—1860.—

[*Originally* No. 3 of 1860.

Law Rev. Ord., 1924.]

No. 1 of 1860.

An Ordinance to consolidate and amend the laws relating to pawnbrokers. *

[16th April, 1860.]

1. This Ordinance may be cited as the Pawnbrokers Ordinance, 1860. Short title. †

2. In this Ordinance, "pawnbroker" includes every person, and the servant or agent of every person, who purchases, receives, or takes in any goods, and pays money for or advances money upon the same to an amount not exceeding five hundred dollars, with or under any undertaking, agreement or condition, express, implied or reasonably to be inferred from the nature or character of the dealing or the usage in respect thereof, that the said goods in whole or in part may be afterwards redeemed or repurchased upon any terms whatsoever. Interpretation. ‡

3. No person shall use or exercise the trade or business of a pawnbroker unless he is the holder of a pawnbroker's licence. Licence.

4.—(1) Every such licence shall be granted by and at the discretion of the Captain Superintendent of Police on such conditions touching fees or otherwise as he may think fit. Grant and duration of licence. ‡

(2) A licence shall endure for one year only, but may be renewed at the like discretion from year to year.

(3) All such fees shall be paid in advance: Provided always that if any licensee is unwilling to pay the whole fee in advance it shall be lawful for him to pay it in quarterly instalments in advance on finding security for such instalments to the satisfaction of the Secretary for Chinese Affairs.

5. No pawnbroker shall, during the continuance of his licence, carry on any other trade or occupation in his place of business as such pawnbroker, except that of pawnbroking and the sale of pledges forfeited under the provisions of this Ordinance. Restriction of trade to pawnbroking. ‡

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* As amended by Law Rev. Ord., 1923. This Ordinance is not affected by No. 5 of 1886.

† As amended by Law Rev. Ord., 1923.

‡ As amended by Law Am. Ord., 1923.

Notification of place of business. *

6. Every pawnbroker shall cause to be painted and kept painted in large and legible English letters and Chinese characters, over the door of his said place of business, his name at length, and after his name the word "Pawnbroker".

Inspection of goods, books, etc. *

7. Every pawnbroker shall, whenever required by the Captain Superintendent or any inspector of police, or by any constable bearing a written order in that behalf under the hand of the Captain Superintendent, produce for the inspection of the person so requiring him all or any goods pledged or deposited with him, and all books and papers relating to the same.

Interest on loans. †

8. Every pawnbroker may demand, receive and take interest, over and above the principal moneys paid or advanced by him upon any goods pawned or pledged with him, from the person applying to redeem or repurchase the said goods, before re-delivering the same, at the following rates:—

On any sum—			*First month*	*Succeeding months*
not exceeding	$1		10%	3 %
exceeding	$1	and not exceeding $7	8%	3 %
,,	$7	,, $14	5%	3 %
,,	$14	,, $42	3%	2 %
,,	$42	,, $140	2%	2 %
,,	$140		2%	1½%

Provided always that special rates may be charged for cotton quilts, shoes, leather trunks, copper, iron, lead, tin, gold and silver watches, jade, and precious stones.

Such principal moneys and interest shall be taken in full satisfaction of all charges for or incidental to the loan to which the same relate: Provided also that the first month's interest shall be deemed to be due on the first day of the first month and may be deducted from the amount of the loan agreed upon.

List of rates to be exposed in the shop.

Every pawnbroker shall expose in a conspicuous place in his shop a list, to be furnished by the Secretary for Chinese Affairs, of the rates chargeable under this section, in English and Chinese.

* As amended by Law Rev. Ord., 1923.
† As amended by Law Rev. Ord., 1923, and Law Am. Ord., 1923.

Every pawnbroker failing to expose such list shall upon summary conviction be liable to a fine not exceeding fifty dollars, together with the forfeiture of his licence if considered necessary.

Book to be kept by pawnbroker. *

9. Every pawnbroker shall, before advancing any moneys on loan, enter or cause to be entered in a book to be kept by him for that purpose, and to be called the General Book, a fair and legible statement according to Form No. 1 in the Schedule.

Schedule. Form No. 1.

Ticket to be given to borrower. *

10. Every pawnbroker shall, at the time of making any loan, deliver to the borrower a ticket containing a true and legible statement according to Form No. 2 in the Schedule.

Schedule. Form No. 2.

Return of ticket on re-delivery of goods. *

11. In order to entitle any person to redeem from the pawnbroker the goods pledged, the ticket must be returned to the pawnbroker by the person applying to redeem the goods, except as provided for in section 14.

Delivery of goods and production of ticket and repayment. *

12. On the tender of any such ticket, together with the full amount then due for principal and interest, if made within eight months, or in the case of goods pawned in any part of the New Territories other than New Kowloon if made within twelve months, from the day of making the loan, it shall be the duty of the pawnbroker to deliver up to the person tendering the ticket the goods described therein.

Exceptions. †

13. Section 12 shall not extend to cases where, at or previously to such tender, the pawnbroker has had from the borrower or the owner of the said goods notice not to deliver the same, or has had knowledge or notice that the same have been, or are suspected to have been, unlawfully obtained from or lost by the owner; or to tickets as to which the borrower has taken such proceedings as are provided by section 14; in all which cases it shall be the duty of the pawnbroker to withhold the goods.

Provision for cases of lost goods or lost ticket. *

14.—(1) On the application of any person representing himself to be the borrower or the owner of the said goods or ticket, as the case may be, and to have lost or been unlawfully deprived of the same, it shall be the duty of the pawnbroker, if the goods are still unredeemed or unsold,

* As amended by Law Am. Ord., 1923.
† As amended by Law Rev. Ord., 1923, and Law Am. Ord., 1923.

forthwith to deliver to such applicant a copy of the entry in the General Book, and the said applicant shall immediately thereupon proceed to a magistrate and obtain an appointment for the purpose of verifying by lawful evidence the truth of such representation.

(2) If the said applicant verifies the same to the satisfaction of the magistrate within seven days then next following, and obtains a certificate to that effect, indorsed upon the said copy, it shall be the duty of the pawnbroker, on the copy so indorsed being delivered by the said applicant, to deliver to him, according to the circumstances of the case and as the magistrate may order, another ticket or the goods, either with or without payment of the principal money or interest, or both principal money and interest, as the magistrate may direct.

Issue of search warrant for goods pawned without privity of owner.

15. It shall be the duty of a magistrate, upon lawful evidence being given that there are probable grounds for believing that any goods have been pawned without the privity of their owner, to issue his warrant for searching any place where the goods may appear to him to be; and if any of the goods are discovered upon such search, it shall be the duty of the person executing the warrant to take them or cause them to be taken into safe keeping to abide the order of the magistrate.

Unredeemed goods to become the property of pawnbroker.

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16. Subject to the provisions hereinbefore contained goods pawned as aforesaid shall, from and after the expiration of the periods mentioned in section 12, if the same are unredeemed, become the property of the pawnbroker absolutely: Provided nevertheless that if at the expiration of such periods respectively the borrower is desirous of continuing the loan for a further period not exceeding the eight months, or the twelve months, referred to in section 12, as the case may be, he shall be at liberty to do so on paying the interest then due. In such case a new ticket shall be issued and a new entry made in the General Book.

Information to be given by applicant.

17.—(1) Every person applying to borrow shall, at the time of his application, give to the pawnbroker to whom such application is made true information to enable him to comply with the requirements of sections 9 and 10.

* As amended by Law Am. Ord., 1923.

(2) Every person applying to redeem goods or for a copy of an entry shall, at the time of his application, give to the person to whom such application is made a full and true account of himself, his name, his place of abode, the name and place of abode of the owner, and the circumstances under which his application is made.

(3) No person shall pawn, or attempt to pawn, the goods of any other person without being duly authorised or employed in that behalf.

Pawnbroker to seize applicant suspected of unlawful practice.

18. Every pawnbroker to whom any application is made to borrow or redeem, or for a copy of an entry, who has reasonable cause to suspect any unlawful practice on the part of the applicant in any of the above cases, is hereby required to seize and detain such applicant, and empowered to call in the aid of any other person for that purpose; and every person so seized shall, with all reasonable speed, be delivered into the custody of a police constable who shall convey him before a magistrate. *

[*cf.* No. 13 of 1919, s. 15.]

Liabilities of pawnbroker.

19.—(1) A pawnbroker shall be liable to make good all loss or damage accruing to a borrower in the cases following :— *

(*a*) where the goods pawned have been stolen, embezzled, lost, or otherwise improperly disposed of, before the period for the redemption thereof has elapsed; and

(*b*) where the goods, before the said period has elapsed, have, by the default, neglect, or misfeasance of the pawnbroker or his servants, been destroyed, damaged, or impaired in value.

(2) In any of the said cases the magistrate shall allow and award an amount in satisfaction of such loss or damage, from which shall be deducted the amount of principal and interest then due in respect of such goods.

Pawning by children.

20. No pawnbroker shall receive any goods in pawn from any person under the age of ten years.

Taking in pawn goods with certain marks.

21. It shall not be lawful for any pawnbroker to receive in pawn any goods having upon them any mark or sign denoting them to be or to have been the property of the Crown or of any public department.

* As amended by Law Am. Ord., 1923.

Hours of business.

22. No goods shall be pawned or redeemed before 6 a.m. or after 8 p.m.

Procedure.

23. All adjudications and certificates under this Ordinance shall be summarily held, determined and granted by a magistrate and enforced according to the laws relating to the jurisdiction of magistrates.

Delivery to owner of property unlawfully pawned, with or without compensation to pawnbroker.

24. In each of the following cases, that is to say,—

(1) if any person is convicted of feloniously taking or fraudulently obtaining any goods and chattels, and it appears to the court that the same have been pawned with a pawnbroker; or

(2) if, in any proceedings before a magistrate, it appears that any goods and chattels brought before him have been unlawfully pawned with a pawnbroker,

the court or magistrate, on proof of the ownership of the goods and chattels, may order the delivery thereof to the owner, either on payment to the pawnbroker of the amount of the loan advanced by him thereon, or of any part thereof, or without payment of such loan or any part thereof, as to the court or magistrate, according to the conduct of the owner and pawnbroker and the other circumstances of the case, may seem just and fitting.

Penalties for offences.

25. For every offence against this Ordinance there shall be imposed the penalties following:—

(1) under sections 3, 5, 6, 7, and 9 to 14, a fine not exceeding two hundred dollars, together with the forfeiture of the offender's licence, if the magistrate so directs;

(2) under section 17, imprisonment for any term not exceeding two years;

(3) under sections 18 or 20, a fine not exceeding fifty dollars, together with the forfeiture of the offender's licence, if the magistrate so directs;

(4) under section 21, a fine not exceeding five hundred dollars, together with the forfeiture of the offender's licence, if the magistrate so directs;

(5) under section 22, a fine not exceeding one hundred dollars.

[s. 26, *rep.* No. 50 of 1911.]

27. Nothing in this Ordinance shall affect the right of appeal against any adjudication, or the jurisdiction of the Supreme Court, or any of the laws relating to crimes or offences. Appeal.

28. Nothing in sections 27, 28, 39, and 40 of the Summary Offences Ordinance, 1845, shall affect pawnbrokers. Certain provisions not to apply. Ordinance No. 1 of 1845.

SCHEDULE.

FORM No. 1. [s. 9.]

Entry in General Book.

The day of month of year of

No. of loan.	Day of the Chinese month.	Name of borrower.	Place of abode of borrower.	Description of article.	Amount of loan.	Rate of interest.

NOTE.—Numbers of loans to continue through one month, and to commence anew with each succeeding month.

FORM No. 2. [s. 10.]

Pawn ticket.

A.B., [*or* A.B. & Co.,] No. Street,

Pawnbroker [or Pawnbrokers.]

The day of month of year of

No. of loan.	Name and abode of borrower.	Description of article.	Amount of loan.	Rate of interest.