

LEGISLATIVE COUNCIL.

Draft Bill.

No. S. 102.—The following Bill is published for general information:—

[No. 12:—26.3.38.—3.]

A BILL

INTITULED

An Ordinance to amend the law relating to the protection of women and girls.

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

Short title.

1. This Ordinance may be cited as the Protection of Women and Girls Ordinance, 1938.

Interpretation.

2. In this Ordinance—

(a) “Brothel” means a house, room, vessel or other place occupied, frequented or used by any two or more females for prostitution;

(b) “Keeper” includes any person having or appearing to have the management or control of the premises in question;

(c) “Occupier of premises” means the person in actual occupation of any premises;

(d) “Owner of premises” means the person for the time being receiving the rent or a consideration for the use of the premises, whether on his own account or as agent or trustee for any other person, or who would receive the same if such place were let to a tenant;

(e) References to “marriage” and provisions referring to “married” or “unmarried” women or girls or to “intent to marry” shall be taken as including non-Christian customary marriages duly celebrated according to the personal law and religion of either party as well as Christian marriages or their civil equivalent.

Traffic in women or girls.

3.—(1) Every person who—

(a) takes part in bringing into or taking away from the Colony by force, intimidation or fraud any woman or girl for the purpose of prostitution either within or without the Colony; or

(b) takes part in bringing, taking, decoying or enticing any woman or girl into or away from the Colony with intent to sell, pledge, let out to hire, purchase, take in pledge, take on hire or otherwise dispose of such woman or girl for the purpose of prostitution either within or without the Colony; or

(c) takes part in bringing, taking, decoying or enticing any woman or girl into or away from the Colony for the purpose of prostitution either within or without the Colony, knowing that such woman or girl has been sold, pledged, let out to hire, purchased, taken in pledge, taken on hire; or

(d) takes part in selling, pledging, letting out to hire, purchasing, taking in pledge, taking on hire or otherwise disposing of, or in obtaining possession of any woman or girl for the purpose of prostitution either within or without the Colony; or

(e) knowingly derives any profit from the sale, pledge, hire, purchase, taking in pledge, taking on hire or other disposal of any woman or girl who has been sold, pledged, let out to hire, purchased, taken in pledge, taken on hire, or otherwise disposed of for the purpose of prostitution either within or without the Colony,

shall be guilty of a misdemeanor: Provided that in any prosecution under paragraph (c) where it is proved, to the satisfaction of the jury or of the magistrate as the case may be, that the woman or girl had in fact been sold, pledged, let out to hire, purchased, taken in pledge or taken on hire, knowledge thereof by the accused shall be presumed unless he satisfies such jury or magistrate that he had not such knowledge.

(2) It shall be no defence to any charge or indictment under this section that the woman or girl in question consented to the transaction or that she received the consideration or any part of the consideration therefor.

4.—(1) Every person who—

(a) procures or attempts to procure any female under 21 years of age, not being a common prostitute or of known immoral character, to have unlawful carnal connexion, either within or without the Colony, with any other person; or

(b) procures or attempts to procure any woman or girl to become, either within or without the Colony, a common prostitute; or

(c) procures or attempts to procure any woman or girl to leave the Colony, with intent that she may become an inmate of or frequent a brothel elsewhere; or

(d) procures or attempts to procure any woman or girl to leave her usual place of abode in the Colony, with intent that she may become an inmate of or frequent a brothel within or without the Colony,

shall be guilty of a misdemeanor.

(2) No person shall be convicted of any offence under any of paragraphs (b), (c) and (d) of sub-section (1) on the evidence of one witness only unless such witness is corroborated in some material particular by evidence implicating the accused.

5. Every person who carnally knows or attempts to have carnal knowledge of any unmarried girl, being of or above the age of 13 years and under the age of 16 years, shall be guilty of a misdemeanor: Provided that no prosecution shall be commenced for an offence under this section more than twelve months after the commission of the offence.

Procuration
of women
or girls.
48 & 49
Vict.
c. 69, s. 2.
cf. No. 3
of 1903, s. 3
and No. 41
of 1932,
s. 89.

Defilement
of girl
between
13 and 16.
48 & 49
Vict.
c. 69,
s. 5 (1).

Defilement
of girl
under 13.
48 & 49
Vict.
c. 69, s. 4.

6.—(1) Every person who carnally knows any girl under the age of 13 years, whether he is married to her or not, shall be guilty of felony and shall be liable to imprisonment for life.

(2) Every person who attempts to have carnal knowledge of any girl under the age of 13 years, whether he is married to her or not, shall be guilty of a misdemeanor.

Indecent
assault
upon female.

24 & 25
Vict.
c. 100,
s. 52.
12 & 13
Geo. 5,
c. 56, s. 1.
cf. No. 3
of 1903,
s. 3 and
No. 41 of
1932, s. 89.

7.—(1) Every person who commits an indecent assault upon any female shall be guilty of a misdemeanor.

(2) It shall be no defence to a charge or indictment for an indecent assault upon a girl under the age of 16 years to prove that she consented to the act of indecency.

Unlawful
detention
of women
or girls.
48 & 49
Vict.
c. 69, s. 8.

8.—(1) Every person who detains any woman or girl against her will—

(a) in or upon any premises with intent that she may be unlawfully and carnally known by any man, whether any particular man or generally; or

(b) in or upon any premises for an immoral purpose or for the purpose of emigration; or

(c) in any brothel,

shall be guilty of a misdemeanor.

(2) For the purposes of this section, a person shall be deemed to detain such woman or girl in or upon such premises or in such brothel, not only where force, intimidation or fraud is used, but also if, with intent to compel or induce her to remain in or upon such premises or in such brothel, such person withholds from such woman or girl any wearing apparel or other property belonging to her or, where wearing apparel has been lent or otherwise supplied to such woman or girl by or by the direction of such person, if such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

(3) No legal proceedings, whether civil or criminal, shall be taken against any such woman or girl for taking away or being found in possession of any such wearing apparel as was necessary to enable her to leave such premises or brothel.

Procuring
defilement
of women
or girls.
48 & 49
Vict.
c. 69, s. 3.

9.—(1) Every person who—

(a) by threats, intimidation, false pretences, false representations or other fraudulent means procures or attempts to procure any woman or girl to have unlawful carnal connexion either within or without the Colony; or

(b) applies, administers to or causes to be taken by any woman or girl any drug, matter or thing with intent to stupefy or overpower her so as thereby to enable any person to have unlawful carnal connexion with such woman or girl, shall be guilty of a misdemeanor.

(2) No person shall be convicted of an offence under this section on the evidence of one witness only unless such witness is corroborated in some material particular by evidence implicating the accused.

10. Every person who unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of, any female idiot or imbecile woman or girl in circumstances which do not amount to rape but which prove that the offender knew, at the time of the commission of the offence, that the woman or girl was an idiot or imbecile, shall be guilty of a misdemeanor.

Carnal knowledge of female idiot.
48 & 49 Vict. c. 69, s. 5 (2).

11. Every person who, being the owner or occupier of any premises or having, or acting or assisting in, the management or control thereof, induces or knowingly suffers any girl of such age as is mentioned in this section to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, shall—

Punishment of householder, etc., permitting defilement of girl.

(1) if such girl is of or above the age of 13 years and under the age of 16 years be guilty of a misdemeanor; and

(2) if such girl is under the age of 13 years be guilty of felony and shall be liable to imprisonment for life.

12. Every occupier or keeper of a house or portion of a house who uses it or knowingly permits it to be used as a lodging house for prostitutes or as a brothel shall be liable on summary conviction, for the first offence to a fine not exceeding two hundred and fifty dollars and to imprisonment for any term not exceeding three months, for a second offence (whether in respect of the same or other premises) to a fine not exceeding five hundred dollars and to imprisonment for any term not exceeding six months, and for a third or any subsequent offence (whether in respect of the same or other premises) to a fine not exceeding one thousand dollars and to imprisonment for any term not exceeding twelve months.

Penalty on occupier or keeper of premises used as a lodging house for prostitutes or as a brothel.

13. Where it has been proved to the satisfaction of a magistrate that an offence under section 12 has been committed with respect to any house or portion of a house he may order that a notice of the fact shall be served, either personally or by registered post, upon the owner or tenant of the premises or, if such owner or tenant is absent or under any disability, upon his attorney, agent or rent collector or, if such owner or tenant is a corporation, upon the secretary or manager thereof.

Service of notice of offence under section 12 on owner, etc.

14. After service of such notice as is mentioned in section 13 any magistrate may, at the request of any such owner, tenant, attorney, agent, rent collector, secretary or manager, make an order (which shall be recognized and given effect to in any proceeding in any court) absolutely putting an end to any existing tenancy or sub-tenancy of such premises as from the date of such order, and thereupon such tenancy or sub-tenancy shall absolutely cease and determine for all purposes and the occupier, tenant or sub-tenant of such premises may thereafter be treated as a trespasser.

Power to determine tenancies of premises used in contravention of section 12.

Penalty on owner, etc., where premises again used within three months in contravention of section 12.

15. If, after service of such notice as is mentioned in section 13, an offence against section 12 is proved to have been committed by any person within three months after such service, the person upon whom service is made (and, if he be an attorney, agent or rent collector, also the landlord whom he represents) shall be liable on summary conviction to a fine not exceeding five hundred dollars, unless he proves to the satisfaction of the magistrate that he neither knew nor had reasonable means of knowing that the premises were being used as a lodging house for prostitutes or as a brothel.

Powers of authorized persons to visit suspected premises.

16. Any European officer of police, not being below the rank of sergeant, who is authorized generally in writing for that purpose by the Commissioner of Police, and any person who is authorized generally in writing for that purpose by the Secretary for Chinese Affairs, may at all times, without notice, enter and demand to see and interrogate any or all the inmates of any place on land or water which he may have reason to believe is used as a lodging house for prostitutes or as a brothel or in connexion with which he may have reason to believe that an offence has been committed under this Ordinance.

Living on earnings of prostitution or soliciting, by males, etc.
61 & 62
Vict. c. 39,
s. 1, and
2 & 3 Geo.
5, c. 20,
s. 7.
cf. No. 3
of 1903.

17.—(1) Every male person who—
(a) knowingly lives wholly or in part on the earnings of prostitution; or
(b) solicits for immoral purposes,
shall be guilty of a misdemeanor.

(2) If it is made to appear to a magistrate, by information upon oath, that there is reason to suspect that any house or any part of a house is used by a female for the purposes of prostitution and that any male person in or frequenting the house is living wholly or in part on the earnings of prostitution therein, the magistrate may issue a warrant authorizing any police officer to enter and search the house and to arrest such male person.

(3) Where a male person is proved to live with or to be habitually in the company of a prostitute or is proved to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting or compelling her prostitution with any other person or generally, he shall, unless he can satisfy the court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

(4) Every female who is proved to have, for the purposes of gain, exercised control, direction or influence over the movements of a prostitute in such a manner as to show that she is aiding, abetting or compelling her prostitution with any person, or generally, shall be liable on summary conviction to imprisonment for any term not exceeding three months.

Receiving, detaining or harbouring women or girls brought into the Colony by force, etc.

18.—(1) Every person shall be guilty of a misdemeanor who without lawful authority or excuse—
(a) receives, harbours, detains or has under his control any woman or girl who has been brought into or is about to be taken away from the Colony by force, intimidation or fraud; or

(b) receives, harbours, detains or has under his control any unmarried girl under the age of 21 years without the consent of the person having the lawful care or charge of her.

(2) Where any person accused under paragraph (b) of sub-section (1) is proved to have received, harboured, detained or had under his control any female who appears to the magistrate to be under the age of 21 years, it shall, until the contrary is proved, be presumed (a) that the female was an unmarried girl, and was under the age of 21 years, at the date of the alleged offence, and (b) that the accused received, harboured or detained her, or had her under his control, without the consent of the person having the lawful care or charge of her.

(3) No prosecution under this section shall be instituted without the consent of the Secretary for Chinese Affairs: Provided that the consent of the Secretary for Chinese Affairs shall not be necessary for the arrest of any person suspected of having committed an offence against this section.

(4) No person charged under this section shall be entitled to be acquitted on the ground that such person brought the woman or girl into the Colony, or on the ground that such person took the woman or girl, or caused her to be taken, out of the possession of the person having the lawful care or charge of her.

19. Every person who—

(a) receives, harbours, detains or has under his control any girl under the age of 16 years, knowing that she has been procured for the purpose of having unlawful carnal connexion with any other person, and with intent to aid such purpose; or

(b) receives, harbours, detains or has under his control any woman or girl, knowing that she has been sold, pledged, let out on hire, purchased or otherwise disposed of either within or without the Colony for the purpose of prostitution, and with intent to aid such purpose; or

(c) receives, harbours, detains or has under his control any woman or girl with intent that she shall be sold, pledged, let out to hire, purchased, taken in pledge, taken on hire or otherwise disposed of for the purpose of prostitution either within or without the Colony,

shall be guilty of a misdemeanor.

Receiving
or detaining
or harbour-
ing girls
procured or
women or
girls sold
for prostitu-
tion.

20. Every person who by force, intimidation or any fraudulent means brings, takes, decoys or entices any woman or girl into or away from the Colony for the purpose of emigration shall be guilty of a misdemeanor.

Decoying
women or
girls for
emigration.

21.—(1) Every person who commits the crime of rape shall be guilty of felony and shall be liable to imprisonment for life.

Rape.
24 & 25
Vict.
c. 100,
s. 48.

(2) Every man who induces a married woman to permit him to have carnal connexion with her by personating her husband shall be deemed guilty of rape.

48 & 49
Vict. c. 69,
s. 4.

48 & 49
Vict. c. 69,
s. 9.

(3) If upon the trial of any indictment, or the hearing of any information or charge, for rape or for any offence made felony in section 6 the jury or the magistrate, as the case may be, shall be satisfied that the defendant is guilty of an offence under sections 5, 6, 9 or 10 or of an indecent assault, but is not satisfied that the defendant is guilty of the felony charged in such indictment, information or charge, or of an attempt to commit the same, then and in every such case the jury or the magistrate, as the case may be, may acquit the defendant of such felony and find him guilty of an offence as aforesaid, or of an indecent assault, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment, information or charge for such offence as aforesaid, or for an indecent assault.

Abduction
of woman
against her
will from
motives of
lucre.

24 & 25
Vict.
c. 100,
s. 53.

22. When any woman of any age has any interest, whether legal or equitable, present or future, absolute, conditional or contingent, in any real or personal estate, or is a presumptive heiress or co-heiress or presumptive next of kin, or one of the presumptive next of kin, to anyone having such interest, every person who from motives of lucre takes away or detains any such woman against her will with intent to marry or carnally know her or to cause her to be married or carnally known by any other person, shall be guilty of felony and shall be liable to imprisonment for any term not exceeding fourteen years.

Fraudulent
abduction
of girl
against the
will of her
father or
mother, etc.

24 & 25
Vict.
c. 100,
s. 53.

23. Every person who fraudulently allures, takes away or detains any such woman as is mentioned in section 22, being under the age of 21 years, out of the possession and against the will of her father or mother or of any other person having the lawful care or charge of her, with intent to marry or carnally know her or to cause her to be married or carnally known by any other person, shall be guilty of felony and shall be liable to imprisonment for any term not exceeding fourteen years.

Offender
incapable
of taking
property of
abducted
woman or
girl.

24 & 25
Vict.
c. 100,
s. 53.

24. Every person who is convicted of any offence against section 22 or section 23 shall be incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she has any such interest, or which comes to her as such heiress, co-heiress or next of kin as aforesaid; and if any such marriage as aforesaid has taken place, such property shall on such conviction be settled in such manner as the Supreme Court may, on any information at the suit of the Attorney General, appoint.

Forcible
abduction
of woman
with intent
to marry
her.

24 & 25
Vict.
c. 100,
s. 54.

25. Every person who by force takes away or detains against her will any woman of any age, with intent to marry or carnally know her or to cause her to be carnally known by any other person, shall be guilty of felony and shall be liable to imprisonment for any term not exceeding fourteen years.

Abduction
of girl
under 21
years of
age.

24 & 25
Vict.
c. 100,
s. 55.

26. Every person who unlawfully takes or causes to be taken any unmarried girl, being under the age of 21 years, out of the possession and against the will of her father or mother or of any other person having the lawful care or charge of her shall be guilty of a misdemeanor.

27. When a person is charged with an offence under this Ordinance, or under any other enactment, in respect of a girl who is alleged in the charge or indictment to be under any specified age, and such girl appears to the presiding magistrate or judge to be under that age, such girl shall for the purposes of the enactment under which the charge or indictment is brought be deemed to be under that age unless the contrary is proved.

Presumption as to age of girl.

28. No summary conviction under this Ordinance shall be quashed for want of form or be removed by *certiorari*, and no warrant of commitment shall be held void by reason of any defect therein, provided it is therein alleged that the party has been convicted and there is a good and valid conviction to sustain the same.

No summary conviction or warrant to be quashed for want of form.

24 & 25 Vict. c. 100, s. 72.

29. Every person who is convicted of any misdemeanor under this Ordinance shall be liable to imprisonment for any term not exceeding two years: Provided always that if the case is determined by a single magistrate instead of being, in his discretion, sent for trial, he shall not impose a heavier sentence than one year's imprisonment, and that where there appears a necessity for a heavier sentence, the case shall be committed for trial at the Supreme Court.

Punishment for misdemeanor under this Ordinance.

30.—(1) Whenever any person is convicted either summarily or before the Supreme Court of any offence against the provisions of section 4 or section 7 it shall be lawful for the magistrate or court to direct that, in addition to the punishment hereinbefore prescribed, the offender, if a male, be flogged.

Flogging. cf. No. 3 of 1903.

(2) Whenever a person is convicted of any offence against the provisions of sections 3, 5, 6, 8, 9, 10, 11, 17, 18, 19 or 20, if it is proved that the offender has been previously convicted either summarily or before the Supreme Court of an offence against the provisions of the same or any other of the said sections it shall be lawful for the magistrate or court to direct that, in addition to the punishment hereinbefore prescribed, the offender, if a male, be flogged.

31.—(1) If any parent or person acting in the place of parent has, within or without the Colony, voluntarily parted with a girl under the age of 21 years for the purpose of adoption into another family, or received money for parting with the custody of any girl under the age of 21 years for any purpose, the legal guardianship of such girl while within the Colony shall be vested in the Secretary for Chinese Affairs.

Powers of the Secretary for Chinese Affairs as to guardianship, etc.

(2) If in any case it appears to the Secretary for Chinese Affairs that any girl under the age of 21 years has been treated as a drudge or treated with cruelty or unkindness or has otherwise not been properly treated by the person in whose custody she is or appears to be or that the girl is unwilling to remain in such custody it shall be lawful for the Secretary for Chinese Affairs to call upon such person to produce proof to his satisfaction that such person is her legal guardian and has treated and is treating her properly. Failing the production of such proof the legal guardianship of such girl while within the Colony shall be vested in the Secretary for Chinese Affairs.

(3) Where the legal guardianship of any girl is vested in the Secretary for Chinese Affairs he may make any order (including if he thinks fit an order for her removal to and detention in a place of refuge) regarding the custody and control of the girl which he may think desirable in her interest and if he so thinks fit may require any person in whose charge he shall place the girl to enter into a bond, with one or more sureties, to treat the girl well.

(4) Where the legal guardianship of any girl is vested in the Secretary for Chinese Affairs he may at any time require any person in whose custody she is or appears to be to do all or any of the following things—

(a) to produce such girl;

(b) to furnish copies of her and such person's own photographs;

(c) to give security to the satisfaction of the Secretary for Chinese Affairs that the girl will not leave the Colony without the consent in writing of the Secretary for Chinese Affairs;

(d) to give like security that the girl will not be trained for or employed in any occupation other than such occupation as may be approved of in writing by the Secretary for Chinese Affairs.

(5) Any person who fails to produce any girl when so required by the Secretary for Chinese Affairs or fails to perform any obligation imposed under any bond mentioned in sub-sections (3) or (4) shall be liable on summary conviction to a fine not exceeding one thousand dollars and to imprisonment for any term not exceeding six months in addition to any penalty to which he may otherwise by law be liable.

(6) The Secretary for Chinese Affairs, any Assistant Secretary for Chinese Affairs and any public officer authorized thereto in writing by the Secretary for Chinese Affairs, either generally or specially, may at any reasonable time enter and inspect the home of and interview any girl of whom the legal guardianship is vested in the Secretary for Chinese Affairs.

Registration
of girls
of whom
guardianship
is vested
under
s. 31 (1) in
Secretary
for Chinese
Affairs.

32.—(1) Every person who at the date of the passing of this Ordinance has in his custody or control any girl the legal guardianship of whom is vested in the Secretary for Chinese Affairs pursuant to section 31 (1) shall register in the manner prescribed by regulations within three months from such date as may be appointed by the Governor by notification in the Gazette.

(2) Every person who acquires the custody or control of any such girl shall register in the manner prescribed by regulations within one month from the date of acquiring such custody or control.

(3) Every person who brings into the Colony any such girl shall register in the manner prescribed by regulations within one week from the date of bringing such girl into the Colony: Provided that nothing in this section shall apply in the case of any girl required to be registered under the Female Domestic Service Ordinance, 1923.

33. It shall be lawful for the Governor in Council to make regulations for the following purposes:—

Regulations
for
registration

(a) the registration of girls the legal guardianship of whom is vested in the Secretary for Chinese Affairs pursuant to section 31 (1) and the keeping of such registers up to date;

(b) the inspection and control of such girls;

(c) generally for the purposes of section 32.

34.—(1) Every person who contravenes any of the provisions of section 32 or of the regulations made under section 33 shall upon summary conviction be liable to a fine not exceeding fifty dollars or to imprisonment for any term not exceeding one month.

Penalty.

(2) No prosecution under section 32 or 33 shall be instituted without the consent of the Secretary for Chinese Affairs.

(3) Notwithstanding anything contained in section 20 of the Magistrates Ordinance, 1932, any complaint or information in respect of an offence against section 32 or section 33 may be laid at any time.

35.—(1) In any proceedings under sections 32, 33 and 34 the following shall be admissible in evidence upon production:—

Admissibility of
register, etc.

(a) any register, or any part of any register, which purports to be kept under section 33;

(b) any extract from any such register purporting to be certified as correct by the Secretary for Chinese Affairs or Assistant to the Secretary for Chinese Affairs;

(c) any photograph which appears to have been taken for the purpose of any such register.

(2) If any such photograph appears to have a serial number, and if the said serial number occurs in some part of any such register as apparently assigned to some particular girl, it shall until the contrary is proved be assumed that the photograph in question is the photograph of the girl indicated by the said serial number.

36.—(1) Whenever the Secretary for Chinese Affairs has reason to believe that any woman or girl is or may be in the custody or control of another person in circumstances which indicate that she is in need of protection from being used or trained for immoral purposes or for purposes of emigration or that she has been brought to the Colony by force, or fraud, or by misrepresentation, false pretences or false promises, or that she is living in circumstances calculated to cause, encourage or favour her seduction or prostitution, he may inquire into the case and—

Powers of
Secretary
for Chinese
Affairs to
protect
women or
girls from
immoral
exploitation

(i) may make any order (including if he thinks fit an order for removal to and detention in a place of refuge) regarding the custody and control of the woman or girl which he may think desirable in her interest, and if he so thinks fit may require any person in whose charge he shall place her to enter into a bond, with one or more sureties, to treat her well; or

(ii) may require any person in whose custody she is or appears to be to do all or any of the following things—

(a) to produce such woman or girl;

(b) to furnish copies of her and such person's own photographs;

(c) to give security to the satisfaction of the Secretary for Chinese Affairs that the woman or girl will not leave the Colony without the consent in writing of the Secretary for Chinese Affairs;

(d) to give like security that the woman or girl will not be trained for or employed in any occupation other than such occupation as may be approved of in writing by the Secretary for Chinese Affairs:

Provided that nothing in paragraph (i) of this sub-section shall be deemed to authorize the detention of a woman of or over the age of 18 against her will in a place of refuge for a period exceeding six months.

(2) Any person who fails to produce any girl when so required as aforesaid by the Secretary for Chinese Affairs or fails to perform any obligation imposed by any bond mentioned in sub-section (1) shall be liable on summary conviction to a fine not exceeding one thousand dollars and to imprisonment for any term not exceeding six months in addition to any penalty to which he may otherwise by law be liable.

(3) The Secretary for Chinese Affairs, any Assistant Secretary for Chinese Affairs and any public officer authorized thereto in writing by the Secretary for Chinese Affairs, either generally or specially, may at any reasonable time enter and inspect the home of and interview any woman or girl concerning whom an order or requirement has been made under paragraph (i) or (ii) of sub-section (1).

Regulations
for women
or girls
in refuges.
Schedule.

37.—(1) Every woman or girl residing or detained in any such place of refuge as is referred to in section 31 (3) or 36 (1) (i) shall be subject to such regulations as may be made by the Governor in Council; and every woman or girl who contrary to any such regulation leaves any such place of refuge in which she is residing may be arrested and taken back to such place by any police officer or by any public officer specially or generally authorized in writing in that behalf by the Secretary for Chinese Affairs.

(2) All such regulations shall be laid on the table of the Legislative Council at the first meeting thereof held after the publication in the Gazette of the making of such regulations, and if a resolution is passed at the first meeting of the Legislative Council held after such regulations have been laid on the table of the said Council resolving that any such regulation shall be rescinded, or amended in any manner whatsoever, the said regulation shall, without prejudice to anything done thereunder, be deemed to be rescinded or amended, as the case may be, as from the date of publication in the Gazette of the passing of such resolution.

Schedule.

(3) The regulations in the Schedule shall be deemed to have been made under this Ordinance and shall be in force until altered, rescinded or amended by the Governor in Council.

(4) Every person who contravenes any such regulation shall be liable, upon summary conviction, to a fine not exceeding fifty dollars or to imprisonment for any term not exceeding one month.

38.—(1) Every person who induces or assists any woman or girl so residing or detained to leave, contrary to any such regulation, the place of refuge, or knowingly harbours any such woman or girl shall be liable upon summary conviction to a fine not exceeding one hundred dollars or to imprisonment for any term not exceeding three months.

Penalty for inducing or assisting woman or girl to leave refuge, etc.

(2) Every person who without lawful authority or purpose communicates or attempts to communicate with any woman or girl so residing or detained, or induces or attempts to induce any such woman or girl to break any such regulation, shall be liable to the same punishment.

39.—(1) The Secretary for Chinese Affairs, or any officer generally or specially authorized for that purpose in writing by the Secretary for Chinese Affairs, may enter, and for that purpose may use force if necessary, and may search, any vessel, house, building or other place for the purpose of ascertaining whether there is therein any woman or girl who is or may be liable to be dealt with under the provisions of this Ordinance, or whether any offence under this Ordinance is being, or has been, committed, and may remove any such woman or girl to a place of safety to be there detained until her case be inquired into.

Powers of search, etc., by Secretary for Chinese Affairs, etc.

(2) The Secretary for Chinese Affairs or such officer as aforesaid may, during or after any such search as is referred to in sub-section (1), arrest or cause to be arrested any person reasonably suspected of being liable to prosecution for an offence against this Ordinance, and may seize and detain any articles, books, documents or accounts which he may have reason to believe to relate to any offence against this Ordinance.

(3) No person shall refuse the Secretary for Chinese Affairs or such officer as aforesaid access to any such vessel, house, building or other place, or otherwise obstruct or hinder him in effecting an entrance, or in removing such woman or girl, or in seizing and detaining such articles, books, documents or accounts.

(4) (a) In carrying out any search under the provisions of this section the Secretary for Chinese Affairs or such officer as aforesaid shall have power to put questions and to give any such order or direction as may be necessary to the inmates of any vessel, house, building or other place for the purpose of carrying out such search.

(b) The inmates of any vessel, house, building or other place shall answer truthfully all questions put to them by the Secretary for Chinese Affairs, or such officer as aforesaid, and shall obey any order or direction given by him touching any matter or any person connected with such search.

(c) No person shall by force, restraint, threats, inducement or other means cause any woman or girl who is or may be liable to be dealt with under the provisions of this Ordinance to conceal herself in or to leave any vessel, house, building or other place being searched or about to be searched by the Secretary for Chinese Affairs or such officer as aforesaid under the provisions of this section, with the intent that the search of the Secretary for Chinese Affairs or such officer may thereby be evaded or obstructed.

(5) Every person who contravenes any of the provisions of this section shall be liable upon summary conviction, to a fine not exceeding one thousand dollars and to imprisonment for any term not exceeding six months.

Powers of Secretary for Chinese Affairs to summon persons capable of giving information respecting woman or girl.

40.—(1) The Secretary for Chinese Affairs shall have power, by notice in writing under his hand, to summon before him any person who he may have reason to believe can give any information respecting any woman or girl mentioned in sections 31 to 39 inclusive, and respecting the treatment of such woman or girl, or respecting any inmate of a brothel.

(2) Every person who—

(a) on service of such notice, does not appear at the time and place therein mentioned; or

(b) fails to produce all documents in his custody, possession or power relating to such woman or girl and to answer truthfully all questions which the Secretary for Chinese Affairs may put to him respecting such woman or girl or in any way relating to the matter being inquired into; or

(c) without reasonable excuse refuses or neglects to produce such woman or girl when so required by the Secretary for Chinese Affairs,

shall upon summary conviction be liable to a fine not exceeding one hundred dollars, or to imprisonment for any term not exceeding three months.

Service of summons, notice, etc.

41. All summonses, notices and other documents required to be served or given under this Ordinance shall be deemed validly and sufficiently served or given to or left with the person intended to be served or to whom the notice is intended to be given or, if he cannot be readily found, if posted by registered post to, or left with some adult at, his last known place of abode or business.

Reception in evidence of warrant or order, direction, or authorization under hand of the Secretary for Chinese Affairs.

42. Every warrant, order, direction or authorization, purporting to be issued in pursuance of this Ordinance under the hand of the Secretary for Chinese Affairs, shall be received in evidence in every court without further proof, and shall be evidence of the facts therein stated, and all acts done in pursuance thereof shall be deemed to have been authorized by law.

Appointment of officers.

43. The Governor may appoint such officers as may be necessary for carrying out the provisions of this Ordinance.

Repeal of Ordinances No. 4 of 1897, No. 21 of 1929, No. 43 of 1932, No. 14 of 1934, and No. 25 of 1936.

44. The Protection of Women and Girls Ordinance, 1897, the Protection of Women and Girls Amendment Ordinance, 1929, the Protection of Women and Girls Amendment Ordinance, 1932, the Protection of Women and Girls Amendment Ordinance, 1934, and the Protection of Women and Girls Amendment Ordinance, 1936, and all regulations made thereunder are repealed.

Amendment of Ordinances No. 2 of 1865, No. 3 of 1903, No. 3 of 1916, No. 1

45.—(1) Section 3 (6) of the Flogging Ordinance, 1903, is repealed and the following paragraph is substituted:—

(6) of any offence punishable with flogging under section 30 of the Protection of Women and Girls Ordinance, 1938.

(2) The date "1938" is substituted for the date "1897" wherever it occurs in

(a) section 45 (2) (a) of the Offences Against the Person Ordinance, 1865 (as enacted by section 2 of Ordinance No. 13 of 1929), sections 2 (1) and 5 (2) of the Punishment of Incest Ordinance, 1916, section 17 (1) (c) of the Juvenile Offenders Ordinance, 1932, and section 89 (5) of the Magistrates Ordinance, 1932.

of 1923,
No. 13 of
1929, No. 22
of 1929,
No. 1
of 1932 and
No. 41 of
1932.

(3) The words "vested in the Secretary for Chinese Affairs by virtue of the provisions of the Protection of Women and Girls Ordinance, 1938" are substituted for the words "already vested in the Secretary for Chinese Affairs by virtue of the provisions of the Protection of Women and Girls Ordinance, 1897, or hereafter vested in him by virtue of the provisions of the Protection of Women and Girls Ordinance, 1897, as amended by the Protection of Women and Girls Amendment Ordinance, 1929" in section 23 of the Female Domestic Service Ordinance, 1923, as enacted by the Female Domestic Service Amendment Ordinance, 1929.

SCHEDULE.

Regulations.

[s. 37.]

Places of refuge.

1. The home provided by the Po Leung Kuk under section 16 of the Po Leung Kuk Ordinance, 1893, and the institutions known as the Italian Convent, the Heep Yunn School, the Taipo Rural Home and Orphanage and the Salvation Army Home for Women and Girls shall be the places of refuge referred to in the Protection of Women and Girls Ordinance, 1938.

2. No woman or girl sent to a place of refuge shall leave or attempt to leave the same without the written order of the Secretary for Chinese Affairs, or escape or attempt to escape whilst being conducted to or from the same.

3. No woman or girl detained in a place of refuge shall behave in a disorderly or noisy manner.

4. Every woman or girl detained in a place of refuge shall obey all lawful orders and commands of the persons in charge of the same and of the matrons, teachers and other persons placed in control of the inmates.

5. No woman or girl detained in a place of refuge shall communicate or attempt to communicate with any person except with the approval of the persons in charge of the same.

6. The matron, with the approval of the committee of the Po Leung Kuk or the managers of places of refuge other than the Po Leung Kuk, may direct the women and girls in their respective place of refuge to wash clothes and cook and do other domestic work, and every such woman and girl shall perform such work when so directed.

7. Any woman or girl who disobeys any of these regulations may for each such disobedience be confined in a room by the matron for a period not exceeding one day. Every such punishment shall be recorded and reported to the committee of the institution. In the case of repeated disobedience and recalcitrancy the committee shall report the matter to the Secretary for Chinese Affairs for such action as he may see fit to take under section 37 (4) of the Protection of Women and Girls Ordinance, 1938.

Registration. [ss. 32 and 33.]

1. Registration may be effected by filling in, signing and delivering the particulars prescribed in Appendix A at the office of the Secretary for Chinese Affairs, or at the office of the District Officer at Tai Po, or at any police station. The register shall be kept by the Secretary for Chinese Affairs.

2. In these regulations—

(a) "Custodian" means the person having the possession, custody or control of any girl the legal guardianship of whom is vested in the Secretary for Chinese Affairs pursuant to section 31 (1);

(b) "Ward" means any girl the legal guardianship of whom is vested in the Secretary for Chinese Affairs pursuant to section 31 (1).

3. The particulars required on registration shall be those specified in Appendix A so far as they can reasonably be ascertained.

4.—(1) The custodian shall make a report upon—

(a) the death of the ward;

(b) the disappearance of the ward;

(c) any intended removal of the ward from the Colony whether temporarily or permanently;

(d) any change of address whether temporary or permanent in the address at which the ward or custodian resides;

(e) the intended marriage of the ward.

(2) Any such report may be made at the office of the Secretary for Chinese Affairs, or at the office of the District Officer at Tai Po, or at any police station.

5. The names of wards shall be removed from the register as soon as practicable after they attain the age of 21 years or after their marriage if before that age.

6. The inspection and control of wards shall be carried out by officers appointed by the Governor to be inspectors under section 33.

7. The powers of every such inspector shall be as follows:—

(a) to enter during the day any premises whatsoever in which such inspector has reasonable cause to believe that any girl is a ward;

(b) to interrogate any ward or suspected ward;

(c) to take any ward or suspected ward to the office of the Secretary for Chinese Affairs for the purposes of investigation and inquiry;

(d) to require any person whether the custodian or not to give and provide all reasonable facilities, information and assistance to any such inspector in the carrying out of his duties and powers.

8. Every person shall comply with all reasonable requirements of any such inspector.

[Reg. 3.]

APPENDIX A.

REGISTRATION FORM.

Photograph of
ward
(passport size)

Serial number.

Date of registration.

Name or names (1) of ward in English and Chinese.

Address at which the ward resides.

Age of ward (2).

Name of father of ward in English and Chinese.

Name of mother of ward in English and Chinese.

Native place of ward.

Name of custodian in English and Chinese.

Name of custodian's wife/(3) husband in English and Chinese.

Address at which custodian resides.

Occupation of custodian.

.....
Signature of Custodian.

Interpreted by
.....

(1) If the name of the ward is changed on adoption, both old and new names should be given.

(2) The date of birth must be given if known. If only the age is given it should be stated whether it is given according to Chinese or English reckoning.

(3) Strike out whichever word is inapplicable. If custodian is a widower or widow no answer is required.

Objects and Reasons.

1. The object of this Bill is to repeal the Protection of Women and Girls Ordinance, 1897, with its amending Ordinances and Regulations and to re-enact them after a close scrutiny and revision of every clause in the light of the recommendations of the Report of the Mui Tsai Commission and in the light of experience of the working of these Ordinances.

2. A Table of Correspondence is attached which explains the variations between the clauses of the Bill and the provisions they replace in greater detail.

J. A. FRASER,
Attorney General.

March, 1938.

TABLE OF CORRESPONDENCE

BETWEEN

The Protection of Women and Girls Bill, 1938, and the Protection of Women and Girls Ordinance, 1897.

New Bill, clause.	Ordinance No. 4 of 1897, section.	Remarks.
1	1	"1938" for "1897".
2	2	"vessel" for "junk, boat" as more comprehensive in para. (a). Paragraph (e) is new.
3 (1) (a) to (e) proviso	3 (1) to (5) proviso	As amended by No. 21 of 1929.
3 (2)	3 A	As enacted by No. 21 of 1929 "or indictment" added. See s. 7 (2).
4	4	"(such place not being a brothel)" omitted from para. (d). Although these words in brackets occur also in section 2 (4) of the "Criminal Law Amendment Act, 1885 (48 & 49 Vict. c. 69) they appear to afford an unnecessary protection to brothels. The existing section of the Ordinance already departs from the provisions of the Act in that offences under paragraph (a) are excluded from the protection afforded by sub-section (2).
5	5	As enacted by No. 14 of 1934, s. 2. First proviso omitted as unnecessary and as casting doubt on other sections, e.g. sections 21 (2), 22, 23, 24, 25 and 26. See also clause 2 (e).
6	6	As amended by No. 14 of 1934, s. 3.
7	7	As amended by Nos. 14 and 33 of 1934.
8-10	8-10	—
11	11	As amended by No. 14 of 1934.
12-15	12-15	As enacted by No. 25 of 1936.
16	16	As amended by No. 18 of 1929 and No. 25 of 1936.
17 (1)	17 (1)	As enacted by No. 43 of 1903 and offence made a misdemeanor thus raising the penalty.
17 (2)	17 (2)	"prostitution therein" for "such prostitute".
17 (3)	17 (3)	—
17 (4)	17 (4)	"on summary conviction" added.

Table of Correspondence, -Continued.

New Bill, clause.	Ordinance No. 4 of 1897, section.	Remarks.
18 (1)	18 (1)	As amended by No. 21 of 1929.
18 (2)	18 (2)	do.
18 (3)	18 (3)	do. "against" for "under" in last line.
18 (4)	18 (4)	As enacted by No. 21 of 1929.
19	19	References to "detention" and "having under control" added to conform with section 18.
20	20	—
21	21	As amended by No. 43 of 1932.
22-26	22-26	—
27	27	Revised to make it apply to offences relat- ing to girls under any enactment.
28	29	—
29	30	—
30	31	—
31 and 36	32-35	These sections have been redrafted in the light of the recommendations on pages 26, 27, 90, 116 and 117 of the Report of the Mui Tsai Commission.
32	—	A new section based on s. 13 of the Female Domestic Service Ordinance, 1923 (No. 1 of 1923), requiring registration of girls the legal guardianship of whom is vested in the Secretary for Chinese Affairs.
33	—	Power to Governor in Council to make regulations for registration.
34	—	Penalties for contravention of s. 32 or regulations.
35	—	A new section based on s. 24 of Ordinance No. 1 of 1923, as amended by No. 22 of 1929, relating to the use of regis- ters, certified extracts and photographs in registers as evidence.
37	36 and 47	Redrafted in accordance with the modern form of regulation sections. "or detained" added after "residing" in sub-section (1). Imprisonment made alternative in sub-section (4).
38	37	Redrafted.
—	38	Omitted. Spent.
39	39	As enacted by No. 21 of 1929. Fine in sub-section (5) doubled.

Table of Correspondence,—Continued.

New Bill, clause.	Ordinance No. 4 of 1897, section.	Remarks.
40	40	—
41	41	Redrafted and expanded, provision made for service by registered post.
42	42	Redrafted "order, direction or authorization" added "and seal" omitted.
—	43	Omitted. It appears unnecessary and no place has ever been specially appointed.
43	44	Last part omitted as unnecessary.
—	45	Omitted. Sufficiently covered by section 38 as redrafted.
—	46	Was repealed in 1911.
—	47	Omitted. Sufficiently covered by section 33 as redrafted.
44	—	Repeals.
45	—	Amendments.
—	Schedule	Omitted. There seems no necessity for fixing a special statutory form for the bonds which may be required under the Ordinance.
Schedule	—	<p>Regulations: <i>Places of refuge</i>—Regulations of Hong Kong, 1925, pages 178 and 179 as amended by G.N. 578 of 1927 and G.N. 83 of 1936 revised.</p> <p><i>Registration</i>—New regulations based on the regulations for the registration of female domestic servants made under Ordinance No. 1 of 1923, and published in the Gazette of 8th November, 1929, as Government Notification 568.</p>