



Supplement No. 1
TO THE
HONG KONG GOVERNMENT GAZETTE
Published by Authority

SUP. TO GAZETTE No. 37]

FRIDAY, AUGUST 4, 1961.

[VOL. CIII

IMMIGRATION SERVICE ORDINANCE, 1961.

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HONG KONG

No. 30 OF 1961.



I assent.

Ordinance not disallowed, see G.N. 1746/61

CLAUDE BURGESS,

Officer Administering the Government.

3rd August, 1961.

An Ordinance to provide for the establishment and maintenance of a service to be known as the Immigration Service, to vest certain powers in its members and to provide for matters connected with the purposes aforesaid.

[4th August, 1961]

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

PART I.

Preliminary.

In operation by Proc. 5 of 1961.

1. This Ordinance may be cited as the Immigration Service Ordinance, 1961, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*.

Short title and commencement.

2. In this Ordinance, save where the context otherwise requires—
 “Director” means the Director of Immigration;
 “Service” means the Immigration Service established by section 3.

Interpretation.

PART II.

Establishment of Service and its regulation and control.

3. There is hereby established a service which shall be known as the Immigration Service and which shall consist of such officers and other ranks as shall by annual vote or otherwise be from time to time provided for by the Governor and the Legislative Council.

Establishment and composition of Service.

4. Provision for the payment and maintenance of the Service shall be by charges on the general revenue of the Colony to such amounts as may from time to time by annual vote or otherwise be voted by the Legislative Council.

Payment and maintenance of Service.

5. Subject to the orders and control of the Governor, the Director shall be responsible for the direction and administration of the Service.

Direction and administration of Service.

6. A warrant card, signed by the Director, shall be issued to every member of the Service and shall be evidence of his membership thereof.

Warrant cards.

Duty of members to obey orders.

7. Every member of the Service shall obey all lawful orders of his superior officers whether the same are given orally or in writing, and shall also obey all orders made by the Director under the provisions of section 9.

Disciplinary offences by certain members of Service.

8. (1) Any immigration sub-inspector and any member of the Service having a rank lower than that of immigration sub-inspector who is found guilty by an assistant director of immigration of any of the following, namely—

- (a) absence from duty without leave or good cause;
- (b) sleeping on duty;
- (c) conduct to the prejudice of good order and discipline;
- (d) disobedience of orders;
- (e) insubordination;
- (f) neglect of duty or orders;
- (g) being unfit for duty by reason of intoxication;
- (h) in the course of duty, making a statement which is false in a material particular;
- (i) unlawful or unnecessary exercise of authority resulting in loss or injury to any person or to the Government;
- (j) wilfully or negligently damaging or destroying or negligently losing any Government property;
- (k) conduct calculated to bring the public service into disrepute,

shall be liable to be punished by such assistant director of immigration with any one or more of the following punishments—

- (i) reduction in rank;
- (ii) caution, warning, reprimand or severe reprimand;
- (iii) forfeiture of not more than one week's pay, save that, in the case of absence without leave or good cause for more than one week, pay may be forfeited for a period of not more than the period of such absence from duty;
- (iv) performance of extra duties for a period not exceeding twelve hours nor exceeding six hours in any week;
- (v) stoppage of increment for a period not exceeding twelve months.

(2) Any member of the Service aggrieved by any finding of or punishment imposed by an assistant director of immigration under the provisions of subsection (1) may, within fourteen days from the date thereof, appeal to the Director.

(3) Upon any such appeal, the Director may confirm, reverse or vary such finding or punishment:

Provided that he shall not impose any punishment other than a punishment which an assistant director of immigration is authorized to impose under the provisions of subsection (1).

(4) In the event of any such appeal, the punishment against the imposition of which, or imposed on the finding against which, the appeal is made shall be suspended pending the determination of the appeal.

9. (1) The Director may, from time to time, make orders, which shall be known as "Service standing orders", prescribing or providing for—

Power of Director to make standing orders.

- (a) the control, direction and information of the Service;
- (b) discipline;
- (c) training;
- (d) classifications and promotions;
- (e) inspections, drills, exercises and parades;
- (f) welfare;
- (g) departmental finance;
- (h) services to be performed by members of the Service;
- (i) the manner and form of reports, correspondence and other records;
- (j) the performance of any act which may be necessary for the proper carrying out of the duties of the Service;
- (k) such other matters as may, in his opinion, be necessary or expedient for preventing abuse or neglect of duty and for rendering the Service efficient in the discharge of its duties.

(2) No Service standing order shall be inconsistent with any of the provision of this Ordinance.

10. For the purposes of this Ordinance, every member of the Service shall be deemed to be always on duty when required to act as such and shall perform the duties imposed upon, and exercise the powers granted to, him under this Ordinance or any other law at any and every place in the Colony where he may be doing duty.

Members of Service on duty.

11. Every member of the Service who leaves the Service, whether in consequence of his resignation or dismissal or otherwise, shall on leaving the same deliver up his uniform and warrant card and any other Government property which may be in his possession.

Duty of member to deliver up uniform, etc. on leaving Service.

PART III.

Certain powers of members of Service.

Power to arrest without warrant in certain cases and provisions as to persons arrested by members of Service, etc.

12. (1) Any member of the Service may arrest without warrant any person whom he may reasonably suspect of being guilty of an offence under section 15, 16, 17, 18 or 19.

(2) (a) Any person who is arrested by any member of the Service, whether under the provisions of this Ordinance or of any other enactment, shall be delivered into the custody of the officer in charge of a police station within twelve hours of his arrest, unless, in the meantime, such person has been brought before a magistrate or released.

(b) When any such person is delivered into the custody of the officer in charge of a police station, the provisions of section 47 of the Police Force Ordinance shall apply.

(Cap. 232).

(3) Without prejudice to the provisions of any other enactment conferring on any member of the Service power to arrest persons—

(a) if any person forcibly resists the endeavour of any member of the Service to arrest him or attempts to evade the arrest, such member may use all means necessary to effect the arrest; and

(b) if any member of the Service who is in pursuit of any person to be arrested has reason to believe that such person has entered into or is in any place, the person residing in or in charge of such place shall on demand of such member allow him free ingress thereto and afford all reasonable facilities for search therein for such person.

Power to examine and detain certain things.

13. Any member of the Service may examine and, if he considers it necessary, detain anything which appears to him to be or to contain evidence of the commission of an offence under section 15, 16, 17, 18 or 19.

Power to take photograph, etc. of arrested person.

14. Any member of the Service or any police officer may take the photograph, finger-prints, weight and measurements of any person who has been arrested by any such member, whether under the provisions of this Ordinance or of any other enactment:

Provided that, if any such person who has not previously been convicted is subsequently discharged or acquitted, any photograph (both negative and copies), finger-print impressions and records of weight or measurements so taken shall be destroyed forthwith or delivered to such person.

PART IV.

Offences and penalties.

15. Any person who causes, or does any act calculated to cause, disaffection amongst the members of the Service or induces, or does any act calculated to induce, any member of the Service to withhold his services or to commit breaches of discipline shall be guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars and to imprisonment for two years.

Offences in relation to disaffection in the Service.

16. Any person who knowingly—

- (a) makes or causes to be made to any member of the Service a false report of the commission of any offence; or
- (b) misleads any member of the Service by giving false information or by making false statements or accusations,

Making of false reports, etc. to member of Service.

shall be guilty of an offence and shall be liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

17. Any person who assaults, resists or obstructs any member of the Service acting in the execution of his duty, or aids or incites any person to assault, resist or obstruct any such member of the Service, shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred and fifty dollars and to imprisonment for six months.

Assaulting or resisting member of Service.

18. Any person who contravenes the provisions of section 11 shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars and may, in addition, be ordered by the court before which he is convicted to pay to the Government any sum not exceeding an amount equal to the value of the property.

Contravention of section 11 to be an offence.

19. If any person who is not a member of the Service wears, without the permission of the Director, the uniform of the Service or any dress having the appearance, or bearing any of the distinctive marks, of that uniform, he shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred and fifty dollars.

Unauthorized wearing of Service uniform, etc.

PART V.

Supplementary and miscellaneous.

20. The Governor in Council may by regulation prescribe or provide for— Regulations.

- (a) the creation and administration of a Service welfare fund;
- (b) such other matters as may be necessary or expedient for rendering the Service efficient in the discharge of its duties;
- (c) the better carrying into effect of the purposes of this Ordinance.

Application of section 48 of Magistrates Ordinance.

(Cap. 227).

Saving in relation to application of Colonial Regulations and Government General Orders.

Saving in relation to prerogative right of Crown.

21. The provisions of section 48 of the Magistrates Ordinance shall apply to any property which has come into the possession of any member of the Service in connexion with any criminal offence as they apply to property which has so come into the possession of the police.

22. Nothing in the provisions of section 8 shall be deemed to affect the application to any immigration sub-inspector or to any member of the Service having a rank lower than that of immigration sub-inspector of Colonial Regulations, so far as they are applicable, or the General Orders of the Government, so however that no member of the Service shall be liable to be proceeded against under those Regulations or Orders in respect of any act or omission which has been the subject of disciplinary proceedings under the provisions of the said section 8.

23. Nothing in the provisions of this Ordinance shall be deemed to affect the right of the Crown to dismiss or terminate the appointment of any member of the Service and without compensation.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 2nd day of August, 1961, and is found by me to be a true and correctly printed copy of the said Bill.

A. CHAPMAN,
Deputy Clerk of Councils.

(Secretariat CR52/3231/48IV)

HONG KONG

No. 31 OF 1961.

I assent.

CLAUDE BURGESS,
Officer Administering the Government.

3rd August, 1961.

An Ordinance to amend the Immigration (Control and Offences) Ordinance, 1958.

[*4th August, 1961.*]

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

1. This Ordinance may be cited as the Immigration (Control and Offences) (Amendment) Ordinance, 1961, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette.*

L.S.

Ordinance not disallowed - see G.O. 116/67.

In operation by Proc. 6 of 1961. Short title and commencement.