



SUPPLEMENT NO. 1
TO THE
HONG KONG GOVERNMENT GAZETTE
Published by Authority

SUP. TO GAZETTE No. 39]

FRIDAY, AUGUST 13, 1948.

[Vol. XC

THE POLICE FORCE ORDINANCE, 1948.

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HONG KONG

No. 41 OF 1948.

I assent.



A. G. GRANTHAM,
Governor.

12th August, 1948.

An Ordinance to amend and consolidate the law relating to the Police Force.

[13th August, 1948.]

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

PART I.

PRELIMINARY.

1. This Ordinance may be cited as the Police Force Ordinance, 1948, and shall come into operation on such date as the Governor shall appoint by Proclamation. Short title.
Commence-
ment.

2. All the provisions of this Ordinance shall apply to all persons who, at the commencement of this Ordinance, are serving in the police force established under any Ordinance repealed by this Ordinance and service under any such repealed Ordinance shall for the purpose of pay allowances, gratuities and pensions, be deemed to be service under this Ordinance. Application

3. In this Ordinance, unless the context otherwise requires,— Inter-
pretation.

“Commissioner” means the Commissioner of Police of the Colony;

“commanding officer” or “officer commanding” means a deputy commissioner, an assistant commissioner, the superintendents in charge of the detective and special branches of the Criminal Investigation Department of the police force, the commandant of the Police Training School and any officer lawfully acting in any of these appointments;

“gazetted police officer” includes officers of all ranks from and including the Commissioner down to and including police cadet;

“inspector” means an inspector of police of whatever grade or rank;

“non-commissioned officer” means a police officer below the rank of inspector down to and including corporal and also includes detectives of corresponding ranks;

“police constable” or “constable” means a police officer under the rank of corporal and also includes detective police constable or detective constable;

“police officer” includes any member of the police force;

“police regulations” means regulations made in exercise of the powers conferred by section 43 of this Ordinance and any regulations continued or continuing in force upon the enactment of this Ordinance;

“Police Welfare Fund” means the fund established under section 37 of this Ordinance;

“special constable” means any person recruited under section 24.

Administra-
tion of
police force
by Commis-
sioner.

4. The Commissioner, subject to the orders and control of the Governor, shall be charged with the supreme direction and administration of the police force.

Commis-
sioner or
deputy
commis-
sioner
may
exercise
powers of
a police
officer.

5. The Commissioner or a deputy commissioner may exercise and perform any of the powers conferred or duties imposed by law on a police officer.

6. All powers granted to and duties imposed by law on any police officer shall be exercised or performed in accordance with police regulations and police orders made under this Ordinance.

Powers and duties to be exercised subject to regulations and orders.

7. All police officers shall be bound to serve at any place in the Colony or on board any vessel in the service of the Government of the Colony.

Police officers liable for service at any place in the Colony.

8. The duties of the police force shall be to take lawful measures for—

Duties of police force.

(a) preserving the public peace;

(b) preventing and detecting crimes and offences;

(c) preventing injury to life and property;

(d) apprehending all persons whom it is lawful to apprehend and for whose apprehension sufficient grounds exist;

(e) regulating processions and assemblies in public places or places of public resort;

(f) controlling traffic upon public thoroughfares and removing obstructions therefrom;

(g) preserving order in public places and places of public resort, at public meetings and in assemblies for public amusements, for which purpose any police officer on duty shall have free admission to all such places and meetings and assemblies while open to any of the public;

(h) assisting in carrying out any revenue, excise, sanitary, conservancy, quarantine, immigration and alien registration laws;

(i) assisting in preserving order in the waters of the Colony and in enforcing port and maritime regulation therein;

(j) executing summonses, subpoenas, warrants, commitments and other process issued by the courts;

(k) exhibiting informations and conducting prosecutions;

(l) protecting unclaimed and lost property and finding the owners thereof;

(m) taking charge of and impounding stray animals;

- (n) assisting in the protection of life and property at fires;
- (o) protecting public property from loss or injury;
- (p) attending the criminal courts and, if specially ordered, the civil courts and keeping order therein;
- (q) escorting and guarding prisoners;
- (r) executing such other duties as may by law be imposed on a police officer.

PART II.

CONSTITUTION OF POLICE FORCE.

Constitution of police force.

9. The police force of the Colony shall consist of such gazetted police officers, inspectors, non-commissioned officers and constables as shall by annual vote or otherwise be from time to time provided for by the Governor and the Legislative Council.

Payment of police force.

10. Provisions for the payment and maintenance of the police force under this Ordinance shall be by charges on the general revenues of the Colony, to such amounts and in such proportion as may from time to time by annual vote or otherwise be voted by the Legislative Council.

Appointment, etc., of gazetted police officers.

11. A gazetted police officer shall be appointed, interdicted, suspended or dismissed according to the terms of the Regulations for His Majesty's Colonial Service and the General Orders of the Hong Kong Government for the time being in force but subject nevertheless to any special conditions of his appointment.

Appointment of inspectors and non-commissioned officers.

12. (1) An inspector may be appointed and promoted by the Commissioner and may be dismissed by the Governor.

(2) A non-commissioned officer may be appointed, advanced in salary, promoted, reverted or dismissed by the Commissioner and may be appointed or advanced in salary by a commanding officer.

Appointment of police constables.

13. A police constable may be appointed, advanced in salary, promoted or dismissed by the Commissioner, and may be appointed or advanced in salary by a commanding officer.

Interdiction.

14. If in any case the Commissioner considers that the public interest requires that any inspector, non-commissioned officer or constable should cease to exercise the powers and functions of his office instantly, he may interdict such officer

from the exercise of such powers and functions provided that disciplinary or criminal proceedings are being instituted or are about to be instituted against such officer. An officer who has been interdicted under this section shall be allowed to receive such proportion of his pay, not being less than one-half, as the Commissioner shall, in every such case, direct. If the proceedings against any such officer do not result in his dismissal or other punishment he shall be entitled to the full amount of the pay which he would have received if he had not been interdicted.

15. A warrant card shall be issued to every police officer, and shall be evidence of his appointment under this Ordinance. Warrant card.

16. (1) Subject to the provisions of sub-section (2) of this section— Exemption in respect of civil process.

(a) the pay and allowances of a non-commissioned officer or constable shall not be assignable or transferable or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever;

(b) no non-commissioned officer or constable shall be liable to be imprisoned under an order of any court by reason of non-payment of any debt which he may have incurred or for which he may become liable.

(2) The provisions of sub-section (1) of this section shall not apply to—

(a) a debt due to His Majesty or to the Hong Kong Government;

(b) a fine imposed by law;

(c) an order for the payment of alimony or maintenance made by any court.

(3) The pay and allowances of a non-commissioned officer or constable shall not pass to the official receiver or a trustee on the bankruptcy of such non-commissioned officer or constable nor shall they form part of his estate for the purpose of bankruptcy.

17. The Governor may, by notification in the *Gazette*, impose upon any village representative, deputy village representative or assistant village representative the duties of a police officer and may invest any such person with the powers conferred by law upon a police officer not above the rank of sergeant. Every such person so invested will take the same oath or make the same declaration as a police officer. Village representative to have police powers and duties in certain cases.

Police officer to be deemed on duty.

18. Every police officer shall for the purposes of this Ordinance be deemed to be always on duty when required to act as such and shall perform the duties 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.

Clothing.

19. Every police officer shall be provided with such articles of uniform and equipment as may be necessary for the effectual discharge of his duties. Such articles shall be kept and used according to police orders.

Engagement of inspectors, non-commissioned officers and constables.

20. An inspector, non-commissioned officer or constable shall engage to serve in the police force for such periods and on such conditions as may be prescribed in the police regulations.

Engagements to be in writing.

21. (1) Every such engagement shall be in writing signed by the person engaged and in such form as may from time to time be directed by the Secretary of State or the Colonial Secretary and shall—

(a) if made in the Colony be signed by a commanding officer or any other officer authorised thereto under the police regulations; or

(b) if made outside the Colony by some person authorised thereto in that behalf by the Governor.

(2) Notwithstanding anything in any other law contained, any male person not below the age of 18 years shall be deemed competent to enter into an engagement under this Ordinance.

Continuance of service.

22. (1) Every non-commissioned officer or constable who shall continue in the police force after the completion of the period of service for which he originally engaged shall be deemed to be under engagement to serve from month to month; every such engagement after the first month's service being held to commence on the first, and to be determinable on the last day of each successive month.

(2) No such officer shall resign from the police force unless he shall have given not less than one calendar month's notice in writing to the Commissioner or the gazetted police officer under whom he is serving, as the case may be.

23. It shall be lawful for the Governor in Council to require any non-commissioned officer or constable to retire from the police force who—

Compulsory retirement for inefficiency or age.

- (a) appears to the Governor to be unable to discharge efficiently the duties of his office; or
- (b) has attained the age of 45 years.

24. (1) The Commissioner may without written engagement employ persons to serve temporarily as special constables.

Special constables.

(2) A special constable shall be deemed to be under engagement to serve from month to month, every such engagement being held to commence on the first and to be determinable on the last day of each successive month.

(3) A special constable may be discharged at any time after one month's notice in writing or may resign upon giving to the Commissioner one month's notice in writing.

(4) A special constable shall have and may exercise all the powers and privileges of a constable belonging to the police force and shall be liable to all the provisions of discipline prescribed for a constable while so serving.

25. (1) The Commissioner may, at any time, terminate the engagement of an inspector during his first agreement by giving him three months' notice in writing or on paying him one month's salary in lieu of notice.

Discharge of inspector, non-commissioned officer and constable.

(2) A commanding officer may discharge from the police force upon one month's notice in writing any non-commissioned officer or constable who has not completed 10 years' service.

26. (1) An inspector shall be entitled to claim his discharge at any time during his first engagement on giving three months' notice in writing to the Commissioner of his wish to resign from the force or upon payment of one month's salary in lieu of notice.

Resignation during term of engagement.

(2) A non-commissioned officer or constable shall be entitled to claim his discharge at any time during his first engagement on giving one month's notice in writing to the gazetted police officer under whom he is serving of his intention to resign the police force.

Declaration
of office.

27. Every police officer shall, before entering on the duties of his office, take before a magistrate or justice of the peace an oath or declaration of office in the form specified in the Schedule to this Ordinance.

Schedule.

Delivery of
Government
property
on leaving
the force.

28. (1) Every police officer who by resignation, dismissal, discharge or otherwise leaves the police force, shall before leaving deliver up each and every article of uniform, clothing, arms, accoutrement and other Government property which may be in his possession.

(2) Any person neglecting so to deliver up such property shall be liable on summary conviction before a magistrate to a fine not exceeding one hundred dollars or imprisonment for a term not exceeding three months, and in addition thereto shall be liable to pay the value of the property not delivered up which value shall be ascertained by such magistrate in a summary way and shall be recoverable as a fine.

Desertion.

29. Any police officer who deserts shall be liable on summary conviction to imprisonment for a term not exceeding twelve months and all arrears of pay due to him shall be forfeited.

PART III.

DISCIPLINE AND DUTIES.

Police
officers
to obey
lawful
orders.

30. Every police officer shall obey all lawful orders of his superior officers whether given verbally or in writing and shall obey and conform to police regulations and orders made under this Ordinance.

Punishment
of non-
commis-
sioned
officers and
constables.

31. (1) Any non-commissioned officer or constable who shall be guilty of any of the following offences—

(a) absence from duty without leave or good cause;

(b) sleeping on duty;

(c) conduct to the prejudice of good order and discipline;

(d) cowardice in the performance of duty;

(e) disobedience of police regulations, or any police orders, whether written or verbal;

- (f) being unfit for duty through intoxication,
- (g) insubordination;
- (h) neglect of duty or orders;
- (i) malingering;
- (j) in the course of his duty making a statement which is false in a material particular;
- (k) excess of duty resulting in loss and injury to any other person;
- (l) wilful destruction or negligent loss of or injury to government property;
- (m) conduct calculated to bring the public service into disrepute,

shall be liable on conviction before a commanding officer or any other officer authorised under the police regulations to any of the following punishments :—

- (i) reduction in rank or class
- (ii) forfeiture of not more than one month's pay (except in the case of absence without good cause, when forfeiture of pay shall extend to the period of absence in addition to any other punishment inflicted).

In lieu of or in addition to either of the aforesaid punishments, any such non-commissioned officer may be dismissed from the police force by the Commissioner and in such case shall be reduced to the ranks before dismissal or he may be ordered to resign forthwith in which case he shall not receive salary in lieu of notice.

(2) A constable who shall be guilty of any of the offences specified in sub-section (1) of this section, shall be liable, in lieu of or in addition to any of the punishments specified therein to imprisonment in any building set aside as a guard room or cell for any term not exceeding seven days with rations of bread (or rice) and water or to not more than two of the following punishments :—

- (i) confinement to barracks not exceeding 14 days;

- (ii) compulsory performance of extra duties or drills;
- (iii) such fatigue duties as may be prescribed in the police general orders;
- (iv) temporary deprivation of specified privileges;
- (v) forfeiture of good conduct allowance.

(3) Any non-commissioned officer or constable may appeal against any punishment inflicted under this section to the Commissioner within thirty days from the promulgation of the punishment in routine orders. In every case where an appeal has been lodged the sentence shall be suspended pending the determination of the appeal.

(4) If it shall appear to the commanding officer enquiring into any such offence that the offence is of such an aggravated character as to require a more severe punishment than that specified in sub-sections (1) and (2) of this section, the person accused may be charged before a magistrate and shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

(5) Any non-commissioned officer or constable convicted before a magistrate under this section may, as a result of such conviction, be reduced in rank or dismissed from the police force by a commanding officer.

Punishment
of
inspector.

32. (1) The Commissioner may punish any inspector for any of the offences specified in sub-section (1) of section 31 by reprimand, severe reprimand, with or without deferment or stoppage of increment or forfeiture of not more than one month's pay.

(2) Any such inspector aggrieved by such punishment may within thirty days from the promulgation of the punishment in headquarter orders appeal to the Governor.

(3) If it shall appear to the Commissioner that the offence is of such an aggravated character as to require more severe punishment than that specified in sub-section (1) of this section the inspector accused may be charged before a magistrate and shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(4) Any inspector convicted before a magistrate under this section may, as a result of such conviction, be reduced in rank or dismissed from the police force by the Commissioner unless the conviction is reversed on appeal.

33. Any police officer who threatens or insults another officer of senior or equal rank when such other officer is on duty or when such threat or insult relates to or is consequent on the discharge of duty by the officer so threatened or insulted, shall be liable on conviction before a magistrate to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding one year.

Threatening or insulting another officer of senior or equal rank.

34. (1) Any non-commissioned officer or constable convicted under the provisions of section 29, sub-section (4) of section 31 or section 33 or convicted under the provisions of any other law of an offence punishable with imprisonment may, unless the conviction is reversed on appeal, be reduced in rank or dismissed from the police force and in case of dismissal any arrears of pay due to him may be forfeited by order of the Commissioner.

Reduction or dismissal after conviction.

(2) Any non-commissioned officer dismissed from the police force in accordance with the provisions of sub-section (1) of this section shall be reduced to the ranks before dismissal.

35. (1) Nothing in this Ordinance shall be construed to exempt any police officer from being proceeded against by the ordinary course of law when accused of any offence punishable under any other ordinance or law.

Police officer not exempted from ordinary process of law.

(2) No police officer who has been acquitted by a magistrate or the Court of any crime or offence shall be tried departmentally on the same charge.

(3) Any sentence of imprisonment passed upon any constable for any offence under this Ordinance may be carried out in a police cell or in a place set aside as a prison under section 2 of the Prisons Ordinance, 1932. A sentence passed upon any person subject to this Ordinance shall be in no respect affected by such person ceasing to be subject to this Ordinance by discharge or otherwise.

Ordinance No. 38 of 1932.

(4) Every officer in charge of a prison shall receive into his custody and carry out any sentence of imprisonment passed upon any constable for any offence under this Ordinance upon an order in writing being delivered to him under the hand of a magistrate or a gazetted police officer,

which order shall specify the offence and period of imprisonment.

(5) Every person whilst undergoing any such sentence of imprisonment shall be deemed to be and be dealt with as a criminal prisoner.

(6) (a) No pay or allowance shall be payable to any police officer following the date of the conviction of such officer by a magistrate or the Court for any crime or offence unless the approval of the Commissioner of such payment shall be given.

(b) No pay or allowance shall accrue to any police officer in respect of any period during which he is undergoing any sentence of confinement to cells.

Saving of the prerogative rights of the Crown, etc.

36. Nothing in this Ordinance contained shall be construed to limit the right of the Crown or the Government to dismiss or terminate the appointment of any police officer and without compensation.

PART IV.

WELFARE FUND.

Welfare Fund.

37. (1) There shall be established a fund to be known as the "Police Welfare Fund".

(2) The fund shall consist of—

(a) all sums forfeited by or fines inflicted on police officers other than sums forfeited by or fines inflicted by a magistrate or competent court under the powers conferred by this Ordinance;

(b) all sums paid for hire of police officers;

(c) all illegal gratifications offered to police officers and confiscated by an order of court.

(d) any donations and voluntary contributions;

(e) such sums as may be voted annually by the Legislative Council.

(3) The fund shall be controlled by the Commissioner subject to police regulations and applied to the purpose of—

(a) recompensing inspectors, non-commissioned officers and constables for extra services rendered by them;

(b) procuring for inspectors, non-commissioned officers and constables who are serving or who have been retired on pension or gratuity, comforts, convenience or other advantages not chargeable to the public revenue; and

(c) granting loans to police officers who are serving or who have been retired on pension or gratuity on rates and terms in accordance with police regulations.

PART V.

UNCLAIMED PROPERTY AND INTESTATE ESTATES.

38. (1) Particulars of any property which comes into the custody or possession of the police other than in connection with any criminal charge or under section 40 of this Ordinance shall be forwarded to the Commissioner. Disposal of property deposited at police stations.

(2) If any person shall establish his title to such property to the satisfaction of the Commissioner within three months after the property comes into the custody or possession of the police, the same shall be delivered to him on payment of all expenses reasonably incurred and of such sum, not exceeding one-fifth of the value of the property, as may be awarded by the Commissioner by way of reward to the finder (if any) of the property.

(3) If the title to any such property is not so established within the said period of three months, the property may be returned to the finder (if any) not being a member of the police force on payment by him of such expenses.

(4) If any finder or person establishing title as aforesaid fails or refuses immediately to pay the said expenses or sum awarded, the property may be sold and the proceeds of sale after deduction of all expenses reasonably incurred shall be paid to such finder or person establishing title; in the case of payment to a person establishing title there shall also be deducted such sum as may be awarded by the Commissioner as a reward to the finder (if any) of the property.

(5) If title to the property is not established and either the finder cannot be traced or the property came into the custody or possession of the police otherwise than through a finder, the property may be sold and after deduction of all expenses reasonably incurred the proceeds of sale shall be paid into the Treasury.

Disposal of unclaimed property of persons in custody on remand.

Ordinance No. 38 of 1932.

Power to administer certain property of deceased persons.

39. Any property of a person held in custody on remand which comes into the custody or possession of the police in accordance with the requirements of this Ordinance or of the Prisons Ordinance, 1932, or of any regulations or orders made thereunder which remains unclaimed by any such person for a period of one month from the discharge of such person from custody may be sold and after deduction of expenses reasonably incurred the proceeds of sale shall be paid into the Treasury.

40. (1) Whenever any person dies leaving goods and chattels in the Colony under five hundred dollars in value, which goods and chattels are, in the absence of any person entitled thereto, taken charge of by the police for the purpose of safe custody, the Commissioner may, if he thinks fit, order the said goods and chattels to be delivered, without grant of probate or letters of administration taken out, to any person claiming to be entitled to the whole or any part thereof, if he shall be satisfied as to the title of the claimant and the value of the goods and chattels by the oath or affirmation of the claimant, or by such other evidence as he may require.

(2) In the event of any such goods and chattels being of a perishable nature or likely to be deteriorated in value by being kept the Commissioner may order the sale thereof and the proceeds of such sale shall be dealt with in the manner specified in sub-section (1) of this section.

(3) The Commissioner may, at his discretion, before making any order under the preceding sub-sections, take such security as he may think proper for the due administration and distribution of such goods and chattels. Nothing in this section contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

(4) Any goods and chattels taken charge of under this section and not claimed within the period of one month, may be sold and the proceeds of sale shall be paid into the Treasury: Provided always that if at any time thereafter the owner of such goods and chattels shall appear and claim the same, restitution shall be made, on the claim being established to the satisfaction of the Governor, out of the Treasury.

Disposal of valueless unclaimed goods or chattels.

41. If goods and chattels of the nature specified in sections 38, 39 and 40 are of no appreciable value or of value so small in the opinion of the Commissioner as to render impracticable the sale of such property, the Commissioner may

order such property to be destroyed or otherwise disposed of as he thinks fit.

PART VI.

PROCEDURE.

42. In all matters in which by this Ordinance or by police regulations made thereunder jurisdiction is given to certain police officers to inflict punishments, the powers of a magistrate may be exercised by such officers in so far as is necessary to enable them to exercise such jurisdiction.

Powers of magistrates to be exercised by certain police officers.

43. (1) The Governor in Council may make such regulations to be called "Police Regulations" as he may think expedient not inconsistent with the provisions of this Ordinance. Such regulations in addition to the powers hereinbefore conferred may provide for—

Police regulations

- (a) conditions of service including pensions and gratuities;
- (b) organisation and distribution;
- (c) appointments, pay, resignations, discharges, dismissals, reductions and reversions;
- (d) discipline and punishments;
- (e) leave of absence and fares and passages on such leave;
- (f) description of uniforms, arms and accoutrements to be provided;
- (g) administration of the Police Welfare Fund;
- (h) such other matters as may be necessary and expedient for preventing abuse or neglect of duty, and for rendering the police force efficient in the discharge of its duties, and for carrying out the objects of this Ordinance.

(2) Whenever the Governor in Council is satisfied that it is equitable that any regulation made under this section should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person that regulation may be given retrospective effect for that purpose: Provided that no such regulation shall have retrospective effect unless it has received the prior approval of the Legislative Council signified by resolution.

(3) Every regulation made under this section shall be published in the *Gazette*.

Revocation
of pension.

44. If within three years after the granting of a pension under regulations in force under this Ordinance it is proved to the satisfaction of the Governor in Council that the person to whom such pension has been granted has been guilty of any corrupt practice in the execution of his office either by receiving bribes or by inducing or compelling payment directly or indirectly of any valuable consideration to himself or to any other person by way of bribe or by otherwise acting corruptly in the execution of or under colour of his office as a member of the police force, the Governor in Council may revoke and annul the grant of such pension or make such reduction therein as to the Governor in Council may appear fit.

Police
General
Orders.

45. The Commissioner may from time to time make orders to be called "Police General Orders" as he may think expedient not inconsistent with the provisions of this Ordinance and of police regulations. Such Orders in addition to the powers hereinbefore conferred may provide for—

- (a) discipline, training and the regulation and carrying out of punishment;
- (b) classifications and promotions;
- (c) instructions and examinations;
- (d) inspections, drill, exercises and parades;
- (e) police services and duties of every description and the manner in which they shall be carried out;
- (f) the institution and maintenance of police messes, canteens, reading rooms and the welfare of the police force;
- (g) departmental finance;
- (h) buildings, grounds, stores, furniture and equipment;
- (i) transfers of police officers and constables, the places at which they shall reside and the particular services to be performed by them;
- (j) the collection and communication of intelligence and information;
- (k) the manner and form of reports, correspondence and other records;
- (l) the performance of any act which may be necessary for the proper carrying out of the provisions of this or any other Ordinance or any rules or regulations made thereunder or for the efficient discharge of any duty imposed by law on the police force;

(m) such other matters as may be necessary and expedient for preventing abuse or neglect of duty, for rendering the police force efficient in the discharge of its duties, and for carrying out the objects of this Ordinance.

46. The Commissioner may issue orders of a routine nature to be called "Headquarter Orders" for the control, direction and information of the police force provided that such orders are not inconsistent with the provisions of this Ordinance or police regulations or police general orders.

Head-
quarter
Orders.

47. Commanding officers may issue orders to be called "Routine Orders" for the control, direction and information of the police beneath their respective commands: Provided that such orders are not inconsistent with the provisions of this Ordinance or police regulations, police general orders or headquarter orders. They may also issue "standing orders" for special tasks of a regular nature: Provided that such orders are not inconsistent with the provisions of this Ordinance, police regulations, police general orders, headquarter orders and routine orders.

Routine
orders
and
standing
orders.

48. The Commissioner may delegate any of his powers under sections 38, 39, 40 or 41 to any member of the police force by office and such delegations will be published in police general orders.

Delegation
of certain
powers by
Commis-
sioner.

PART VII.

MISCELLANEOUS PROVISIONS.

49. (1) It shall be lawful for any police officer to apprehend any person who may be charged with or whom he may reasonably suspect of being guilty of any offence without any warrant for that purpose and whether he has seen such offence committed or not and also any person whom he may reasonably suspect of being liable to deportation from the Colony.

Arrest,
detention
and bail of
suspected
persons
and
seizure of
suspected
property.

(2) If any such person forcibly resists the endeavour to arrest him or attempts to evade the arrest, such officer or other person may use all means necessary to effect the arrest.

(3) If any such officer has reason to believe that any person to be arrested has entered into or is in any place the person residing in or in charge of such place shall on demand of any such officer allow him free ingress thereto and afford all reasonable facilities for search therein.

(4) If ingress to such place cannot be obtained under sub-section (3) of this section it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity of escape from a police officer, to enter such place and search therein and in order to effect an entrance into such place to break open any outer or inner door or window of any place whether that of the person to be arrested or of any other person if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

(5) Any police officer or other person authorised to make an arrest may break open any place in order to liberate himself or any other person who having lawfully entered for the purpose of making an arrest is detained therein.

(6) Where any person is apprehended by a police officer it shall be lawful for such officer to search for and take possession of any newspaper book or other document or any portion or extract therefrom and any other article or chattel which may be found on his person or in or about the place at which he has been apprehended and which the said officer may reasonably suspect of throwing light on the character or activities of such person or his associates: Provided that nothing in this sub-section shall be construed in diminution of the powers of search conferred by any particular warrant.

(7) Whenever it appears to a magistrate upon the oath of any person that there is reasonable cause to suspect that there is in any building vessel (not being a ship of war or a ship having the status of a ship of war) or place any newspaper book or other document, or any portion or extract therefrom, or any other article or chattel which may throw light on the character or activities of any person liable to apprehension under this section or on the character or activities of the associates of any such person, such magistrate may by warrant directed to any police officer empower him with such assistants as may be necessary by day or by night—

(a) to enter and if necessary to break into or forcibly enter such building vessel or place and to search for and take possession of any such newspaper book or other document or portion of or extract therefrom or any such other article or chattel which may be found therein, and

(b) to arrest any person who may appear to have such newspaper book or other document or portion thereof or extract therefrom or other article or chattel in his possession or under his control.

50. Every person taken into custody by a police officer with or without a warrant, except a person detained for the mere purpose of taking his name and residence, shall be forthwith delivered into the custody of the officer in charge of a police station or a police officer authorised in that behalf by the Commissioner.

Person arrested to be delivered to custody of police officer in charge of police station.

51. (1) Whenever any person apprehended with or without a warrant is brought to the officer in charge of any police station or a police officer authorised in that behalf by the Commissioner, it shall be lawful for such officer to inquire into the case and unless the offence appears to such officer to be of a serious nature or unless such person appears to such officer to be a person who ought to be detained, to discharge the person upon his entering into a recognizance, with or without sureties, for a reasonable amount, to appear before a magistrate or to surrender for service of a warrant of arrest and detention or for discharge at the time and place named in the recognizance; but where such person is detained in custody he shall be brought before a magistrate as soon as practicable, unless within forty-eight hours of his apprehension a warrant for his arrest and detention under any law relating to deportation is applied for, in which case he may be detained for a period not exceeding seventy-two hours from the time of such apprehension. Every recognizance so taken shall be of equal obligation on the parties entering into the same and shall be liable to the same proceedings for the estreating thereof as if the same had been taken before a magistrate.

Person arrested to be discharged on recognizance or brought before a magistrate.

(2) The respective names residences and occupations of the person so apprehended and of his surety or sureties, if any, entering into such recognizance, together with the condition thereof and the sums respectively acknowledged, shall be entered in a book to be kept for that purpose which shall be laid before the magistrate before whom the person apprehended is to appear or in the case of a person bound by recognizance to surrender for service of a warrant of arrest and detention or for discharge, before any magistrate; and if such person does not appear or has not appeared when called upon at the time and place mentioned in the recognizance, the magistrate

shall forthwith estreat the recognizance: Provided that if the person apprehended appears and makes application for a postponement of the hearing of the charge against him, the magistrate may enlarge the recognizance to such further time as he may think proper, and when the matter has been heard and determined such recognizance shall be discharged without fee or reward. •

(3) If, upon a person being taken into custody as aforesaid, it appears to the officer in charge of the police station or a police officer authorised in that behalf by the Commissioner that the inquiry into the case cannot be completed forthwith, he may discharge the said person on his entering into a recognizance, with or without sureties, for a reasonable amount to appear at such police station and at such time as is named in the recognizance, unless he previously receives a notice in writing from the officer in charge of the police station or a police officer authorised in that behalf by the Commissioner that his attendance is not required; and any such recognizance may be enforced as if it were a recognizance for the appearance of the said person before a magistrate.

(4) Whenever any person apprehended with or without warrant is a member of His Majesty's Forces it shall be lawful for the officer in charge of a police station if he deems fit to hand over such person to the custody of the appropriate authority of His Majesty's Forces for detention by such authority; but where such person is so detained in custody he shall be produced before the officer in charge of a police station when required and, if charged, before a magistrate as soon as practicable and in any case not later than forty eight hours from the time of apprehension.

Power of
arrest.

52. Any warrant lawfully issued for any purpose may be executed by any police officer at any time notwithstanding that the warrant is not in his possession at the time, but the warrant shall, on the demand of the person affected, be shown to him as soon as practicable after its execution.

Search
arrest
and
detention.

53. It shall be lawful for any police officer to stop and search and if necessary to arrest and detain for further inquiries any person whom he may find in any street or other public place, or on board any vessel, or in any conveyance, at any hour of the day or night, who acts in a suspicious manner or whom he may suspect of having committed or of being about to commit or of intending to commit, any offence.

54. It shall be lawful for any police officer to stop, search and detain any vessel boat vehicle horse or other animal or thing in or upon which there in reason to suspect that any-thing stolen or unlawfully obtained may be found and also any person who may be reasonably suspected of having or conveying in any manner anything stolen or unlawfully obtained; and any person to whom any property if offered to be sold or delivered, if he has reasonable cause to suspect that any such offence has been committed with respect to such property, or that the same or any part thereof has been stolen or otherwise unlawfully obtained, is hereby authorised and if it is in his power, is required to apprehend and detain such offender and as soon as may be to deliver him into the custody of a police officer together with such property to be dealt with according to law.

Power to stop, search and detain vessels, etc., or person suspected of conveying stolen property.

55. It shall be lawful for a police officer to stop and detain until due inquiry can be made, any person whom, and any vehicle horse or other animal or thing which he finds employed in removing the furniture of any house or lodging between 8 p.m. and 6 a.m., or whenever such officer has good grounds for believing that such removal is made for the purpose of evading the payment of rent.

Power to detain person, etc., removing furniture in night-time.

56. (1) When any person having charge of any vehicle boat horse or any other animal or thing is taken into the custody of a police officer under this Ordinance, it shall be lawful for any such officer to take charge of such horse vehicle or boat or such other animal or thing and to deposit the same in some place of safe custody as a security for payment of any penalty to which the person having had charge thereof may become liable and of any expenses necessarily incurred for taking charge of and keeping the same.

Detention and sale of vehicle etc. of person apprehended.

(2) It shall be lawful for the magistrate before whom the case is heard to order such vehicle boat horse or such other animal or thing to be sold for the purpose of satisfying such penalty and reasonable expenses, in default of payment thereof, in like manner as if the same had been subject to be distrained and had been distrained for the payment thereof.

57. Notwithstanding any provision of any enactment relating to public health or sanitation which limits the power to institute summary proceedings in certain cases, it shall be lawful for any police officer to institute summary proceedings before a magistrate against any person contravening any such

Power of arrest in case of certain offences against sanitation.

provision of any such enactment as regulates the sale of food-stuffs elsewhere than in public markets: Provided that nothing in this section shall be deemed to authorise the arrest of any offender unless the contravention is committed in a highway or other public place.

Finger
prints,
photo-
graphs, etc.

58. It shall be lawful for any police officer to take the photograph finger prints weight and measurements—

(a) of any person who has been arrested under the powers conferred by this or any other law, and

(b) of any person who has been convicted of any offence:

Provided that if any such person who has not previously been convicted of any offence shall have been photographed and measured, be discharged by a magistrate or acquitted upon his trial, all photographs (both negatives and copies) finger print impressions and records of weight or measurement so taken shall be forthwith destroyed or handed over to such person.

Protection
of police
officer
acting in
execution of
warrant.

59. In case any action is brought against any police officer for any act done in obedience to the warrant of any magistrate, such officer shall not be responsible for any irregularity in the issuing of the warrant or for any want of jurisdiction in the magistrate issuing the same and he may plead the general issue and give such warrant in evidence; and on production of the warrant and proof that the signature thereto is the handwriting of a person reputed to be a magistrate and that the act was done in obedience to the warrant, the jury or court shall find a verdict or give judgment for the defendant who shall also recover double his costs of suit.

Penalty on
victualler,
etc.,
harbouring
police
officer
while on
duty.

60. Every keeper of any place for the entertainment of the public whether spirituous liquors are sold thereon or not, who knowingly harbours or entertains any police officer on duty, or permits him to remain in such place while on duty, shall upon summary conviction be liable to a fine not exceeding two hundred and fifty dollars.

Penalty on
person
assaulting,
etc., police
officer in
execution
of duty, or
misleading
officer
by false
information.

61. Every person who assaults or resists any police officer acting in the execution of his duty, or aids or incites any person so to assault or resists, or refuses to assist any such officer in the execution of his duty when called upon to do so, or who, by the giving of false information with intent to defeat or delay the ends of justice, wilfully misleads or attempts to mislead any such officer, shall upon summary conviction be liable to a fine

not exceeding two hundred and fifty dollars and to imprisonment for any term not exceeding six months.

62. (1) On the application of any person the Commissioner may, if he thinks fit, detail any police officer or police officers to do special police duty in upon or about any premises or business or vessel specified by the applicant. Special duty and expenses thereof.

(2) The applicant shall pay to the Commissioner for the services of any such officer or officers so detailed such fees as the Commissioner may think fit.

(3) All fees so received by the Commissioner shall be paid by him into the Treasury forthwith to the credit of the Police Welfare Fund and be accounted for monthly; and every sum of money due for such services shall be deemed a debt due to the Crown and shall be recoverable by the Financial Secretary in like manner as other Crown debts in respect of fees and otherwise under the Crown Remedies Ordinance, 1875.

Ordinance No. 6 of 1875.

PART VIII.

REPEAL.

63. The Police Force Ordinance, 1932, the Police Force Amendment Ordinance, 1934, the Police Force Amendment Ordinance, 1936, and sections 2, 3 and 4 of the Police Force and Peace Preservation Amendment Ordinance, 1938, are hereby repealed.

Repeal. Ordinances Nos. 37 of 1932, 36 of 1934, 2 of 1936, 27 of 1938.

SCHEDULE.

Schedule.

(Section 27).

OATH OF OFFICE.

I,
swear by Almighty God that I will obey, uphold and maintain the laws of the Colony of Hong Kong and that I will at all times execute the powers and duties of my office honestly faithfully and diligently without fear of or favour to any person and with malice or ill will toward none.

AND I do further swear that I will at all times obey without question the lawful orders of those set in authority over me.

Sworn before me thisday of19.....

.....
Magistrate/Justice of the Peace.

DECLARATION OF OFFICE.

I,
do solemnly and sincerely declare that I will obey, uphold and maintain the laws of the Colony of Hong Kong and that I will at all times execute the powers and duties of my office honestly, faithfully and diligently without fear of or favour to any person and with malice or ill-will toward none.

AND I further declare that I will at all times obey without question the lawful orders of those set in authority over me.

Declared before me this day of 19.....

.....
Magistrate/Justice of the Peace.

Passed the Legislative Council of Hong Kong, this
11th day of August, 1948.

ALASTAIR TODD,
Deputy Clerk of Councils.