

GOVERNMENT NOTIFICATION.—No. 353.

His Excellency the Officer Administering the Government has given his assent, in the name and on behalf of the KING, to the following Ordinances passed by the Legislative Council:—

Ordinance No. 11 of 1902.—An Ordinance to exempt certain Crown Leases and Agreements for Crown Leases, and Permits granted by the Crown, from the operation of sections 3 and 4 of the Foreshores and Sea Bed Ordinance, 1901.

Ordinance No. 12 of 1902.—An Ordinance to amend the Law relating to the Widows and Orphans' Pension Fund Ordinance (15 of 1900).

Ordinance No. 13 of 1902.—An Ordinance for the Naturalization of HO NGOK LAU, alias HO NGOK, alias HO SAN LAM.

Ordinance No. 14 of 1902.—An Ordinance to facilitate the hearing and determination of claims to rent in respect of land in the New Territories.

By Command,

F. H. MAY,
Colonial Secretary.

Colonial Secretary's Office, Hongkong, 10th June, 1902.

No. 11 OF 1902.

An Ordinance to exempt certain Crown Leases and Agreements for Crown Leases, and Permits granted by the Crown, from the operation of sections 3 and 4 of the Foreshores and Sea Bed Ordinance, 1901.

LS

W. J. GASCOIGNE,
Officer Administering the Government.

[10th June, 1902.]

Preamble. WHEREAS doubts have arisen as to the applicability, in whole or in part, of sections 3 and 4 of the Foreshores and Sea Bed Ordinance, 1901, (Ordinance No. 21 of 1901) in certain cases, and it is expedient to prevent further difficulty.

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

Sections 3 and 4 of Ordinance No. 21 of 1901 not to apply to certain cases.

1. Sections 3 and 4 of the Foreshores and Sea Bed Ordinance 1901 shall not apply:—

- (1.) To cases where, in the opinion of the Governor in Council declared in writing, an agreement to grant a Crown Lease and the grant of such Crown Lease of Crown Foreshore, Sea bed, or Crown land covered with water, will not cause or constitute any substantial interference with public rights or alleged public rights of navigation or fishing.
- (2.) To any grant, or demise, by the Crown of the right of erecting and maintaining, or to any permit to erect and maintain, any pier or wharf in, upon, over, across, and above Crown foreshore, Sea bed, or Crown land covered with water. All such grants, demises, and permits may be made or granted by the Crown subject, where applicable, to the provisions of the Piers Ordinance 1899 as amended by Ordinance No. 17 of 1900, and shall not be deemed to infringe any public rights or alleged public rights of navigation or fishing.

Provided that nothing in this Ordinance shall be deemed to derogate from the special rights of sea access (if any) of any holder of any Marine Lot holding under a Crown Lease.

Piers erected since 5th October 1901 to be deemed legally erected.

2. All piers erected since the commencement of the Foreshores and Sea Bed Ordinance, 1901, viz., 5th October 1901, with the permission of the Government, shall be deemed to have been legally erected and may be maintained in accordance with the terms of the grant, demise, or permit.

Passed the Legislative Council of Hongkong, this 4th day of June, 1902.

R. F. JOHNSTON,
Acting Clerk of Councils.

Assented to by His Excellency the Officer Administering the Government, the 10th day of June, 1902.

F. H. MAY,
Colonial Secretary.

No. 12 OF 1902.

An Ordinance to amend the Law relating to the
Widows and Orphans' Pension Fund Ordinance
(15 of 1900).

LS

W. J. GASCOIGNE,
Officer Administering the Government.

[10th June, 1902.]

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 Widows and Orphans' Pension Fund Amendment Ordinance, 1902, and shall be read and construed as one Ordinance with the Widows and Orphans' Pension Fund Ordinance (15 of 1900). Short title and construction.

2. Sub-section (1) of section 9 of Ordinance 15 of 1900 is hereby amended by adding the following words to the said sub-section, namely:—“and all such abatement shall be credited to the Fund, provided that in the case of an Officer holding or having held a post the salary of which is on a sterling basis, the abatement shall be made and credited to the Fund in dollars at four per cent. of such sterling salary or pension converted into dollars at the rate annually fixed by the Government for the payment in the Colony of such salaries or pensions. Provided further that such contributions shall continue to be made and credited to the Fund on the full salary whenever an Officer is on leave of absence with half salary or without salary.” Amendment of sub-section (1) of section 9 of Ordinance 15 of 1900.

3. Sub-section (2) of section 9 of Ordinance 15 of 1900 is hereby repealed and in lieu thereof the following sub-sections shall be substituted:—

“(2.) When a contributor on leave of absence is paid by the Crown Agents, he shall be entitled to receive only ninety-six per cent. or forty-six per cent. of his nominal salary, according as he is on full or half pay leave, converted (in the case of dollar salaries) into sterling at the rate of exchange at which such contributor is entitled to receive such salary or pension.” Amendment of sub-section (2) of section 9 of Ordinance 15 of 1900.

“(2a.) When a contributor receives his pension through the Crown Agents, such pension (a.) if a dollar pension shall be reduced by the amount of his dollar contribution to the Fund, and the balance thus reduced, shall be payable to him, converted into sterling at the rate of exchange at which he is entitled to receive such pension, and (b.) if a sterling pension shall be payable to him reduced only by four per cent. of his sterling salary or pension as the case may be.”

4. Section 23 of Ordinance 15 of 1900 is hereby amended by adding the following words to the said section, namely:—

“In the case of contributions made to the Fund in the manner provided in section 9 (1) for Officers holding or having held posts, the salary of which is on a sterling basis, such contributions shall, for the purpose of calculating pensions, be deemed to be fixed sterling contributions and the pensions shall accordingly be fixed and payable in sterling, or if paid in the Colony, shall be converted into dollars at the rate annually fixed by the Government for the payment in the Colony of Officers' salaries or pensions.” Amendment of section 23 of Ordinance 15 of 1900.

Passed the Legislative Council of Hongkong, this 4th day of June, 1902.

R. F. JOHNSTON,
Acting Clerk of Councils.

Assented to by His Excellency the Officer Administering the Government, the 10th day of June, 1902.

F. H. MAY,
Colonial Secretary.

No. 13 of 1902.

An Ordinance for the Naturalization of HO NGOK LAU, alias HO NGOK, alias HO SAN LAM.

LS

W. J. GASCOIGNE,
Officer Administering the Government.

[10th June, 1902.]

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

WHEREAS HO NGOK LAU (何萼樓), alias HO NGOK (何萼), alias HO SAN LAM (何榮林), a native of Siu Lam (小欖) village, in the District of Heung Shan (香山) in the prefecture of Kwong Chau (廣州), in the Province of Kwong Tung (廣東), in the Empire of China, has continuously resided and done business in this Colony for the last twenty-three years, and is possessed of landed property within this Colony, and has declared his intention of residing here permanently, and has petitioned to be naturalized as a British subject within the limits of this Colony, and whereas it is expedient that he should be so naturalized:

Naturalization of HO NGOK LAU. 1. HO NGOK LAU (何萼樓), alias HO NGOK (何萼), alias HO SAN LAM (何榮林), shall be, and he is, hereby, naturalized as a British subject, within this Colony, and shall enjoy therein, but not elsewhere, all the rights, advantages and privileges of a British subject, on his taking the Oath of Allegiance under the Promissory Oaths Ordinance, 1869.

Passed the Legislative Council of Hongkong, this 4th day of June, 1902.

R. F. JOHNSTON,
Acting Clerk of Councils.

Assented to by His Excellency the Officer Administering the Government, the 10th day of June, 1902.

F. H. MAY,
Colonial Secretary.

No. 14 OF 1902.

An Ordinance to facilitate the hearing and determination of claims to rent in respect of land in the New Territories.

LS

W. J. GASCOIGNE,
Officer Administering the Government.

[10th June, 1902]

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 New Territories Rent Recovery Ordinance, 1902," and shall apply only to the New Territories and to claims to rent therein.

2. In this Ordinance, unless the context otherwise requires, the following terms and expressions shall have the meanings hereinafter assigned to them, that is to say:—

Interpretation.

"The Court" means the Land Court constituted under Ordinance No. 18 of 1900 and includes any member thereof sitting alone.

"Land" includes buildings thereon.

"New Territories" means the additional territories acquired by this Colony under the Convention dated the 9th day of June, 1898, between Her late Majesty Queen Victoria and His Imperial Majesty the Emperor of China, for the enlargement of the limits of this Colony, including the City of Kowloon.

"Registrar" means the Registrar of the Land Court appointed under Ordinance No. 18 of 1900 and includes any Additional or Deputy Registrar appointed from time to time to perform any of the duties of such Registrar.

"Bailliff" means any person appointed by the Governor to act in that behalf and shall include any member of the Police Force of the Colony.

"Property" includes standing or gathered crops, fruit trees, fruit, horses, asses, cattle, swine, goats, sheep, fowls, ducks, geese, all implements of agriculture, vehicles, furniture, cooking utensils, salt pans, fish ponds, hay, straw, grass and the like, lime, brick and other kilns.

"Judgment Creditor" means a person in whose favour a claim to rent in respect of land has been determined.

"Judgment Debtor" means a person against whom a claim to rent in respect of land has been determined.

"Certificate" means a certificate of the judgment of the Court.

3. All claims to rent in respect of land in the New Territories shall be heard and determined by the Court.

Hearing and determination of claim to rent.

4. Every such claim shall be in writing and shall be delivered to the Registrar and shall be in such form as the Court may order.

Claim to be in writing.

Certificate. 5. When any such claim has been heard and determined a Certificate in the form in Schedule I of this Ordinance signed by the Registrar shall within seven days after application for the same or as soon thereafter as is practicable be delivered by the Registrar to any judgment creditor applying for the same. The fee for issuing such Certificate shall be twenty-five cents.

Certificate to be conclusive evidence. 6. Such Certificate when signed by the Registrar shall be conclusive evidence of the Judgment recorded therein.

Expenses allowable. 7. The Court may allow a party in whose favour a claim has been determined personal expenses not exceeding five dollars and may also allow the expenses, not exceeding five dollars in all, of any witnesses called and examined on behalf of such party.

Claim, expenses and costs recoverable by distress. 8. If the amount of the claim and personal and witnesses' expenses or in the case of a defendant the amount of the personal and witnesses' expenses is not satisfied by the unsuccessful party within one month after the date of the Certificate such amount together with the costs of issuing a warrant of distress may be recovered by a distress.

Method of distraint. 9.—(1.) At any time within three months after the expiration of the month mentioned in section 8 of this Ordinance a judgment creditor may apply to the Registrar in the form in Schedule II of this Ordinance for the issue of a warrant of distress.

(2.) Upon such application being made the Court may as soon as practicable cause a warrant of distress in the form in Schedule III of this Ordinance to be issued. Such warrant shall be signed by the Registrar, and the costs of issuing it shall be two dollars.

(3.) Within one week after the issue of the warrant of distress, the judgment creditor may deliver it to a bailiff for execution thereof.

(4.) When a warrant of distress has been delivered to a bailiff for execution thereof, the bailiff shall execute the same forthwith.

(5.) The manner of execution shall be as follows :—

(a.) The judgment creditor shall point out to the bailiff so much of the property of the judgment debtor as may in the opinion of such judgment creditor be of sufficient value if sold by public auction to satisfy in part or in whole the amount mentioned in the warrant of distress :

(b) thereupon the bailiff shall endorse on the warrant of distress an inventory of the property thus pointed out, shall sign such inventory and shall deliver the warrant of distress thus endorsed to the judgment creditor :

(c) thereupon a notice in the form in Schedule IV of this Ordinance shall on the same day be left at the usual residence of the judgment debtor :

(d) so soon as the requirements of clauses (b) and (c) have been complied with, the property mentioned in the inventory endorsed on the warrant of distress shall be deemed to be *in custodia legis* and any person who shall without authority remove, interfere with, injure or in any other way deal with such property whilst it is *in custodia legis* shall be liable on summary conviction before a Magistrate to be imprisoned with hard labour for any period not exceeding three months :

(e) on the expiration of three clear days after the day on which the requirements of clauses (b) and (c) have been complied with, the bailiff who originally acted in the matter or in his absence or inability to act any other bailiff shall, unless the amount mentioned in the warrant of distress has been previously paid, sell by public auction (of which the date and time shall be notified to the judgment debtor) to be held in the locality where the property endorsed on the warrant of distress is situated, the property which is endorsed on such warrant :

(f) when the sale by auction of any portion of such property has realised the amount mentioned in the warrant of distress, the sale shall stop and any portion of such property which it has not been necessary to sell shall forthwith revert to the judgment debtor :

- (g) when a sale by auction has realised more than the amount mentioned in the warrant of distress, the difference between that amount and the sum realised shall be handed over on the spot by the bailiff to the judgment debtor :
- (h) when a sale by auction has realised less than the amount mentioned in the warrant of distress, the judgment debtor may, at the instance of the judgment creditor, be arrested without warrant by a bailiff, brought before a Magistrate and at the discretion of the Magistrate be summarily sentenced to imprisonment with hard labour in respect of the balance still due from him according to the scale contained in section 57 of Ordinance No. 10 of 1890 :
- (i) if after the issue of a warrant of distress the judgment creditor is unable after proper enquiry to point out to the bailiff any property of the judgment debtor or such judgment debtor, whether by his own confession or otherwise, appears to have no property, or whenever in the opinion of the Court to be endorsed on the application to issue a warrant of distress it is inexpedient to issue a warrant of distress it shall be lawful for a bailiff, at the request of the judgment creditor producing either a warrant of distress or a duly endorsed application to issue a warrant of distress as the case may require, to arrest without warrant the judgment debtor and bring him before a Magistrate who may (if he considers the case one which should be so dealt with) summarily sentence him to imprisonment with hard labour according to the scale contained in section 57 of Ordinance No. 10 of 1890 in respect of the sum mentioned in the warrant of distress, or if there is no warrant of distress, in respect of the amount mentioned in the Certificate :
- (j) at any sale by auction under sub-section (5) of section 9 of this Ordinance, no person shall be deemed to have become the purchaser of the property put up at auction unless immediately after the fall of the hammer he shall hand the amount of the purchase money to the bailiff conducting the auction.

10. When a claim has been heard and determined by the Court and any party to the claim is dissatisfied with that determination and the Court shall certify that the amount of the rent claimed exceeds three hundred dollars such party may appeal against that determination in the manner provided by section 16 of Ordinance No. 18 of 1900 for the prosecution of appeals from a decision of the Court in respect of a claim in relation to land in the New Territories. Appeal.

11. The date and time and place of hearing any claim under this Ordinance shall be in the discretion of the Court, but the date of hearing shall if practicable be fixed by the Court for a day not later than four weeks after the claim has been delivered to the Registrar. Date, time and place of hearing.

12. For the purposes of this Ordinance the Court shall have all the powers conferred by sections 6, 9 and 10 of Ordinance No. 18 of 1900. Powers of Court.

13. No barrister, proctor, attorney or solicitor shall appear on behalf of any party in any claim before the Court. Legal practitioner.

14. The Court may order that the amount of the claim and personal and witnesses' expenses awarded may be paid by instalments subject to such conditions as the Court may impose. Order to pay by instalments.

15. In the event of an order as in the last preceding section being made for the payment by instalments of the amount of the claim and personal and witnesses' expenses awarded no distress shall be levied until there has been a default in payment of any instalment. Provided that where there has been default in the payment of any instalment, distress may forthwith be levied for the amount of that instalment and of the balance of the amount of the claim and personal and witnesses' expenses awarded by the Certificate, together with the costs of the warrant of distress. Default in payment by instalments.

16. No claim for rent due before the first day of July one thousand eight hundred and ninety-eight shall be entertained by the Court, and no claim for more than three years' rent shall be entertained by the Court. Time limit of claims.

Supreme Court not to exercise jurisdiction.

17. The Supreme Court of Hongkong shall not during the existence of the Land Court exercise jurisdiction in respect of any claim to rent in respect of land in the New Territories or in respect of any property taken in execution under section 9 of this Ordinance except in the case where appellate jurisdiction is conferred upon the Supreme Court by this Ordinance.

Local tribunals not to have jurisdiction as regards rent claims.

18. In the event of the establishment of the local tribunals provided for by Part VI of the Local Communities Ordinance No. 11 of 1899, such local tribunals shall not have jurisdiction to hear and determine claims in respect of rent in the New Territories.

Rent claim record.

19. Every claim as received during each year shall be numbered consecutively for that year. The Registrar shall keep a book called the "Rent Claim Record" in the form in Schedule V of this Ordinance.

Fees received to be paid over to the Treasurer.

20. All fees received by the Registrar under this Ordinance shall be paid over by him to the Colonial Treasurer for the public purposes of the Colony.

21. If any claim shall be made to or in respect of any property taken in execution under this Ordinance or in respect of the proceeds or value thereof by any person not being the party against whom such process has issued, the Registrar upon the application of the officer charged with the execution of such process may issue a summons calling before the Court as well the party issuing such process as the party making such claim, and the Court shall finally adjudicate upon such claim and make such order between the parties in respect thereof and of the costs of the proceedings as shall seem fit, and such order shall be enforced in like manner as any order made in any suit brought in such Court.

Passed the Legislative Council of Hongkong, this 4th day of June, 1902.

R. F. JOHNSTON, Acting Clerk of Councils.

Assented to by His Excellency the Officer Administering the Government, the 10th day of June, 1902.

F. H. MAY, Colonial Secretary.

SCHEDULE I.

Certificate of Judgment.

Ordinance No. of 1902 section (5).

IN THE LAND COURT AT NEW TERRITORIES. IN THE

I hereby certify that the Court has adjudged that shall pay to the amount of dollars cents made up as follows:--

Amount of rent allowed,
Amount of personal expenses allowed,
Amount of witnesses' expenses allowed,
Total

Such amount was ordered by the Court to be paid in instalments as follows:--

Dated 1902. Signed Registrar.

N.B.--If the amount adjudged to be paid is not paid within one month of the date of this Certificate or if an instalment is not paid in the manner ordered, the judgment creditor may apply to the Registrar for the issue of a warrant of distress.

Fee 25 cents.

SCHEDULE II.

APPLICATION TO ISSUE A WARRANT OF DISTRESS.

Ordinance No. of 1902, Section 9 Sub-sec. (1).

In the Land Court at in the New Territories.

I solemnly, sincerely and truly declare that the amount awarded me by a Certificate of Judgment dated the day of 19, and now shown has not been satisfied, and

I request that the Court will issue to me a Warrant of Distress to enforce the recovery of that amount and the costs of the said warrant. To the best of my information, knowledge and belief the judgment debtor has property upon which a distress can be levied.

Dated the _____ day of _____ 19 _____

(Signed) _____
Judgment Creditor.

- (1) Let Warrant issue
- or
- (2) Warrant refused

(Signed) _____
A Member of Land Court.

SCHEDULE III.

WARRANT OF DISTRESS ON A CERTIFICATE OF JUDGMENT.

Ordinance No. _____ of 1902, Section 9 Sub-sec. (2).

In the Land Court at _____ in the New Territories.
To each and all the Members of the Police Force of the Colony of Hongkong.

WHEREAS by a Certificate of the Court dated the _____ day of _____ 19 _____, it was adjudged that _____ judgment debtor, should pay to _____ judgment creditor, the amount of _____ dollars, and WHEREAS the amount so adjudged has after the expiration of one month from the date of the Certificate not been paid and WHEREAS the said _____ has duly applied to the Court to issue a Warrant of Distress to enforce payment of the said amount, THEREFORE you are hereby commanded to forthwith make distress of the property of the said _____ and if within the space of three clear days next after the making of such distress the sum of _____ being the sum stated at the foot of this warrant to be due under the said Certificate together with the sum of two dollars being the costs of issuing this warrant, be not paid, then to sell by public auction the said property by you distrained and apply the money arising therefrom in the manner prescribed by Ordinance No. _____ of 1902, and if no such distress can be found to forthwith arrest and bring before a Magistrate the said _____

Dated the _____ day of _____ 19 _____
(Signed) _____
Registrar.

	\$	cts.
Amount awarded by Certificate,		
Paid,		
Remaining Due,		
Cost of issuing this Warrant,	2	...
Total Amount to be levied,		

Endorsement.

Inventory of Property of _____ seized.
I hereby certify that on the _____ day of _____ 19 _____
I seized the following property of the said _____ viz:—

(Signed) _____
Bailiff.

I hereby certify that on the _____ day of _____ 19 _____
I sold by public auction the following property of the said _____ seized by me as above and that the several portions of that property realized the following prices, viz:—

	\$	cts.
.....		
.....		
.....		
.....		
.....		
Total sum realized,		

Received the sum of \$ _____ cts.
(Signed) _____
Judgment Creditor.

Received the balance of \$ _____ cts.
(Signed) _____
Judgment Debtor.

SCHEDULE IV.

NOTICE OF PROPERTY SEIZED IN DISTRESS.

Ordinance No. of 1902. Section 9 Sub-sec. (5) (c.).

In the Land Court at in the New Territories.
To , judgment debtor, residing at

Take notice that I have this day seized under a warrant of distress issued by the Court to , judgment creditor, residing at the following property, viz.:-

And that three clear days after the date of this notice I shall sell the above property or so much of it as may be necessary to satisfy the sum of mentioned in the warrant of distress by public auction held at the locality where the above property is situated at o'clock on the day of 19 :
And that if you or any other person without authority remove, interfere with, injure or in any other way deal with such property until the distress is satisfied you or such person will be liable on summary conviction by a Magistrate to be imprisoned with hard labour for any period not exceeding three months.

Dated the day of 19

(Signed)
 Bailiff.

SCHEDULE V.
Rent Claim Record.
IN THE LAND COURT AT IN THE NEW TERRITORIES.
Ordinance No. of 1902 section 19.

No. of Claim.	Date of presentation of claim to Registrar.	Name of Claimant.	Name of Person against whom the Claim is made.	Amount of Claim.	Judgment for whom.	Judgment, Amount of			Judgment, how payable.	Judgment, how and when satisfied.	Appeal, if any.	Result of Appeal.	Remarks.
						Claim.	Personal Expenses.	Witnesses' Expenses.					
				\$ c.		\$ c.	\$ c.	\$ c.					