

**No. S. 47.**—The following Bills were read a first time at a Meeting of the Council held on the 27th February, 1919:—

A BILL

INTITLED

An Ordinance to restrict temporarily the persons who may engage in business connected with certain non-ferrous metals and metallic ores.

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

1.—(1.) This Ordinance may be cited as the Non-Ferrous Metal Industry Ordinance, 1919.

Short title.  
and duration.  
7 & 8 Geo. 5,  
c. 67, s. 10.

(2.) This Ordinance shall continue in force only during the continuance of the present war and for a period of five years after the termination thereof.

2.—(1.) It shall not be lawful for any corporate body, firm, or individual after the expiration of six months from the commencement of this Ordinance, or such longer period as the Governor in Council may generally or in any particular case allow, to carry on the business of winning, extracting, smelting, dressing, refining, or dealing by way of wholesale trade, in metal or metallic ore to which this Ordinance applies, unless licensed to do so by the Governor in Council, such licence being in the form set out in the Second Schedule to this Ordinance:

Prohibition  
against  
dealing in  
certain  
metals and  
ores without  
a licence.  
7 & 8 Geo. 5,  
c. 67, s. 1.

Provided that the purchase or sale of metal shall not be deemed to be dealing in such metal where such purchase or sale is incidental only to the trade carried on by the purchaser or seller:

Provided also that no licence shall be required when the winning, extracting, smelting, dressing, refining or dealing is carried on wholly outside the Colony.

(2.) In the case of a corporate body, firm, or individual with respect to which any of the conditions set forth in the First Schedule to this Ordinance apply, or which is controlled by a corporate body, firm, or individual in respect of which any such conditions apply, no licence shall be granted unless the Governor in Council is of opinion that the grant of a licence is expedient, but save as aforesaid any corporate body, firm, or individual carrying on or proposing to carry on such business as aforesaid shall on making application in the prescribed manner, and on furnishing such information and allowing inspection of such books and documents as may be reasonably required, and on payment of the prescribed fee, which shall not exceed ten dollars, be entitled to a licence under this Ordinance.

(3.) A licence under this Ordinance shall remain in force unless and until it is suspended or revoked.

(4.) The Governor in Council, if satisfied by evidence not before him at the time when the licence was granted that such corporate body, firm, or individual is, or has become, subject to any of the conditions set forth in the First Schedule to this Ordinance, or, in the case of a corporate body, firm, or individual to which a licence has been granted notwithstanding that it is subject to any such conditions as aforesaid, that it is expedient that the licence should be revoked or suspended, may revoke or suspend the licence.

(5.) If any question arises between the Governor in Council and any corporate body, firm, or individual—

- (a) as to whether or not the business carried on by the corporate body, firm, or individual is such as to require a licence under this Ordinance; or
- (b) as to whether or not of the conditions set forth in the First Schedule to this Ordinance apply in respect of the corporate body, firm, or individual; or
- (c) as to whether or not the corporate body, firm, or individual is controlled by a corporate body, firm, or individual in respect of which any such conditions apply; or
- (d) as to the requirements of the Governor in Council for the production of books or documents for inspection,

the question shall, subject to rules of court, be referred by the Governor in Council to the Supreme Court for determination, and the decision of a Judge of the Supreme Court on any such reference shall be final, and no appeal therefrom shall lie to any other court.

(6.) Where at the expiration of the said six months or longer period allowed by the Governor in Council proceedings on any such application are pending in the Supreme Court, the Court shall, on application being made for the purpose, extend the said period of six months or longer period as respects that corporate body, firm, or individual for such period as may be necessary to allow the question to be determined by the Court, and where the application is made with reference to the suspension or revocation of a licence the licence shall not be suspended or revoked until the question has been determined by the Court.

(7.) The name of any corporate body, firm, or individual to whom a licence has been granted under this Ordinance, or whose licence has been suspended or revoked, shall be published in the *Gazette*.

Power to require information and inspection of documents.  
7 & 8 Geo. 5, c. 67, s. 2.

3. The Governor in Council shall have power at any time to require the applicant for a licence or a licensee, or any person who, being a director, partner, manager, or officer of, or the holder of, or a person interested in, shares or securities of, any corporate body, or firm, which has applied for the grant of a licence, or to which a licence, has been granted under this Ordinance, or by which the applicant or licensee is controlled, or being the manager of the business carried on by an individual applicant or licensee, is able to give any information as to the constitution control or management of the corporate body or firm, or the business carried on by the corporate body, firm, or individual, or the beneficial interest of any person in such business, or in any shares or securities of the corporate body, or firm, to furnish such information within such time as the Governor in Council may direct, and for the purpose of obtaining or verifying such information any person appointed by the Governor in Council in that behalf shall be entitled to inspect any books and documents belonging to or under the control of such corporate body, firm, or individual, the inspection of which may reasonably be required for the purpose aforesaid.

Offences.  
7 & 8 Geo. 5, c. 67, s. 3.

4.—(1.) Every person who carries on the business of winning, extracting, smelting, dressing, refining, or dealing in any metal or metallic ore in contravention of this Ordinance without a licence, shall be liable upon summary conviction to imprisonment for any term not exceeding six months and to a fine not exceeding one thousand dollars for each day during which the offence continues.

(2.) Every person who—

- (a) refuses or neglects to furnish within the time within which it is to be furnished any information which under this Ordinance is required to be furnished; or

- (b) knowingly furnishes any information required to be furnished under this Ordinance which is false in any material particular; or
- (c) having custody of any book or document which a person is authorised to inspect under this Ordinance, refuses or wilfully neglects to produce the book or document for inspection; or
- (d) forges or fraudulently alters or uses or permits to be fraudulently used any licence issued under this Ordinance,

shall be liable upon summary conviction to imprisonment for any term not exceeding six months and to a fine not exceeding two hundred and fifty dollars.

(3.) Where the person guilty of an offence under this Ordinance is a corporate body, every director, manager, secretary, and other officer of the corporate body who is knowingly a party to the default, shall also be guilty of the like offence, and liable to the like punishment.

5.—(1.) A company carrying on any business to which section 2 of this Ordinance applies, and which has issued share warrants to bearer, may give notice requiring the holders of the share warrants to surrender their warrants for cancellation and to have their names entered in the register.

Provisions as to warrants to bearer. 7 & 8 Geo. 5, c. 67, s. 4.

(2.) The notice shall be given by advertisement in the *Gazette*, and by any other method by which notices to, or for the information of, holders of share warrants to bearer are required to be given by the regulations of the company or the conditions of issue of the warrants.

(3.) Where such a notice has been given no person shall, as holder of a share warrant, be entitled to attend or vote at any meeting of the company, and any dividends or interest which may become payable in respect of any shares represented by share warrants shall be retained by the company until the share warrants have been surrendered for cancellation.

(4.) For the purposes of this Ordinance the expression "share warrants to bearer" includes any bearer securities which confer on the holder thereof any voting power with respect to the management of the company.

6. No information obtained under this Ordinance as to any person or any business shall be published except for the purposes of legal proceedings under this Ordinance, and if any person knowingly publishes any information in contravention of this provision he shall be liable upon summary conviction to imprisonment for any term not exceeding six months and to a fine not exceeding two hundred and fifty dollars.

Provisions as to secrecy. 7 & 8 Geo. 5, c. 67, s. 5.

7. The Governor in Council may make regulations for prescribing anything which, under this Ordinance, is to be prescribed, and generally for carrying this Ordinance into effect, and such regulations shall provide for excluding from dealings by way of wholesale trade within the meaning of this Ordinance dealings in quantities below such limits as may be prescribed generally or as respects any particular metal or metallic ore.

Regulations. 7 & 8 Geo. 5, c. 67, s. 6.

8.—(1.) A company carrying on any business to which section 2 of this Ordinance applies may give notice requiring a shareholder or debenture holder to make a declaration under the Statutory Declarations Act, 1835, as to the beneficial ownership of the shares or debentures standing in his name, and as to the nationality of such beneficial owner.

Declarations. 7 & 8 Geo. 5, c. 67, s. 6.

(2.) The notice shall be given by any method by which notices to, or for the information of, holders of shares or debentures are required to be given by the regulations of the company or the conditions of issue of the debentures.

(3.) Where such a notice has been given no person shall as holder of a share be entitled to attend or vote at any meeting of the company, and any dividends or interest which may become payable in respect of any shares or debentures shall be retained by the company until the shareholder or debenture holder shall have made such declaration as aforesaid.

(4.) For the purposes of this section the expressions "shares" and "debentures" include stock and debenture stock and "shareholder" and "debenture holder" have corresponding meanings.

Metals or ores to which Ordinance applies.  
7 & 8 Geo. 5, c. 67, s. 9.

9. The metals and ores to which this Ordinance applies are zinc, copper, tin, and lead, and any other non-ferrous metals and ores to which this Ordinance may be applied by order of the Governor in Council; the expression "metal" shall not include metal which has been subjected to any manufacturing process except such as may be prescribed; and the expression "ore" shall include concentrates, mattes, precipitates and other intermediate products.

## Schedules.

### FIRST SCHEDULE. [s. 2 (2).]

#### CONDITIONS.

7 & 8 Geo. 5, c. 67, First Schedule.

1. That any director of the corporate body or any partner of the firm, or the individual, or any manager or other principal officer employed by the corporate body, firm, or individual, is a prohibited person or a corporation under prohibited control.

2. That in the case of a corporate body, any capital of the company is or was at any time after the 31st day of December, 1918, held by or on behalf of a prohibited person or a corporation under prohibited control including any stock or shares of the corporate body vested in the custodian by virtue of any order made under the Trading with the Enemy Ordinances, 1914 to 1916.

3. That the corporate body, firm, or individual is or was at any time after the 31st day of December, 1918, party to any agreement, arrangement, or understanding, which enables or enabled a prohibited person or a corporation under prohibited control to influence the policy or conduct of the business.

4. That the corporate body, firm, or individual is or was at any time after the 31st day of December, 1918, interested, directly or indirectly, to the extent of one-fifth or more of the capital profits or voting power in any undertaking whether or not in the Colony, engaged in business of a kind to which this Ordinance applies, in which a prohibited person or a corporation under prohibited control is also interested, directly or indirectly, to the extent of one-fifth or more of the capital profits or voting power.

5. That the corporate body, firm, or individual, is by any means whatever subject, directly or indirectly, in the conduct of their or his business to the influence of, or to association with, a prohibited person or a corporation under prohibited control.

6. That, in the case of a company, the company has issued share warrants to bearer and has not given notice under this Ordinance requiring the holders of the share warrants to surrender their warrants for cancellation.

For the purposes of this Schedule—

The term “company” means any company formed and registered under an Ordinance of the Colony of Hongkong.

The term “capital” in relation to a corporate body means any shares or securities issued by the corporate body which carry, or would, if the necessary formalities were complied with, carry any voting power with respect to the management of the corporate body, and shall also include debentures and debenture stock and money lent to the corporate body.

The term “corporation under prohibited control” means any corporation—

- (a) where the majority of the directors or the persons occupying the position of directors, by whatever name called, are prohibited persons; or
- (b) where the majority of the voting power is in the hands of persons who are prohibited persons, or who exercise their voting powers directly or indirectly on behalf of prohibited persons; or
- (c) where the control is by any means whatever in the hands of prohibited persons; or
- (d) where the executive is an enemy controlled corporation, or where the majority of the executive are appointed by an enemy controlled corporation, within the meaning of paragraphs (a), (b) or (c) of this clause.

The term “prohibited person” includes every person who is or at any time has been a subject or a citizen of any State which on the 31st day of December, 1918, was at war with His Majesty.

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SECOND SCHEDULE [s. 2 (1).]

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FORM OF LICENCE.

(Name of corporate body, firm, or individual)

of  
is hereby licensed under the Non-Ferrous Metal Industry Ordinance, 1919, to carry on the business of winning, extracting, smelting, dressing, refining, and dealing by way of wholesale trade in, the metals or metallic ores to which the said Ordinance applies.

7 & 8 Geo. 5,  
c. 67, Second  
Schedule.

By Order,

*Clerk of Councils.*

Dated the        day of        , 19 .

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*Objects and Reasons.*

1. The object of this bill is to restrict temporarily the carrying on within the Colony of trade in certain non-ferrous metals and ores by or on behalf of persons who are now or have been enemy subjects. The bill makes it an offence to carry on any trade in the non-ferrous metals and ores to which the bill applies except under a licence from the Governor in Council.

2. The intention is that unless for very exceptional reasons no licence shall be granted to any prohibited person or to any corporation under prohibited control. Put shortly, a prohibited person means a person who is now or has been an enemy subject and a corporation under prohibited control means a corporation which is under the control of prohibited persons.

3. If any question arises between the Governor in Council and any corporate body, firm or individual as to whether the prohibitions of the bill apply the question is to be referred by the Governor in Council to the Supreme Court.

4. Where a company registered under the Hongkong Ordinances issues share warrants to bearer no licence will be granted to the company until such bearer shares have been called in and the owners have been registered. Power is given to such companies to take the necessary steps to call in such bearer shares.

5. Power is also given to companies registered under the Hongkong Ordinances to call for declarations from their shareholders and debenture holders on the subject of the beneficial ownership of the shares and debentures and as to the nationality of the beneficial owners.

6. Power is given to the Governor in Council to require the information necessary to enable the Governor in Council to decide whether any corporation firm or individual trading in the metals and ores to which the bill relates is under prohibited control or is a prohibited person.

7. The metals and ores to which the bill applies are zinc, copper, tin, and lead, and any other non-ferrous metals and ores to which the Ordinance may be applied by order of the Governor in Council.

8. It is proposed to make regulations under the Ordinance excluding from the operation of the Ordinance dealings by way of wholesale trade in quantities below certain limits. In any case the Ordinance will not apply to the purchase or sale of the above metals where such purchase or sale is only incidental to the trade carried on by the purchaser or seller.

9. The Ordinance is to continue in force only during the continuance of the present war and for a period of five years after the termination thereof.

10. The bill is founded on the United Kingdom Non-Ferrous Metal Industry Act, 1918.

J. H. KEMP,  
*Attorney General.*

*24th February, 1919.*

A BILL

INTITULED

An Ordinance to prohibit the carrying on of banking business for the benefit of or under the control of certain persons.

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

1. This Ordinance may be cited as the Banking Business (Prohibited Control) Ordinance, 1919. Short title.

2. In this Ordinance:—

“Corporation under prohibited control” means any corporation— Interpretation.  
8 & 9 Geo. 5,  
c. 31, s. 13.

- (a) where the majority of the directors or the persons occupying the position of directors, by whatever name called, are prohibited persons; or
- (b) where the majority of the voting power is in the hands of persons who are prohibited persons, or who exercise their voting powers directly or indirectly on behalf of prohibited persons; or
- (c) where the control is by any means whatever in the hands of prohibited persons; or
- (d) where the executive is an enemy controlled corporation, or where the majority of the executive are appointed by an enemy controlled corporation, within the meaning of paragraphs (a), (b) or (c) of this clause.

“Prohibited person” includes every person who is or at any time has been a subject or a citizen of any state which on the 31st day of December, 1918, was at war with His Majesty.

3. This Ordinance shall continue in force only during the continuance of the present war and for a period of five years after the termination thereof. Duration.

4.—(1.) No banking business shall be carried on within the Colony— Restrictions  
in carrying  
on banking  
business for  
the benefit  
of or under  
the control  
of certain  
persons.  
8 & 9 Geo. 5,  
c. 31, s. 2(1),  
(4).

- (a) by a corporation which is a corporation under prohibited control within the meaning of this Ordinance; or
- (b) by a firm or individual, if the business is one which is carried on wholly or mainly for the benefit of or under the control of prohibited persons.

(2.) It shall be lawful for the Governor in Council to make regulations defining what business is to be deemed banking business for the purposes of this Ordinance.

5. If any person is concerned in carrying on any such business in contravention of this Ordinance he shall be guilty of a misdemeanour and shall be liable upon summary conviction to imprisonment for any term not exceeding twelve months and to a fine not exceeding five thousand dollars, or upon conviction on indictment to imprisonment for any term not exceeding seven years and to a fine not exceeding five thousand dollars. Penalty.  
8 & 9 Geo. 5,  
c. 31, s. 2(1).

Winding up.  
8 & 9 Geo. 5,  
c. 31, s. 2 (2).

6.—(1.) Where it appears to the Governor in Council that any banking business is carried on in contravention of this Ordinance he shall order the business to be wound up and such business shall forthwith be wound up accordingly.

(2.) It shall be lawful for the Governor in Council to make regulations prescribing:—

- (a) The manner in which such winding up is to be carried out ;
- (b) The persons by or under whom the winding up is to be carried out, and the powers, rights and duties to be assigned to such persons ;
- (c) The manner and order in which the proceeds of such winding up are to be distributed and applied ;
- (d) The powers to be conferred on the Supreme Court in relation to such winding up ;
- (e) The powers to be conferred upon any other authority in relation to such winding up ;
- (f) The penalties to be imposed upon persons who fail to discharge the obligations imposed on them by such regulations ; and
- (g) Generally, the manner in which any questions arising in such winding up are to be dealt with.

Any such regulations may confer a discretion on the person, Court, or authority on whom any power, right or duty is conferred, but otherwise such regulations shall be general and shall apply to all cases in which any winding up order is made under this section.

Inspection.  
8 & 9 Geo. 5,  
c. 31, s. 2 (3).

7.—(1.) Where it appears to the Colonial Secretary that there is reasonable ground for suspecting that any banking business has been or is being carried on by any person, firm or corporation in contravention of the Ordinance, he may issue an order in writing authorising any person named in the order:—

- (a) To inspect all books and documents belonging to or under the control of such person, firm or corporation ;
- (b) To require any person whom he may consider able to give any information respecting the business or trade of such person, firm or corporation to give such information ;
- (c) If accompanied by a police officer, or if himself a police officer, to search any premises specified in the said information as having been or being used in connection with such business or trade ;
- (d) To seize and take possession of all books documents and things discovered in the course of any such inspection or search which may appear to furnish any evidence that any offence under this Ordinance has been committed ;
- (e) To do all such acts and things as may be reasonably necessary for the purpose of effecting such search.

(2.) Every person who refuses or neglects to produce any books or documents belonging to or under his control or in his possession or physical custody, or to give any information within his knowledge, on demand, to any person or persons authorised by any such order in writing aforesaid to inspect such books or documents or to require such information, and every person who obstructs any inspection, search or seizure authorised by any such order in writing aforesaid, shall be liable on summary conviction to imprisonment for any term not exceeding six months and to a fine of five hundred dollars.



*Objects and Reasons.*

1. The object of this bill is to prohibit, for a certain period after the termination of the present war, the carrying on of banking business in the Colony for the benefit of or under the control of persons who are or have been subjects of any state which was at war with His Majesty on the 31st December, 1918.

2. The policy of this prohibition is adopted from section 2 of the Trading with the Enemy (Amendment) Act, 1918, 8 & 9 Geo. 5, c. 31.

3. The present bill fixes the period of prohibition at five years, but a short amending Ordinance could extend this period hereafter if necessary. The English Act makes the period indefinite, the wording of section 2 being "During the period of five years immediately after the termination of the present war and thereafter until Parliament otherwise determine". This wording emphasises two points, *i.e.*, that the period is intended to be a limited one, but that on the other hand it may extend beyond five years. If those two points are clearly understood it does not seem necessary in the present bill to do more than provide for a preliminary period of five years.

4. Clause 7 of the bill gives the Governor in Council power to make regulations governing in the widest manner the procedure and principles to be followed in the liquidations contemplated by the bill. It seems better to give an elastic power in this case, as it would be difficult to foresee and to provide for all points which may arise. It is, however, to be hoped that the prohibition of the Ordinance will be sufficient to prevent any attempt to carry on any banking business in contravention of its provisions, and that accordingly the necessity for winding up rules will not arise.

J. H. KEMP,  
*Attorney General.*

17th February, 1919.

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A BILL

INTITULED

An Ordinance to amend the Summary Offences  
Amendment Ordinance, 1918.

Be it enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Summary Offences Ordinance, 1919. Short title.

2. Section 20 of the Summary Offences Amendment Ordinance, 1918, is repealed. Repeal of  
Ordinance  
No. 6 of  
1918, s. 20.

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*Objects and Reasons.*

1. The object of this bill is to repeal section 20 of the Summary Offences Amendment Ordinance, 1918.

2. That section makes contractors liable in the case of three classes of offences, irrespective of the contractor's personal participation in the offence. The reasons for this extension of the principle of vicarious criminal

responsibility were given in paragraph 25 of the Objects and Reasons appended to the Summary Offences Amendment Bill, 1918, and it was thought at that time that the section might be justified by the consideration that the contractor could in most cases by taking proper precautions prevent the commission of such offences. It has, however, been pointed out that the section imposes liability on the contractor for the acts of persons other than his servants, and that it imposes liability upon him for the wilful and not only for the negligent acts of other persons in certain cases. Even apart from these objections it is now considered that the general policy of the section is not justified and it is therefore proposed that the section should be repealed.

J. H. KEMP,  
*Attorney General.*

20th February, 1919.

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## A BILL

INTITLED

An Ordinance to authorise the Union Insurance Society of Canton Limited to convert its silver capital into gold.

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

- Short title. 1. This Ordinance may be cited as “The Union Insurance Society of Canton Limited (Capital Conversion) Ordinance, 1919”.
- Interpretation. 2. In this Ordinance “The Company” means the Union Insurance Society of Canton Limited.
- Power to convert silver capital into gold. 3. The Company may at any time by special resolution convert into gold its silver capital as existing at the date of the confirmation of such special resolution and such conversion shall take effect upon such special resolution being confirmed. Any such conversion may be into such form of gold currency and at such rate of exchange and upon such terms and conditions as may be sanctioned by the special resolution effecting the conversion.
- Issue of fresh certificate of incorporation. 4. Upon the filing of any such special resolution as is referred to in section 3 of this Ordinance the Registrar of Companies shall issue a fresh certificate of incorporation of the Company shewing the capital of the Company as effected by such conversion. Such fresh certificate shall take the place of the original certificate of incorporation of the Company and shall be the certificate of incorporation of the Company.
- Saving of the rights of the Crown and of certain other rights. 5. Nothing in this Ordinance shall affect or be deemed to affect the rights of His Majesty the King His Heirs and Successors or the rights of any body politic or corporate or of any other person except such as are mentioned in this Ordinance and those claiming by, from and under them.

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### *Objects and Reasons.*

The object of this Bill is to enable the Union Insurance Society of Canton Limited to convert its capital from silver into gold by a special resolution to that effect to be passed by the shareholders. The directors consider this desirable because the great bulk of the Company's business is carried out in countries where a gold currency prevails.

The fact that the Company does not carry on any life insurance business seems to make it unnecessary to provide for any special notice to policy holders.

14th February, 1919.