for in section 32(4) to act in his place.

(3) The Chairman may at any time resign his office by notice in writing to the Governor.

(4) The hearing of an appeal may be continued notwithstanding any change in the membership of an Appeal Board as if the change had not occurred:

Provided that no person shall be appointed as a member of an Appeal Board before which the hearing of an appeal has been commenced without the consent of the parties.

Review of Appeal Board's decision by Governor in Council.

**35.** (1) This section applies where—

- (a) an Appeal Board has reversed or varied a decision, requirement or specification of the Authority or an authorized officer; and
- (b) the Authority considers that exceptional circumstances require the review of the Board's decision in the public interest.

(2) The Authority may, where this section applies, within 14 days of being notified of a decision of an Appeal Board refer the case for review by the Governor in Council.

(3) Where the Authority has referred a case for review under subsection (2), he shall forthwith notify the other party in writing of the reference, giving his reasons for seeking the review and inviting the other party, within 14 days of receiving the notice, to submit written representations concerning the review for consideration by the Governor in Council.

(4) Upon a reference under subsection (2) and upon the expiry of the period of 14 days referred to in subsection (3) the Governor in Council may review the case, considering any representations submitted under subsection (3) and may confirm, reverse or vary the decision of the Appeal Board.

Case may be stated.

**36.** (1) The Chairman may of his own motion, before an appeal is determined, refer any question of law to the Court of Appeal by way of case stated.

(2) On the hearing of the case the Court of Appeal may amend the case or order it to be sent back to the Appeal Board for amendment.

## PART VII

### MISCELLANEOUS

Codes of Practice.

**37.** (1) For the purpose of encouraging reduction of air pollution, the Secretary, after consultation with the Environmental Protection Advisory Committee, may give advice, either generally in the form of Codes of Practice or particularly in writing, to any person operating or maintaining any chimney or relevant plant, or conducting any specified process, as to the construction, maintenance or manner of using or conducting the same or as to the kind of fuel or any other material to be used therein.

(2) Failure on the part of any person to observe the provisions of any such Code or to accept any such advice shall not of itself render that person liable to criminal proceedings of any kind, but any such failure may, in any proceedings whether civil or criminal and including proceedings for an offence under this Ordinance, be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.

Authority may hold a hearing.

**38.** (1) Where on an application under section 14, 16 or 18, any objection to the grant of the application is duly made to the Authority, he may hear the applicant and any objector if he considers it expedient for the purpose of obtaining information relevant to any question to be decided.

(2) The procedure to be followed at, or for the purpose of convening, any hearing under subsection (1) shall be determined by the Authority.



**39.** (1) The Authority shall cause to be kept, in such form as the Secretary may determine, a register containing details of— Authority to keep a register.

- (a) applications required to be entered under section 14(3)(a);
- (b) the particulars and information contained in notices given to the Authority pursuant to section 19(1);
- (c) all exemptions under section 20;
- (d) all licences;
- (e) such other matters as may be required by regulations made under section 43 to be recorded in the register.

(2) Upon application in writing to the Authority, the register shall be open for inspection by the public during normal office hours at such places as the Secretary thinks fit.

(3) A person shall be entitled, upon payment of the prescribed fee, to a copy of any entry in the register certified by or on behalf of the Authority.

**40.** (1) Any person may apply to the Secretary to withhold from public notification or other public access under this Ordinance any information concerning a specified process, whether appearing in a licence or an application therefor or in any notice, return or other document. Protection of private information from publicity.

(2) An application under subsection (1) shall be granted by the Secretary to the extent that he is satisfied that public notification or other public access to the information would—

- (a) be contrary to the applicant's private interest to an unreasonable degree; or
- (b) be contrary to the public interest.

(3) Where an application under this section is refused by the Secretary, whether in whole or in part—

- (a) notice of the refusal and of the reasons therefor shall be given in writing by the Secretary to the applicant;
- (b) the information shall not be publicly notified or otherwise made accessible to the public until the time for appeal under section 31(2) has expired, or, if notice of appeal is lodged before that time, until determination or withdrawal of the appeal.

**41.** (1) A person commits an offence who, except in the circumstances provided for in subsection (2), discloses or gives to another person any information or document concerning a trade, business or manufactory secret which has come to his knowledge or into his possession in the course of the exercise or performance of his powers, functions or duties under this Ordinance. Offence to disclose secret information obtained officially.

(2) A person does not commit an offence under subsection (1) if he discloses or gives any information or document to another person—

- (a) for the purpose of the exercise or performance of his functions, duties or powers under this Ordinance or proceedings connected therewith;
- (b) pursuant to an order of a court under subsection (3);
- (c) with the consent in writing of all such persons as appear to him, after reasonable inquiry, to be interested in the confidentiality of the information or document.

(3) Where in any proceedings a court considers that the justice of the case so requires, the court may order the disclosure of any information or the giving of any document referred to in subsection (1).

(4) Any person who commits an offence under subsection (1) is liable to a fine of \$10,000 and to imprisonment for 6 months.

**42.** (1) No liability shall rest on the Crown or upon any public officer by reason of the fact that any licence or exemption is granted or continued under this Ordinance. Protection of Crown and public officers.

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

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

## Regulations.

43. (1) For the purposes of this Ordinance, the Governor in Council may, after consultation with the Environmental Protection Advisory Committee, by regulation provide for—

- (a) the designation of noxious or offensive emissions;
- (b) the abatement, prohibition and control of the emission into the atmosphere of air pollutants;
- (c) methods to be used for the measurement of the composition, concentration, quantity, quality or density of any air pollutant emitted from any chimney or relevant plant or passing through any chimney;
- (d) the provision of any apparatus or device for indicating the composition, concentration, quantity, quality or density of any air pollutant emitted from any chimney or relevant plant or passing through any chimney;
- (e) the modification or replacement of or prohibition of the use of any chimney or relevant plant or any class thereof, either generally or in any particular case;
- (f) the prohibition of the installation of any chimney or relevant plant without the approval of the Authority;
- (g) the court to make orders prohibiting the use of any chimney or relevant plant installed, altered, modified or operated in contravention of this Ordinance or requiring any such chimney or relevant plant to be dismantled;
- (h) the adoption of precautions against the emission of air pollutants from any chimney or relevant plant, or any class thereof;
- (i) the employment of competent persons to be in charge of the operation of any relevant plant, or any class thereof;
- (j) the prohibition or restriction of the burning in or at any place whatsoever of any kind of material that may evolve air pollutants;
- (k) the prohibition or control of any process or procedure used in or in connexion with—
  - (i) the operation of any chimney or relevant plant, or any class thereof; or
  - (ii) the conduct of any specified process, or any class thereof;
- (l) in relation to any specified process, or any class thereof, the installation and use or operation of any specified type of equipment;
- (m) any matters required to implement the provisions of Part IV relating to licences or exemptions;
- (n) the particulars and information to be contained in a register;
- (o) (i) the imposition of requirements as to the composition, concentration, quantity, quality, viscosity or density and the use of any kind of fuel or any kind of other material that may evolve air pollutants; and
  - (ii) where any such requirements are in force, the prohibition or restriction of the production, treatment, distribution, import, storage, sale or use of any fuel, or any kind of other material that may evolve air pollutants, which in any respect fails to comply with the requirements and which is for use in Hong Kong;
- (p) the specification of the kinds of fuel, or any kind of other material that may evolve air pollutants (including fuel or other material used in the propulsion of any vessel, motor vehicle, railway locomotive or aircraft), and the kinds of relevant plant (including any furnace or engine used in the propulsion of

any vessel, motor vehicle, railway locomotive or aircraft) to which the regulations are to apply;

- (q) the making of orders prohibiting the use of any particular fuel, or any kind of other material that may evolve air pollutants, or class or mixture of fuels, or such other materials, in any relevant plant;
- (r) the application of standards, specifications, descriptions or tests laid down in documents not forming part of the regulations;
- (s) the keeping of records and statistics relating to the emission of air pollutants from any chimney, relevant plant, or the composition, concentration, quantity, quality or density of fuel, or any kind of other material that may evolve air pollutants, used in any relevant plant, or any class thereof;
- (t) the manner of determining the amount of compensation payable under sections 24 and 25, the factors to be taken into account or disregarded and the principles to be applied in determining that amount;
- (u) the forms to be used and the procedure to be followed for the purposes of appeals under Part VI;
- (v) authorizing the Authority to confer exemptions from any provisions of the regulations;
- (w) the amendment by order of the Governor of any Schedule to regulations made under this Ordinance;
- (x) the application of section 31(3) in the case of any appeal from a decision, requirement or specification of a public officer under any regulations made under this Ordinance;
- (y) unless otherwise provided prescribing anything which under this Ordinance is to be or may be prescribed;
- (z) the better carrying out generally of the provisions and purposes of this Ordinance.

(2) Regulations made under this section may be of general application or limited to any particular air control zone or other area or district or to any particular chimney, relevant plant or specified process, or any class or kind thereof.

(3) Without prejudice to the generality of subsection (1), where fuel, or other material, is subject to the requirements as to composition, concentration, quantity, quality, viscosity or density imposed by regulations under this section, the regulations may, in order that persons to whom the fuel, or other material, is supplied are afforded information as to its composition, concentration, quantity, quality, viscosity or density, impose requirements for securing that the information is displayed at such places and in such manner as may be prescribed.

(4) Regulations made under this section may provide that a contravention of specified provisions thereof or of specified conditions of a licence shall be an offence and may provide penalties therefor not exceeding a fine of \$20,000 and imprisonment for 6 months.

**44.** (1) Subject to this section, this Ordinance shall bind the Crown.

(2) Section 10, 12 or 13 shall not have effect to permit proceedings to be taken against, or to impose any criminal liability on, the Crown or on any person who causes or permits to be emitted any air pollutant or conducts any specified process which he is required to emit or conduct in the course of carrying out his duties in the service of the Crown.

(3) If it appears to the Authority that any emission of an air pollutant or conduct of a specified process is being, or has been, emitted or conducted in contravention of section 10, 12 or 13, by any person in the course of carrying out his duties in the service of the Crown, the Authority shall, if the contravention is not forthwith terminated to his satisfaction, report the matter to the Chief Secretary.

(4) On receipt of a report under subsection (3) the Chief Secretary shall enquire into the circumstances and, if his enquiry shows that a contravention of section 10, 12 or 13 is continuing or likely to recur, he shall ensure that the best practicable steps are taken to terminate the contravention or avoid the recurrence.

Application of  
Ordinance to  
Crown.

(5) Any notice or application under this Ordinance concerning the emission of an air pollutant or the conduct of a specified process which is to be, or may be, given or made by or on behalf of the Crown may be given or made by any public officer on behalf of the Crown.

(6) Any notice under this Ordinance concerning the emission of an air pollutant or the conduct of a specified process which is to be, or may be, given by the Authority to the Crown shall be given to the principal officer of the Government Department which appears to the Authority to be responsible for the emission or conduct or, in the event of any question arising as to which Department is responsible, to such public officer as the Chief Secretary shall determine.

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

Environmental  
Protection  
Advisory  
Committee.

45. If any question arises as to who are the body of persons for the time being constituting the Environmental Protection Advisory Committee mentioned in sections 6, 7, 37 and 43 the matter shall be referred to the Chief Secretary, who shall determine the question by certificate under his hand.

Limit of time  
for laying  
informations, etc.

46. A complaint or information in respect of an offence under this Ordinance shall be made or laid, as the case may be, within—

(a) 6 months from the time when the matter of such complaint or information respectively first came to the knowledge of the Authority or an authorized officer; or

(b) 1 year from the time of the commission of the offence,

whichever is the earlier.

Prosecution of  
offences.  
(Cap. 227.)

47. (1) Subject to this section, prosecutions for offences against this Ordinance may be brought in the name of the Authority, and may be commenced and conducted by any public officer appointed under section 13 of the Magistrates Ordinance.

(2) Nothing in this section shall be deemed to derogate from the powers of the Attorney General in relation to the prosecution of offences.

Defences in  
proceedings  
relating to  
emission of air  
pollutants.

48. In any proceedings for an offence under this Ordinance relating to the emission of an air pollutant it shall be a defence to prove the contravention complained of was—

(a) solely due to the lighting up of a relevant plant which was cold and that the best practicable means had been taken to prevent or minimise the emission of the air pollutant; or

(b) solely due to some failure of a chimney or relevant plant or of an apparatus used in connexion with a chimney or relevant plant and that—

(i) the failure could not have reasonably been foreseen, or if foreseen, could not reasonably have been provided against;

(ii) the contravention could not reasonably have been prevented by action taken after the failure occurred; and

(iii) as soon as was reasonably practicable after the occurrence of the failure the Authority was informed thereof in writing.

Provisions of  
Ordinance to be in  
addition to any  
other Ordinance.

49. The provisions of this Ordinance shall be in addition to and not in lieu of the provisions of any other Ordinance.

Repeal and  
amendments.  
(Cap. 311.)

50. (1) The Clean Air Ordinance is repealed.

(Cap. 132.)

(2) Section 12(3) of the Public Health and Urban Services Ordinance is amended by deleting "Clean Air Ordinance" and substituting the following—

"Air Pollution Control Ordinance 1983".

(3) The Notification of Approved Devices and the Declaration of Smoke Control Area (Consolidation) Notification are cancelled. (Cap. 311, sub. leg.)

(4) The Clean Air (Furnaces, Ovens and Chimneys) (Installation and Alteration) Regulations are amended— (Cap. 311, sub. leg.)

(a) by deleting “Clean Air” wherever it occurs and substituting the following—  
“Air Pollution Control”;

(b) by deleting “Air Pollution Control Officer” wherever it occurs and substituting the following—

“Authority”;

(c) in regulation 12(7) and (8), by deleting “authority” and substituting in each case the following—

“Authority”; and

(d) in the Schedule, by deleting the Note at the end thereof and substituting the following—

“Note: This certificate of approval may be required for inspection by the Authority or an authorized officer and should be kept in a safe place at the above-mentioned premises.

註：本許可證須妥為保存於上述樓宇內，以便主管當局或受權人員查閱。”

(5) The Clean Air (Restriction and Measurement of Smoke Emission) Regulations are amended— (Cap. 311, sub. leg.)

(a) by deleting “Clean Air” wherever it occurs and substituting the following—  
“Air Pollution Control”;

(b) by deleting “competent authority” wherever it occurs and substituting the following—

“Authority”;

(c) by deleting “a smoke abatement officer” wherever it occurs and substituting the following—

“an authorized officer”;

(d) subject to paragraph (c), by deleting “smoke abatement officer” wherever it occurs and substituting the following—

“authorized officer”;

(e) in regulation 3(2), by deleting “14A” and substituting the following—  
“31”; and

(f) in regulation 8(3), by deleting “authority” and substituting the following—  
“Authority”.

FIRST SCHEDULE

[ss. 2 & 11.]

<i>Process</i>	<i>Description</i>
1. Acrylates Works	Works in which acrylates are— (a) made; (b) purified; or (c) made or purified and polymerised.
2. Aluminium Works	Works of the following kinds in which the processing capacity exceeds 1 tonne (expressed as aluminium) or, if the mode of operation is continuous, 0.67 tonne (expressed as aluminium) per hour, and in which—

<i>Process</i>	<i>Description</i>
	<ul style="list-style-type: none"> <li>(a) aluminium swarf is degreased by the application of heat;</li> <li>(b) aluminium or aluminium alloys are recovered from aluminium or aluminium alloy scrap fabricated metal, swarf, skimmings, drosses or other residues by melting but not including works in which aluminium or aluminium alloys are separated from ferrous metals by liquation in sloping hearth furnaces;</li> <li>(c) molten aluminium or aluminium alloys are treated by any process involving the evolution of chlorine or its compounds;</li> <li>(d) aluminium is extracted from any material containing aluminium; or</li> <li>(e) oxide of aluminium is extracted from any ore;</li> </ul> <p>and any materials used in the above processes.</p>
3. Cement Works	Works in which the total silo capacity exceeds 10 000 tonnes and in which cement is handled or in which argillaceous and calcareous materials are used in the production of cement clinker and works in which cement clinker is ground.
4. Ceramic Works	Works in which the processing capacity exceed 2 tonnes or, if the mode of operation is continuous, 0.67 tonne per day, and in which— <ul style="list-style-type: none"> <li>(a) pottery products (including domestic earthenware and china, sanitary ware, electrical porcelain, glazed tiles and teapots) are made in intermittent kilns fired by coal or oil;</li> <li>(b) heavy clay or refractory goods are fired by coal or oil in— <ul style="list-style-type: none"> <li>(i) intermittent kilns;</li> <li>(ii) continuous grate-fired kilns, not being tunnel kilns; or</li> <li>(iii) any kiln in which a reducing atmosphere is essential; or</li> </ul> </li> <li>(c) salt glazing of any earthenware or clay material is carried on.</li> </ul>
5. Chlorine Works	Works in which chlorine is made or used in any manufacturing process.
6. Copper Works	Works in which the processing capacity exceeds 0.5 tonne (expressed as copper) or, if the mode of operation is continuous, 0.45 tonne (expressed as copper) per hour and in which— <ul style="list-style-type: none"> <li>(a) by the application of heat— <ul style="list-style-type: none"> <li>(i) copper is extracted from any ore or concentrate or from any material containing copper or its compounds;</li> <li>(ii) molten copper is refined;</li> <li>(iii) copper or copper alloy swarf is degreased; or</li> </ul> </li> </ul>

<i>Process</i>	<i>Description</i>
	(iv) copper alloys are recovered from scrap fabricated metal, swarf or residues by processes designed to reduce the zinc content; or
	(b) copper or copper alloy is melted and cast in moulds the internal surfaces of which have been coated with grease-bound or oil-bound dressings.
7. Electricity Works	Works in which fossil fuel is burnt either wholly for or as part of the process of electricity generation where the installed generation capacity of such works exceeds 5 MW.
8. Gas Works	Works in which coal, coke, oil or any mixtures or derivatives thereof are handled or prepared for carbonization or gasification and in which such materials are subsequently carbonized or gasified.
9. Iron and Steel Works	Works in which the installed furnace capacity exceeds 1 tonne and in which a ferrous metal melting process for casting is carried out.
10. Metal Recovery Works	Works in which scrap metals are treated in any type of furnace for recovery of metal with a processing capacity exceeding 50 kg per hour, where this is the primary object of the works.
11. Mineral Works	Works in which the processing capacity exceeds 5 000 tonnes per annum and in which metallurgical slags or pulverised fuel ash or minerals are subjected to any size reduction, grading or heating by processes giving rise to dust, including the subsequent handling of the products of any such process.
12. Incinerators	Works in which the installed capacity exceeds 0.5 tonne per hour and which are used for the destruction by burning of wastes or refuse.
13. Petrochemical Works	Works in which the processing capacity exceeds 200 tonnes per annum, and in which— (a) any products of petroleum are prepared or used, except as solvent, in any chemical manufacturing process, not being a chemical manufacturing process described in any other specified process; or (b) used lubricating oil is prepared for re-use by any thermal process.
14. Sulphuric Acid Works	Works in which the installed capacity exceeds 1 000 tonnes per annum and in which the manufacture of sulphuric acid is carried on by any process, and works for the concentration or distillation of sulphuric acid.
15. Tar and Bitumen Works	Works of the following kinds in which the installed capacity exceeds 3 000 tonnes per annum, and in which—

<i>Process</i>	<i>Description</i>
	(a) gas tar or coal tar is distilled or is heated in any manufacturing process; or
	(b) creosote or any other product of distillation of gas tar or coal tar is distilled or is heated in any manufacturing operation.
16. Frit Works	Works in which the installed furnace capacity exceeds 1 tonne and in which frit is made by fusion of minerals and quenching.
17. Lead Works	Works in which the installed capacity exceeds 0.4 tonne or, if the mode of operation is continuous 0.25 tonne per hour, and in which by the application of heat, lead is extracted from any material containing lead or its compounds and works in which compounds of lead are manufactured from metallic lead or its compounds by dry processes which give rise to dust and fumes.
18. Amines Works	Works in which the processing capacity exceeds 1 000 tonnes per annum and in which— (a) any methylamine or any ethylamine is made; or (b) any methylamine or any ethylamine is used in any chemical process.
19. Asbestos Works	Works in which the installed capacity exceeds 200 tonnes (expressed as asbestos) per annum and in which the preparation and fabrication of asbestos is carried out.
20. Chemical Incineration Works	Works in which installed capacity exceeds 100 kg per hour and are used for the destruction by burning of wastes produced in the course of organic chemical reactions which occur during the manufacture of materials for the fabrication of plastics and fibres, and works for the destruction by burning of chemical wastes containing combined chlorine, fluorine, nitrogen, phosphorus or sulphur.
21. Hydrochloric Acid Works	Works of the following kinds in which the installed capacity exceeds 1 000 tonnes per annum— (a) hydrochloric acid works or works where hydrochloric acid gas is evolved either during the preparation of liquid hydrochloric acid or for use in any manufacturing process or as the result of the use of chlorides in a chemical process; (b) tinsplate flux works, works in which any residue or flux from tinsplate works is calcined for the utilization of such residue or flux, and in which hydrochloric acid gas is evolved; or



<i>Process</i>	<i>Description</i>
	(c) salt works (not being works in which salt is produced by refining rock salt, otherwise than by the dissolution of rock salt at the place of deposit) in which the extraction of salt from brine is carried on, and in which hydrochloric acid gas is evolved.
22. Hydrogen Cyanide Works	Works in which the installed capacity exceeds 1 000 tonnes per annum and in which hydrogen cyanide is made or is used in any chemical manufacturing process.
23. Sulphide Works	Works in which the processing capacity exceeds 1 000 tonnes (expressed as sulphuretted hydrogen) per annum and in which sulphuretted hydrogen is evolved by the decomposition of metallic sulphides, or in which sulphuretted hydrogen is used in production of such sulphides, or any works in which sulphuretted hydrogen is evolved as part of a chemical process not being a chemical process described in any other specified process.

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 SECOND SCHEDULE

 [ss. 15(4), 18(7),  
22(6) & 23(7).]

 TERMS AND CONDITIONS SUBJECT TO WHICH A LICENCE  
MAY BE GRANTED OR AN EXEMPTION CONTINUED

1. The place and times or periods at or during which the emission of air pollutants may take place.
2. The design and construction of any chimney or relevant plant or equipment used in connexion with the emission of any air pollutant.
3. The rate of discharge of any air pollutant or total amount thereof in relation to the matter discharged or any constituent thereof.
4. The nature, composition, colour or temperature of the matter discharged or any constituent thereof.
5. The treatment of any potential air pollutant before it is discharged and the chimney or relevant plant or equipment to be provided, maintained and used therefor.
6. The equipment and facilities to be provided for inspecting, sampling or measuring the emission of any air pollutant or any constituent thereof.
7. The maintenance and security of any equipment and facilities referred to in paragraph 6.
8. The provision to the Authority of samples, and of the results of the analysis of samples, of air pollutants or any material that may evolve air pollutants.
9. The keeping of records in relation to the matters mentioned in paragraphs 3 and 4.
10. The access of authorized officers to the equipment, facilities and records referred to in paragraphs 6 and 9.
11. Any matters relating to care and maintenance in relation to the provisions of paragraphs 3 and 4.

## THIRD SCHEDULE

[s. 20(2).]

<i>Item</i>	<i>Specified Process</i>	<i>Premises</i>
1.	Electricity Works	Castle Peak "A" Power Station— Tap Shek Kok, New Territories (Tuen Mun Town Lot No. 220)
2.	Electricity Works	Castle Peak "B" Power Station— Tap Shek Kok, New Territories (Tuen Mun Town Lot No. 220)
3.	Electricity Works	Lamma Island Power Station—Po Lo Tsui, Lamma Island (Lot 1934 in Demarcation District No. 3)
4.	Cement Works	Picnic Bay, Lamma Island (Lot 64 in Demarcation District No. 6)
5.	Cement Works	Tap Shek Kok, New Territories (Tuen Mun Town Lot No. 201)
6.	Cement Works	Picnic Bay, Lamma Island (Quarry Allocation in Demarcation District No. 6)
7.	Chlorine Works	Tsing Yi Island (Tsing Yi Island Town Lot No. 75)
8.	Petrochemical Works	Tsing Yi Island (Tsing Yi Island Town Lot No. 59) (Styrene Train No. 2)

## FOURTH SCHEDULE

[s. 26(2).]

## DETERMINATION OF COMPENSATION

1. A person who claims compensation under section 24 or 25 shall submit to the Authority particulars in writing of his claim.

2. (1) A claim under paragraph 1 shall be submitted—

- (a) where a licence or exemption is cancelled, within 1 year after the cancellation;
- (b) where a licence or exemption is varied so as to impose additional obligations on either the licence holder or the owner of the premises used for the conduct of the specified process to which the exemption relates, as the case may be within 1 year after the completion of the works attributable solely to the requirement of the Authority.

(2) The period referred to in sub-paragraph (1) may, upon application made to the Governor either before or after the expiry of that period, be extended in accordance with this paragraph.

(3) Notice of an application under sub-paragraph (2) shall be given to the Authority by the applicant.

(4) The Governor may extend the period within which particulars of a claim must be submitted to the Authority if he considers that the delay in submitting such particulars was occasioned by mistake of fact or mistake of any matter of law (other than the matters contained in sub-paragraph (1)) or by any other reasonable cause or that the Crown is not materially prejudiced by the delay.

(5) An extension may be granted by the Governor under sub-paragraph (4) with or without conditions for such period as he thinks fit but not in any case exceeding 6 years from the time when the right to compensation first arose.

3. If the Authority and the claimant do not agree on the settlement or compromise of the claim within 3 months of the submission or particulars under paragraph 1, the claimant may notify the Authority that he desires a reference to a tribunal; and the Authority shall thereupon refer the claim with the particulars thereof to a tribunal, consisting of a District Judge or other person nominated by the Chief Justice for the purpose.

4. The tribunal shall hear any evidence which the Authority or the claimant may wish to tender and, if so desired, hear counsel on behalf of the Authority and the claimant, and shall determine the amount of compensation, if any, to be paid to the claimant.

5. For the purposes of paragraph 4, the tribunal shall have powers similar to those vested in the Supreme Court for hearing evidence, determining claims for damages and awarding costs.

6. The practice and procedure in connexion with any proceedings before a tribunal under this section shall be such as the tribunal may determine.

7. Any award or decision of a tribunal under this Schedule shall be final but if a party is dissatisfied with the decision as being erroneous in point of law, he may, within 1 month after the decision, require the tribunal to state and sign a case for the decision of the Court of Appeal.

8. The tribunal may direct that interest be paid on compensation (but not on costs) from such date and for such period as the tribunal thinks fit, at the lowest rate paid from time to time by members of The Hong Kong Association of Banks on time deposits or at such other rate as may be determined by resolution of the Legislative Council.

9. All compensation, including interest thereon and costs, shall be paid from such money as may be provided from time to time by the Legislative Council.

Passed by the Hong Kong Legislative Council this 27th day of April 1983.

Jennie CHOK,  
*Clerk to the Legislative Council.*

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

Jennie CHOK,  
*Clerk to the Legislative Council.*